



## **MEMORANDUM**

**To**                               **Interested Parties**

**From**                           **Pretrial Justice Institute**

**Date**                           **April 2019**

**RE:**                           **Response to “Detaining or Releasing Defendants From Pretrial Confinement: A Case for the Continued Use of Surety Bonding as a Cost-Containing Mechanism for Secured Pretrial Release” by David Krahl**

University of Tampa Professor David E. Krahl has released a study that was designed to show the average length of stay in pretrial detention for individuals held in Florida jails. In doing so, the paper seeks to address what it claims to be “[o]ne of the principle arguments that undergirds the opposition to surety-based pretrial release...that people are languishing away in pretrial detention because they cannot afford the cost of a surety bond in order to secure their pretrial release” (page 3). Dr. Krahl then presents the results of his study that find that fewer than 2% of persons in Florida are held in jail pretrial for 30 days or more solely on bonds that have not been posted. Dr. Krahl concludes that these results “simply do not support [the] contention” that large numbers of people are sitting in jail for extended periods because they cannot pay a secured bond (page 43). This finding, he suggests, makes, as the title of his paper says, the “case for the continued use of surety bonding.” This memorandum is offered to anyone who is confronted with his paper and wishes to offer a rebuttal. <sup>1</sup>

Dr. Krahl’s proposition is a classic example of attacking a straw man. In reality, the principle argument that undergirds the opposition to any money-based bail system, including surety-based, is that money bonds are not even designed to address concerns about public safety and typically have no legal basis for protecting public safety whatsoever<sup>2</sup>. In fact, money bonds allow even those who pose an imminent and identifiable threat to a specific person to buy their way out of jail.

Even if money bonds addressed public safety, other “principle arguments” against the use of any type of secured money bonds are:

- That they are no more effective at providing reasonable assurance of either safety or appearance than bonds that do not require up-front payments of money.<sup>3</sup>
- That, instead, secured money bonds lead only to pretrial detention for anywhere between a few days to the entire period of the pretrial phase of the case, with negative consequences.
  - Even short term stays in jail while making the financial arrangements to pay a secured bond raises a person’s likelihood of being arrested for new criminal activity while on pretrial release and failing to appear in court<sup>4</sup>, and can lead to devastating disruptions in the person’s life, including loss of employment, housing and child custody.<sup>5</sup>
  - People who are detained throughout the pretrial period, when controlling for other factors, receive much harsher outcomes than those who are released, including a greater likelihood of being convicted, a greater likelihood of being sentenced to jail or prison, and a greater likelihood of receiving a longer jail or prison sentence.<sup>6</sup>
- That money bonds exacerbate racial and ethnic disparities in the justice system.<sup>7</sup>

And the “principle arguments” against the use of *commercial surety bonds* in particular are:

- That surety bonds have a devastating impact on impoverished communities; even when poor families are able to make a deal with a commercial bail agent, they may be in debt for years, making payments on the non-refundable fees.<sup>8</sup>
- That the commercial bail bonding industry has been rife with abuse and corruption.<sup>9</sup>

Finally, Dr. Krahl implies that it is okay if people are sitting in jail on bonds they cannot post as long as there are not a large number of them. The federal courts addressing challenges to the money-based bail system are not, however, viewing it that way. Federal courts are finding constitutional violations of equal protection and due process in many aspects of current money-based bail practices, which are not focused on whether the figure of those “languishing” in jail a month or more is 2%, 20% or 50%. They are focused on the constitutional rights of every single individual being held solely due to the inability to pay a secured bond.

If Dr. Krahl wants to make the case for the continued use of surety bonds, he would need to address all of these principle arguments rather than the straw man that he props up.

That aside, in the literature review portion of his paper, Dr. Krahl makes several statements that are unsupported, false, misleading, or show a lack of understanding of the law, research, and practice. This memo highlights several of the more egregious ones, page by page.

