Estimating the Cost of the Proposed Maryland Pretrial Release Services Program

Daraius Irani, Ph.D., Executive Director
Raquel Frye, Associate Director
Zachary Jones, Research Assistant

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Regional Economic Studies Institute

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Towson, Maryland 21252 | 410-704-3326 | www.towson.edu/resi

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1.0   Introduction

The Maryland Legislature has recently introduced companion bills that require the provision of pretrial services for all arrested individuals in the state. Senate Bill 973 (2014) and House Bill 1232 (2014) would eliminate the Initial Appearance phase of criminal proceeding and in conjunction, the role of the District Court Commissioners who preside over them. The bills would establish the Maryland Pretrial Release Services Program (MPRSP) to assume the pretrial release duties and would shift the remaining judicial authority to District Court Judges.[1]

The MPRSP would be required to do the following:
- Screen all arrested individuals.
- Compose risk assessments and recommendations to the court as to whether or not defendants should be granted pretrial releases and, if so, on what conditions these releases should be granted.
- Supervise all defendants who are released without surety bonds.
- Secure proper medical and social assistance for defendants without surety bonds.

The Department of Legislative Services (DLS) conducted a Fiscal and Policy Note for House Bill 1232 in which they projected the net effect to Maryland's state budget of passing the bill. A portion of this report focuses specifically on the cost of implementing the MPRSP. To project the potential cost, DLS used the existing Baltimore City Pretrial Services Program (BCPSP) as a model. DLS developed a cost per initial appearance profile using data on BCPSP's employment and expenditures; the profile was then scaled up to Maryland initial appearance levels. DLS estimated that the General Fund expenditures for the MPRSP would total to approximately $32.2 million in fiscal year (FY) 2015, and $45.1 million by FY 2019.[2]

RESI assumed that the MPRSP will function similar to the District of Columbia Pretrial Service Agency (DCPSA) rather than the BCPSP. There are several factors that make the DCPSA a more accurate model for the Maryland program:
- First, the portion of defendants receiving released supervision is much higher in the DCPSA, a characteristic that will likely be similar to the practices provisioned for the MPRSP.
- Second, the ratio of supervisors to defendants is higher in D.C., which is more conducive to providing specialized supervision when it is needed.
- Third, the DCPSA provides a myriad of programs to serve the medical and social health of its released defendants, a function that is required of the MPRSP, but is not substantially provided by the BCPSP.

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[1] This study was conducted with the support of the American Bail Coalition. All statements herein are the opinions of the Regional Economics Studies Institute of Towson University.
[2] Maryland Department of Legislative Services, "Fiscal and Policy Note: House Bill 1232" (Maryland General Assembly, 2014), 9.

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- Finally, the DCPSA is a slightly more extensive service than what would be required of the MPRSP and, as a result, should be scaled down if it is to be used to model the provisions of the bills. The BCPSP has comparatively limited services than are provisioned for the MPRSP, and should likewise be scaled up.

Using a cost-per-arrest analysis, RESI calculated the potential costs to the State of Maryland of implementing a MPRSP similar to the DCPSA. In addition, RESI estimated the cost of an MPRSP according to a DCPSA model scaled down to only the services explicitly stated in the House and Senate bills. Finally, RESI estimated the cost for an MPRSP based on a BCPSP model that is scaled up to include all of the services provisioned by the bills.

2.0 Comparing the Agencies

The DCPSA and the BCPSP offer two vastly different pretrial service models. The BCPSP is a limited program that serves primarily to produce assessments and recommendations on the release of pretrial defendants, with a limited portion of release supervision. The DCPS is a more comprehensive program that provides the same assessment and recommendation services, supervises a significant portion of released defendants, and provides an array of health and social services to its defendants. After analyzing these programs, RESI selected the DCPSA as its primary model because its existing operations more closely reflect what would be required of the MPRSP.