- On page 4 he asserts that “[h]istorically and traditionally, bail has meant monetary, or surety bail.” This is at least extremely misleading, and false if the author means “monetary

bail” of the type he claims to support. A reading from the history of bail from medieval England to the present shows that “bail” is a process of conditional release of an individual charged with a criminal offense. Throughout that history, however, the sureties involved were personal sureties, who were forbidden by law from profiting or being indemnified at bail. Moreover, the financial condition, when it was used, was what we call today an “unsecured financial condition,” which meant that persons did not have to pay anything up front to obtain release. They were released on a promise to pay.<sup>10</sup>

- On page 6 he discusses standard rates of bail that are “offense specific,” saying that judges have to rely on these offense specific tools because “there is little time to conduct a more thorough and comprehensive assessment.” There are three problems with this. First, he seems to be unaware of even rudimentary holdings from cases like *Stack v. Boyle* (which cast doubts generally on the use of bail schedules) as well as multiple equal protection and due process rulings that would be triggered equally through the use of a schedule. Even more specifically, in a recent decision in the case of *Buffin v. San Francisco*, the U.S. District Court, when faced with the same argument - that efficiency requires the use of offense specific bail schedules - ruled: “Operational efficiency based upon a bail schedule which arbitrarily assigns bail amounts to a list of offenses without regard to any risk factors or the governmental goal of ensuring future court appearances is insufficient to justify a significant deprivation of liberty.”<sup>11</sup> Second, as the court noted in the *Buffin* case, “the record is devoid of any evidence showing that the Bail Schedule considers either of the articulated goals” of court appearance and public safety. Third, Dr. Krahl’s claim that judges must use these tools because they don’t have time for other types of assessments is belied by the fact that judges all over the country currently receive the results of a pretrial assessment.
- On page 7 he states that “the use of surety bonding is the one single best mechanism to ensure that the defendant appears for all of his/her court dates.” He provides no support for this contention, and it is directly contradicted by other research plus the conclusion of a federal judge who closely examined that research. In a case in which she ruled the money-based bail setting practices of Harris County, Texas to be unconstitutional, U.S. District Court Judge Lee Rosenthal wrote, after reviewing the research, that there is “no empirical basis to conclude that imposing secured money bail promotes better rates of appearance or of law-abiding behavior for those on pretrial release.”<sup>12</sup>
- On page 8 Krahl poses the question, “what mechanism(s) may be utilized to best ensure the three-pronged goals of public safety, defendant accountability, and appearance of the defendant ...” First, the premise of his question, the three-pronged goals of bail, is wrong. Based on the history, law, research, and national standards, the three purposes of bail are (1) maximizing release; (2) maximizing public safety; and (3) maximizing court appearance. As Judge Rosenthal wrote in the Harris County case, the pretrial process

involves balancing the “arrestee’s interests in pretrial freedom and the County’s interest in reasonably assuring appearance at hearings and trial and the absence of criminal activity.”<sup>13</sup> Dr. Krahl’s three goals, which have been fruitlessly advanced in various forms by the bail insurance companies, says nothing of release (which surety bonds inhibit or deny), and speak of “accountability” (a principle relentlessly advanced by the industry, but which is more appropriately related to sentencing, and not to the pretrial phase of the case). Second, even with the corrected premise, since secured money bonds can do nothing to address public safety, the answer to his question cannot be secured money bonds.

- Also on page 8, he makes the following claim: “The use of a risk assessment tool typically attempts to answer three questions. Does the risk assessment tool predict pretrial failure; does it distinguish between low, moderate, and high risk defendants and their relative failure rates; and does it predict pretrial failure among different subgroups? The answer to all three questions was a resounding no.” He then cites Community Resources for Justice, 2016 as a source for this “resounding no” conclusion. Yet he does not include any publication from Community Resources for Justice, from 2016 or any other year, in the References section of the paper, so it is not known to what publication he is referring. A review of the publications on the website of Community Resources for Justice<sup>14</sup> found no publications that made any such claim. In fact, the claim is very questionable, given that Community Resources for Justice has designed or validated actuarial pretrial assessment tools for numerous jurisdictions, including Davidson County, TN; Riverside County, CA; and the states of Alaska and Delaware. Moreover, here is what Community Resources for Justice actually says about actuarial pretrial assessments: “Using a validated risk assessment--meaning that the tool accurately predicts failures to appear and new arrest pending case disposition and properly classifies the jurisdiction’s target population as low, moderate, and high risk--is a first step in ensuring that the right defendants are detained and released, and that those who are released are supervised appropriately given their risk of failure.”<sup>15</sup> Given that, it is hard to imagine this organization answering a question about the effectiveness of pretrial assessment tools with a “resounding no”. Community Resources for Justice is not alone in the conclusion that assessment tools are effective at providing relevant and distinguishing information about people so that courts can make more informed decisions.<sup>16</sup>
- On page 9, Dr. Krahl presents an extremely misleading chart from Harris County, Texas, (a chart apparently available only to parties and amicus, including the commercial bail industry, in the Harris County lawsuit) to support his claim that “[a]n analysis of bond failure rates in [that county] illustrates that differences in failure rates between defendants released on secured bond versus those released on unsecured bond.” These data were produced by defendants in Harris County in an attempt to show they were being harmed by a preliminary injunction designed to stop constitutional violations due to the use of

secured money bonds. Apart from being data used to support an adversarial position in a case – a position that ultimately failed – the data were discredited by a plaintiff’s expert witness as being flawed or simply erroneous for numerous reasons, including that bond “forfeitures” could not be equated to failures to appear, and, in fact, two judges submitted declarations indicating that the numbers from this chart were intentionally inflated.<sup>17</sup> In short, the data produced in the chart is wrong, possibly intentionally misleading, and a federal district court correctly dismissed it from consideration in the case. The fact that Dr. Krahl nevertheless cites it should be considered ethically questionable, to say the least.

- On page 10, he compares secured release with unsecured release plus conditions to argue that unsecured with conditions is more burdensome. Nonfinancial conditions – and, indeed, preventive detention for noncapital defendants based on public safety – were ultimately declared lawful under American jurisprudence and thus adopted by virtually every state in America as valid ways to address public safety starting in 1970. In 2017, the United States District Court for the District of New Mexico addressed the prioritization of nonmonetary conditions over secured release in *Collins v. Daniels*. The court dismissed a challenge to this framework, noting that there is no right to monetary bail and that nonmonetary conditions in lieu of financial release were lawful:

Conditions of release can violate due process if it prevents the courts from evaluating and setting relevant conditions of pretrial release for criminal defendants on an individual basis. *United States v. Torres*, 566 F. Supp. 2d 591, 596 (W.D. Tex. 2008). Yet, the 2017 Rules require courts to evaluate and set appropriate conditions of release on a case-by-case basis. Significantly, Plaintiffs never allege that any actual condition of Collins’ release is unconstitutional.

Even if a judge firmly believes in the use of secured money bonds to achieve court appearance, if that judge has any questions about public safety, he or she is forced to look beyond money as a lawful and effective means of achieving that goal.

- On page 10, he cites a report by Carmichael et al., which looked at pretrial justice in Texas generally and specifically at two counties – one that relies substantially on secured money bonds (Tarrant County), and one that releases more on personal bonds through the use of an actuarial tool (Travis County), to argue that using assessments leads to greater costs due to bond forfeitures. Here is what that report actually concluded: “Overall, results indicate pretrial assessment can save money, strengthen public safety, and improve outcomes for defendants.”<sup>18</sup> In fact, among the findings of the report are: “Validated pretrial risk assessment successfully predicts defendant’s chance of bond failure;” “The costs of a risk-informed pretrial release system are more than offset by savings that occur when defendants are properly classified;” and “A risk-informed pretrial release system is fairer for defendants.”<sup>19</sup>

- On page 11, he makes the claim that there cannot be many people sitting in jails due to inability to afford a surety bond because “[t]here are simply too many options that allow surety bond agencies to be flexible in their approach to funding a surety bond.” Aside from evidence that there are many people sitting in jails on bonds they cannot make, and aside from the fact that Krahl cites no source for his claim, this raises a real concern about the surety bond system. It is a business that needs customers, and for the right price, it is willing to bond out anyone, regardless of the potential dangerousness. Dr. Krahl ends with a question resembling a common bail industry claim that if someone is detained pretrial by a secured bond, it is due not to the money, but to something else – such as his “high risk” as determined by how many family bridges he has burned, his “high risk” due to a someone’s (including a bondsman’s) subjective determination, or his “high risk” due simply to his “breaking the dang law.”<sup>22</sup>
- On page 12 he asks, since “not everyone breaks the law,...why should taxpayers who don’t break the law have to actually pay for something that they will never use.” The thing that taxpayers pay for but don’t use, according to Dr. Krahl, is the services of a pretrial services program. This is an absurd argument on its face. First, taxpayers are required to pay for many services that they will never use, such as the fire department if their house never catches fire. Second, pretrial services programs don’t exist to benefit the person who has been arrested. They work for the courts to help facilitate the three goals of bail, all three of which benefit the community: maximize pretrial liberty (which saves taxpayer money when people are not held in jail unnecessarily); maximize public safety (which includes not having unnecessary pretrial jail stays increase someone’s likelihood of future arrest); and minimize willful flight from justice. To follow Dr. Krahl’s reasoning to its logical conclusion, taxpayers who have never been arrested should not have to pay for the operation of our criminal courts, our prosecutor offices, or our jails and prisons - even though those institutions provide significant benefits to society. Third, Dr. Krahl appears to be assuming that everyone who has been arrested has broken the law. Yet as we know from the high rates of dismissals and declined prosecutions,<sup>23</sup> being arrested is not the same as being guilty. Fourth, Dr. Krahl seems to forget that the non-refundable fee that people must pay to a bondsmen remains non-refundable even if the person is eventually cleared of the charge - meaning they must pay for a service they never should have needed, but were forced to use to get out of jail, even though they never were convicted of a crime.
- On page 13, he states: “One of the problems with unsecured pretrial release programs<sup>24</sup> that are enacted under state law is that oftentimes there is no specified funding mechanism or funding stream associated with the program’s implementation.” He goes on to argue that this is an unfunded mandate for the counties that must implement these programs. But he fails to point to any state law, including Florida’s, that requires counties to establish and