2.1 Supervision Rate Differences

The BCPSP supervised 1,292 released defendants in FY 2013, approximately 3 percent of 46,659 arrested adults in Baltimore City.[3] Scaling the BCPSP supervision rate against the 191,281 arrests that occurred throughout Maryland in FY 2012, only a prospective 5,297 annual supervisions would occur throughout the state under the proposed MPRSP.[4] The DCPSA alone supervised approximately 15,639 defendants released in FY 2013, which is approximately 48 percent of the 32,626 adults arrested.[5] The DCPSA is a more suitable model for estimating the potential supervisory activity of a MPRSP under the bills. They state that the MPRSP must "supervise all persons released on non-surety release, including release on personal recognizance, personal bond, and nonfinancial conditions," meaning there will be a substantial amount of supervision occurring if 50 percent of defendants are released pretrial on personal recognizance.[6] This 50 percent standard is the accepted average release rate. Though the exact release rate under the MPRSP is unknown, it is assumed that it will be far above that of BCPSP, at 3 percent of arrestees. It is more likely that the MPRSP supervision rate will be more similar to that of DCPSA which supervises approximately 48 percent of arrested adults.

2.2 Supervision Intensity Differences

The BCPSP employed 21 supervision agents to manage their 1,292 supervisions in FY 2013, making their average supervisory caseload 61.5 cases per supervisor. This caseload is comparable to that of the standard intensity supervisors of the DCPSA, whose 2012 caseload is approximately 68 cases per supervisor. However the DCPSA provides multiple levels of supervisory intensity by which defendants are supervised based on assessment, including extensive supervision, high intensity supervision, and work release supervision.[7] This totals to a supervisory rate of around 51 cases per supervisory agent. Additionally, those defendants who are assigned to the various treatment programs also have DCPSA supervisors, who operate on an even more focused level, resulting in an agency wide 40.5 cases-per-supervisor rate.[8]

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[3] Maryland Department of Legislative Services, "House Bill 1232", 11.
[4] Uniform Crime Reports, "Crime in the United States 2012", Table 69.
[5] PSA Strategic Development, email, February 26, 2014.
[6] Maryland SB 973/HB 1232 (2014), 4; Maryland Department of Legislative Services, "House Bill 1232", 11.
[7] Pretrial Services Agency for the District of Columbia, "FY 2014 Congressional Budget Justification", 19.
[8] Ibid, 19.

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2.3 Programing Differences

The DCPSA provides additional programing services above that of the BCPSP. DCPSA Treatment Unit Placements require defendants assessed with pervasive or reoccurring issues such as prostitution, drug abuse, and mental health, to participate in specialized programs. These programs include Drug Court (SCDIP), New Directions[9], Sanctions Based Treatment Track (SBTT), Specialized Supervision Unit, and the D.C. Misdemeanor and Traffic Court Initiative (DCMTI).[10] DCPSA supervises defendants that are involved in these programs and funds their participation in them. BCPSP has no such treatment programming included in its current operations and budget. This difference between DCPSA and BCPSP must be considered when comparing both the level of service provided and operating expenditures of each agency. Of DCPSA's $60 million operating cost, approximately 39 percent ($23 million) is spent on these programs.[11] The DCPSA programing is the more accurate model for the potential cost of the MPRSP because of a provision in the bills that requires the program to **"assist persons released pretrial under the supervision of the program with securing necessary medical or social services."**[12]

For the best representation of the provisions required of the MPRSP, the DCPSA in the most well suited model, as it is more similar in size and programing. The substantial differences between the DCPSA and the BCPSP amount to discrepancies in both cost-per-defendant and the level of services provided. If the BCPSP is to be used as an accurate model for the MPRSP, its services must first be adjusted up to meet the provisions of the bills. This scaling will include adjustments to its supervisory costs and the addition of programing costs. Additionally, the DCPSA model will also be adjusted down to exclude those services it provides that are not statutorily required for the MPRSP. The full cost model for the DCSPA can still be used to project a high estimate for the MPRSP cost, should the state government decides to adopt a more comprehensive program.

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[9] New Directions was discontinued as a treatment program option in FY 2013.

[10] Pretrial Services Agency for the District of Columbia, FY 2013 PSA Organizational Assessment.

[11] Pretrial Services Agency for the District of Columbia, FY 2014 Congressional Budget Justification, 19.

[12] Maryland SB 973/HB 1232 (2014), 4

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3.0   Scaling the Models

The substantial differences between the DCPSA and the BCPSP amount to discrepancies in both the cost per defendant and the level of services provided. If the BCPSP is to be used as an accurate model for the MPRSP, its services must first be scaled up to meet the provisions of bills. This scaling will include adjustments to its supervisory costs and the addition of programming costs. Additionally, the DCPSA model will be scaled down to exclude those services it provides that are not statutorily required for the MPRSP. The full-cost model for the DCSPA can still be used project a high estimate for the MPRSP cost should the state government decide to adopt a more comprehensive program.

The DCPSA provides it budgetary costs broken down by specific functions, as shown in Figure 1 below. RESI used these data to both calculate the approximate costs of the additional program requirements that must be applied to the BCPSP model as well as deflate the budget of the DCPSA model when removing those programs that are not required in the MPRSP bills. As will be further explained in the methodology in Section 4.1, adult arrest data was used for each of the respective geographies as the measure of total program participation to ensure a universal and consistent inter-program variable:

- The DCPSA had 37,939 arrests occur in its jurisdiction, with a program budget of $59,519,000.[13]
- The BCPSP had 46,659 arrests occur and a program budget of $6,158,601.[14]

The bills state that the MPRSP will "assist persons released pretrial under the supervision of the program with securing necessary medical or social services."[15] RESI concluded that the Performance Measures of the DCPSA that were suitable to this provision were the following:

- 3.2 Placement in Drug Treatment,
- 3.4 Connection to Education/Employment Services, and
- 3.6 Connection to Mental Health Services.

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[13] Metropolitan Police Department, "Annual Report (2012)", 30.
[14] Open Baltimore, "BPD Arrests 2012" (City of Baltimore).
[15] Maryland SB 973/HB 1232 (2014), 4

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Figure 1: DCPSA FY 2014 Budget Distribution by Performance Measure

Performance Measures	Expenditures (in thousands)
1. Assessments and Release Recommendations (Total)	**$8,970**
1.1 Risk Assessment	$4,537
1.2 Initial Release Recommendation	$4,433
2. Monitoring and Supervision of Released Defendants (Total)	**$27,307**
2.1 Compliance with Release Conditions	$16,488
2.2 Sanctions for Non-compliance	$10,819
3. Integrating Treatment and Supervision (Total)	**$21,950**
3.1 Substance Abuse Assessment	$3,897
3.2 Placement in Drug Treatment	$2,830
3.3 Reduction in Drug Use	$9,702
3.4 Connection to Education/Employment Services	$749
3.5 Mental Health Assessment	$2,118
3.6 Connection to Mental Health Services	$2,654
4.1 Partnerships (Total)	**$1,292**
Total Budget	**$59,519**

Source: Pretrial Services Agency for the District of Columbia

3.1   District of Columbia Pretrial Services Agency
Supervisory Cost
DCPSA supervises 48 percent of the arrested adults, a figure that falls just below the accepted 50 percent average release rate. To adjust to meet the provision that MPRSP will supervise all releases, the DCPSA supervision spending of $27,307,000 was scaled up, resulting in a new supervisory cost of $28,484,000. This adds $1,177,000 to the adjusted budget.

Programming Cost
To adjust the DCPSA budget to the required provisions of the MPRSP, with an exception to the three programs listed above that were found to be applicable to MPRSP provisions, all programs in the Treatment and Partnership sections removed from the total cost. This resulted in cutting the total cost of the DCPSA program by $17,009,000, leaving $6,233,000 of applicable programing spending.

Results
The DCPSA budget adjusted to the provisions of the MPRSP, including assessment supervision and select programming, results in a total program cost of approximately $43,687,000.