then pay for pretrial services programs, and the Pretrial Justice Institute knows of no state laws that do. Plus, recent advancements in pretrial reform conversations have included many options that do not even require a county to start or maintain a pretrial services program in order to achieve the desired outcomes.

- On page 14, he states that “Implementing a government-funded unsecured pretrial release program will most assuredly and unnecessarily increase the tax burden on tax paying citizens across the board.” He offers no citation to back this claim. Yet there is data showing the opposite. A cost-benefit analysis of the impact of enhancements made to the pretrial services program in Denver, Colorado found that the county is saving \$2 million a year, over and above the costs of the program, through the enhancements.<sup>25</sup> In addition, an analysis by the City Controller for the city of Philadelphia found that that jurisdiction could save over \$75 million a year by eliminating its use of cash bail.<sup>26</sup>

It is ironic that, given the issues raised here regarding his “literature review,” that Dr. Krahl would note, as he does on page 14, that “secured pretrial release has simply gotten a bad rap, based on distortions, misrepresentations, and unsubstantiated supposition that make no sense in light of the existing data and facts.”

Turning to the actual study itself, Dr. Krahl collects data from 29 Florida county jails that have publicly accessible websites, showing who is in jail, how long they have been there, and what keeps them there to arrive at his finding that less than 2% were kept in custody for 30 days or more without posting a secured bond. This seemed unusual, based on other reports.<sup>27</sup> A review was conducted on the first Florida county jail listed in the paper - [Bradford County](#) - counting who was in jail on March 26, 2019, what they were there for, and how long they had been there. Of the 112 individuals in the jail on that date, 23, or 21%, had been there for 30 days or more solely on bonds not posted.

It is not clear why Dr. Krahl chose 30 days as the threshold for inclusion in his sample, especially given the research, referenced earlier, showing that even a few days in jail pretrial can have detrimental effects on an individual’s life both in the short and long term. It is equally unclear why he chose 30 days given the law which points to constitutional violations occurring at the very moment the money amount detains.

Dr. Krahl’s paper adds nothing to the many discussions and actions taking place nationally to reform our bail system, and certainly does nothing to make the case for the continued use of surety bonds.

## ENDNOTES

1. PJI would like to thank Tim Schnacke, Executive Director of the Center for Legal and Evidence-Based Practices, for his significant contributions to this memo.
2. Virtually all states only allow money forfeiture for failure to appear in court, and not new criminal activity. In a recent case, a federal district court correctly ruled that it is illogical – and thus unlawful – to set a money bond for purposes of public safety when that money may only be forfeited for failure to appear for court. *Reem v. Hennessy*, No. 17-cv-06628-CRB (Order Imposing Stay) (N.D. Cal. Dec. 21, 2017), at 8-9.
3. See, for example: Arpit Gupta et al., *The Heavy Costs of High Bail: Evidence From Judge Randomization*, 45 J. LEG.STUDIES 471 (2016); Michael R. Jones, *Unsecured Bonds: The “As Effective” and “Most Efficient” Pretrial Release Option*, Pretrial Justice Institute, (2013); Claire M. B. Brooker, Michael R. Jones, and Timothy R. Schnacke, *The Jefferson County Bail Project: Impact Study Found Better Cost Effectiveness For Unsecured Recognizance Bonds Over Cash and Surety Bonds*, Pretrial Justice Institute, (2014).
4. One study found that, when controlling for other factors, people who had been arrested and booked into a jail who had scored as “low risk” on the empirically-derived pretrial assessment tool and who were held in jail for just 2-3 days after arrest were 39% more likely to be arrested on a new charge while the first case was pending than those who were released on the first day, and 22% more likely to fail to appear. “Low risk” arrested people who were held 4-7 days were 50% more likely to be arrested, and 22% more likely to fail to appear; those held -14 days were 56% more likely to have a new charge and 41% more likely to have a failure to appear. The same patterns held for “medium risk” people who were in jail for short pretrial periods. Christopher Lowenkamp, Marie VanNostrand, and Alex Holsinger, *The Hidden Costs of Pretrial Detention*, Laura and John Arnold Foundation (2013).
5. Alexander M. Holsinger, *Analyzing Bond Supervision Survey Data: The Effects of Pretrial Detention on Self-Reported Outcomes*, Crime and Justice Institute (2016).
6. Christopher Lowenkamp, Marie VanNostrand, and Alex Holsinger, *Investigating the Impact of Pretrial Detention on Sentencing Outcomes*, Laura and John Arnold Foundation (2013); Meghan Stevenson, *Distortion of Justice: How the Inability to Pay Affects Case Outcomes* (2016); Alexander Holsinger, *Exploring the Relationship Between Time in Pretrial Detention and Four Outcomes*, Crime and Justice Institute (2016); Paul Heaton, Sandra Mayson and Megan Stevenson, *The Downstream Consequences of Misdemeanor Pretrial Detention* (2016); Arpit Gupta, Christopher Hansman and Ethan Frenchman, *The Heavy Costs of High Bail: Evidence from Judge Randomization* (2016); Will Dobbie, Jacob Goldin and Crystal S. Yang, *The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*, American Economic Review, 108(2): 201-240 (2018).
7. Studies have consistently shown that African American defendants have higher secured bond amounts and are detained on secured bonds at higher rates than white defendants, a factor contributing to the disproportionate confinement of persons of color. Traci Schlesinger, *Racial and Ethnic Disparity in Pretrial Criminal Processing*, 22 JUST Q., 170, 187 (2005); Stephen Demuth, *Racial and Ethnic Differences in Pretrial Release and Decisions and Outcomes: A Comparison of Hispanic, Black and White Felony Arrestees*, 41 CRIMINOLOGY 873, 880-81 (2003).
8. “San Franciscans pay up to \$10-\$15 million per year in nonrefundable fees to bail bond agencies. These fees are largely paid by residents of low-income neighborhoods and communities of color.” *Do the Math: Money Bail Doesn’t Add Up for San Francisco*, City of San Francisco Office of the Treasurer and Tax Collector (2017); “For-profit bail bond companies take advantage of the urgency of detention to bind people to contracts that can mean debt and payments that last far longer than any court proceedings. Like payday lenders that prey on families in crisis, bail companies profit from an imbalance of knowledge, power, and a lack of options that can trap families into cycles of debt so that even though they are not jailed, they are not free.” *Selling Off Our Freedom: How Insurance Corporations Have Taken Over Our Bail System*, Color of Change (2017). Joshua Page, Victoria Piehowski and Joe Soss, *A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation*, RSF: The Russell Sage Foundation Journal of the Social Sciences (February 2019).
9. This corruption has been longstanding. In *Schilb v. Kuebel*, 404 U.S. 357, 359-360 (1971), a unanimous US Supreme Court upheld Illinois bail reforms that eliminated use of commercial bail bonds, writing: “Prior to 1964 the professional bail bondsman system

with all its abuses was in full and odorous bloom in Illinois.” The Court rejected challenges to the reforms, stating “[w]e refrain from nullifying this Illinois statute that . . . has brought reform and needed relief to the State’s bail system.” *Id.* At 372. For more current examples of bail bonding abuses, see: *Inside Out: Questionable and Abusive Practices in New Jersey’s Bail Bonding Industry*, State of New Jersey Commission of Investigation (2014); *Consensus Report on Optimal Pretrial Justice*, County of Santa Clara Bail and Release Work Group, Section B(3), Corruption and Coercion in the Bail Bonds Industry (2016).