3.2   Baltimore City Pretrial Services Program
Supervisory Cost
The amount that the BCPSP spent on supervising 1,292 defendants in FY 2012 is not provided specifically by the program. The BCPSP budget represents the combined total for assessment and supervisory duties that the program performs. To quantify the approximate cost of the

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BCPSP's 3 percent supervisory rate, RESI first adjusted down the DCPSA model to a 3 percent supervisory level. At this level, supervisory activities comprise 15 percent of the assessment and supervisory portion of the budget. This same ratio of supervision to assessment cost was then applied to the BCPSP total budget, which resulted in $921,000 of supervisory-related spending. This figure was then scaled from a 3 percent supervisory rate to a 50 percent supervisory rate, which brought BCPSP's supervisory cost to $16,632,000. This figure creates a net increase in cost of $15,711,000, bringing the adjusted BCPSP cost to $21,869,000.

Programming Cost

To calculate the total programming cost of adding the three DCPSA programs that apply to the provision of the MPRSP, RESI assumed the programs will represent an equal portion of the BCPSP budget to that in the adjusted DCPSA model. This resulted in approximately $3,120,000 of additional cost.

Results

The BCPSP budget adjusted to the provisions of the MPRSP, including assessment supervision and select programming, results in a total program cost of $24,989,000.

4.0 Cost Estimate

4.1 Methodology

To estimate the total cost of the proposed MPRSP, RESI used a cost-per-arrest model. This method was found to be most reliable as it only requires one variable to be assumed for MPRSP while relying on empirical data from actual programs as models for potential cost attributes. It requires arrest inputs from all three geographical areas and cost data only for the three models. All data is from the most recent year available.

Participation for all three programs is measured as the total arrests in the respective jurisdiction. This stems from the provision in the bills that requires that the MPRSP "screen all arrested persons."[16] The total number of arrests does not necessarily reflect the number of individuals who will participate in the MPRSP, as there are instances of arrest and release as well as minor ordinance infractions that would not be applicable in practice. To account for this broad participation estimate for the MPRSP, RESI used arrest data for all of the programs to ensure a common measure for the participation variable. The result of the model budgets applied to the total arrests resulted in three cost-per-arrest models, as shown in in Figure 2.

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[16] Maryland SB 973/HB 1232 (2014), 4

Figure 2: Program Models

Jurisdiction	Arrests (2012)	Total Cost	Cost-per-Arrest
Washington, D.C.—unadjusted	37,939	$59,519,000	$1,568.81
Washington, D.C.—adjusted	37,939	$43,687,000	$1,151.51
Baltimore City—adjusted	46,659	$24,989,000	$535.57

Source: RESI

RESI held all other variables to be constant between the three and did not attempt to calculate for other potential cost factors involving demographic profiles, economies of scale, or infrastructural differences, due to a lack of empirical data. RESI also did not calculate any lost revenues to the state from taxes on surety bonds, fees, and extradition reimbursement that would result from a reduction in surety bond use, nor did it calculate the potential increase in failure to appear rates and the resulting costs to law enforcement and the criminal justice system. This is exclusively a cost estimate for the potential MPRSP.

4.2 Results

With the cost-per-arrest for each model, RESI applied the Maryland arrest levels to project three cost scenarios for the MPRSP, as shown in Figure 3.

Figure 3: MPRSP Cost by Model

Jurisdiction	2012 Arrests	Cost-per-Arrest	PRS/PSA Annual Cost
MPRSP by DCPSA—unadjusted	191,281	$1,568.81	$300,083,546
MPRSP by DCPSA—adjusted	191,281	$1,151.50	$220,260,585
MPRSP by BCPSP—adjusted	191,281	$535.57	$102,444,834

Source: RESI

4.3 Conclusion

Using both the BCPSP and the DCPSA for comparison to the proposed MPRSP, adjusting for 50 percent arrestee supervision, adding in required services in the case of BCPSP, and eliminating services in the DCPSA, RESI estimated that the annual cost of the proposed MPRSP is between $102 million and $220 million. Moreover, if the entire DCPSA program were implemented as it is in Washington, D.C., for Maryland, the estimated cost would exceed $300 million. While the cost estimates span a wide range, the minimum estimated cost is three times that of the cost estimated by DLS as a result of incorporating more applicable levels of supervision and programming spending associated with the provisions of the bills.

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