10. For a thorough discussion of the history of bail see Timothy R. Schnacke, *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform*, National Institute of Corrections, Chapter 2 (2014).
11. U.S. District Court for the Northern District of California, ruling issued March 4, 2019.
12. *Odonnell v. Harris County*, Memorandum and Opinion Setting Out Findings of Fact and Conclusions of Law, U.S. District Court, Southern District of Texas.
13. *ODonnell v. Harris County*, Amended Order of Preliminary Injunction, June 29, 2018.
14. [www.crj.org](http://www.crj.org).
15. Jesse Revicki, Lisa Brooks, and Kristen Bechtel, *Local Justice Reinvestment: Targeting Reforms at the Front End of the Criminal Justice System*, Crime and Justice Institute, Community Resources for Justice (2015), p. 6.
16. See, for example: Sharad Goel, et al., *The Accuracy, Equity, and Jurisprudence of Criminal Risk Assessment* (2019), available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3306723](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3306723); and Matthew DeMichelle et al., *The Public Safety Assessment: A Re-Validation and Assessment of Predictive Utility and Differential Prediction by Race and Gender in Kentucky*, RTI (2018).
17. See Declaration of Judge Fields, Doc. 402-3, Filed 6/11/2018, in *Odonnell* (“It is my opinion that the policy of requiring next-day settings for people released on unsecured bonds has resulted in a manipulation of the bond-forfeiture numbers”); Declaration of Judge Jordan, Doc. 402-2, Case No. 4:16-cv-01414, filed 6-11-18) (“Exercising their discretion to schedule court appearances and decide when to forfeit bonds, the Fourteen Judges have implemented a variety of policies that I believe are designed to inflate the bond-forfeiture numbers for people released on unsecured bonds”).
18. *Liberty and Justice: Pretrial Practices in Texas*, Dottie Carmichael, et al., Texas Office of Court Administration (2017), p. xiii.
19. *Ibid.*
20. A study of people held before trial in four jurisdictions across three states found that 56% said that they could not afford the bonds themselves, and 34% said that their families could not do so. Catherine S. Kimbrell and David B. Wilson, *Money Bond Process Experiences and Perceptions*, George Mason University (2016). A jail population analysis of New Jersey jails found that, after factoring out those with pending cases who also had other matters keeping them detained, 39% of the total jail population were people who were there on bonds that had not been posted. Marie VanNostrand, *New Jersey Jail Population Analysis: Identifying Opportunities to Safely and Responsibly Reduce the Jail Population*, Luminosity (2013).
21. *Paying a Price for Dishonest Bondsmen: Cost Cutting Tactics Put Dangerous Defendants on Streets*, Connecticut Law Tribune, 25 May 2009; *Get Out of Jail Almost Free: Competition Pushes Down the Price of Bail*, Alabama Press Register, 9 November 2008.
22. Christopher Keating, *National Bounty Hunter Tries to Stop CT “Second Chance” Bill*, Hartford Courant, May 12, 2016, quoting the President of the Professional Bail Agents of the United States, saying, “People are not in jail because they’re poor. They’re in jail because they broke the dang law.” Found at <https://www.courant.com/politics/capitol-watch/hc-national-bounty-hunter-tries-to-stop-ct-bill-20160512-story.html>.
23. A 2009 study of felony cases in 40 large counties found that 25% ended in dismissal. Only 66% who were charged were ultimately convicted of any crime. Brian A. Reaves, *Felony Defendants in Large Urban Counties, 2009: Statistical Tables*, Bureau of Justice Statistics, U.S. Department of Justice (2013).

24. For reasons that are unclear, Dr. Krahl refers to pretrial services programs as “unsecured pretrial release programs.”
25. *Outcomes From the Smart Pretrial Initiative*, Pretrial Justice Institute (2017), p. 3-4.
26. *Economic Impacts of Cash Bail on the City of Philadelphia: An Analysis of the Direct and Indirect Impacts of Cash Bail* (2017).
27. For example, a 2016 survey of persons jailed pretrial in four jurisdictions across three states found that 52% reported being in jail for more than 31 days on bonds they could not post. Catherine S. Kimbrell and David B. Wilson, *Money Bond Process Experiences and Perceptions*, George Mason University (2016).