

Smart Jail for Escambia

Factsheet and Recommended Solutions



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Over-Incarceration

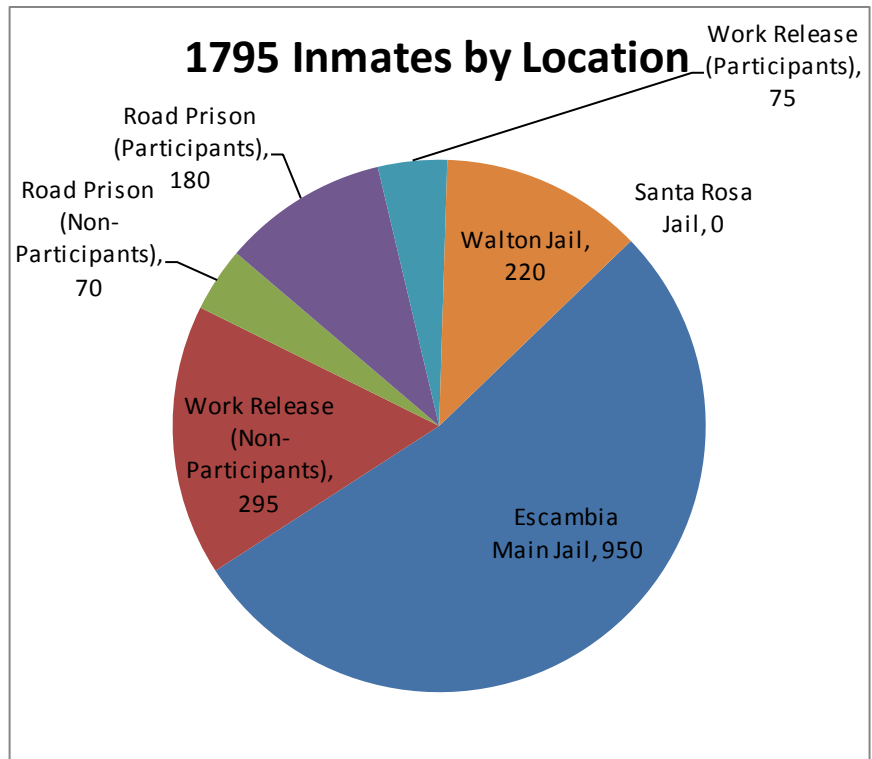
Escambia needs a criminal justice system that is cost effective, operates fairly, and keeps us safe. However, our jail is crowded, expensive, and houses many non-violent, pretrial defendants who could safely reside in the community with their family and continue to work while awaiting court.

All data in this report is based on an analysis of Escambia inmate data on July 31, 2017, which serves as a snapshot of the jail's makeup.

As of that date, Escambia County detained approximately 1795 people, giving it one of the highest jail incarceration rates in the state. According to the Florida Department of Corrections, Escambia's incarceration rate is roughly 80% higher than the state average, even though its crime rate is only 40% higher than state average. In our county, falling crime rates have not resulted in falling incarceration.

Unlike prisons which only hold people convicted of felonies, our jails hold a mixture of people. About a third of the inmates have been convicted and are serving relatively short sentences. Another third is individuals deemed ineligible for release because the inmates have been accused—but not yet found to have—of a violation of probation, terms of pretrial release, or for some other reason. The last third await trial and thus are presumed innocent.

Because of this mixed population, simple changes to our policies and practices can result in rapid and significant declines in the jail population. With commitment from local stakeholders and local government, Escambia can build and manage a smarter jail—a jail that saves taxpayer money, both now and in the long term, with no compromise to public safety.



Escambia Incarceration Costs

Annually, Escambia County spends approximately \$46.5 M on incarceration.



Other Costs & Concerns

I. Public Safety

Unnecessary jailing undermines community safety. Statistical studies have shown that similarly situated, low-risk individuals who are detained pretrial, even for short periods, are more likely to commit new crimes following release. This seemingly counterintuitive outcome reflects the profoundly destabilizing effects of even short durations of pretrial detention.

Further, the inability to post money bail may induce innocent people accused of relatively low-level crimes to plead guilty, simply so they can be released. In the case of certain offenses, this endangers communities, as the person actually responsible for committing the crime remains free, yet law enforcement is no longer investigating them.

Unnecessary detention is also counterproductive from the perspective of guaranteeing appearance at trial. Studies show that those who remain in pretrial detention for longer than 24 hours and are then released are less likely to reappear as required than otherwise similar defendants who are detained for less than 24 hours.

II. Increased Liability

Escambia's liability exposure increases with added inmates, including medical malpractice, excessive-force claims, and accidents (like the injuries stemming from the explosion at Center Booking & Detention facility in April 2014) that occur at the jail. Reducing the number of inmates reduces Escambia's liability exposure.

Overcrowding exacerbates possible liability for the county. The U.S. Department of Justice launched an investigation into the Escambia jail in May 2013 and cited the jail for overcrowding concerns. The high number of inmates with too few guards led to prisoner on prisoner violence. It found the jail operation violated the U.S. Constitution. The jail explosion in April 2014 has not made inmate-to-guard ratio any better.

III. Social Costs

Pretrial detention has a devastating impact on individuals, families, and communities. Short stints in jail before trial result in loss of employment, education, access to healthcare, child custody, housing and family connections, leading to recidivism.

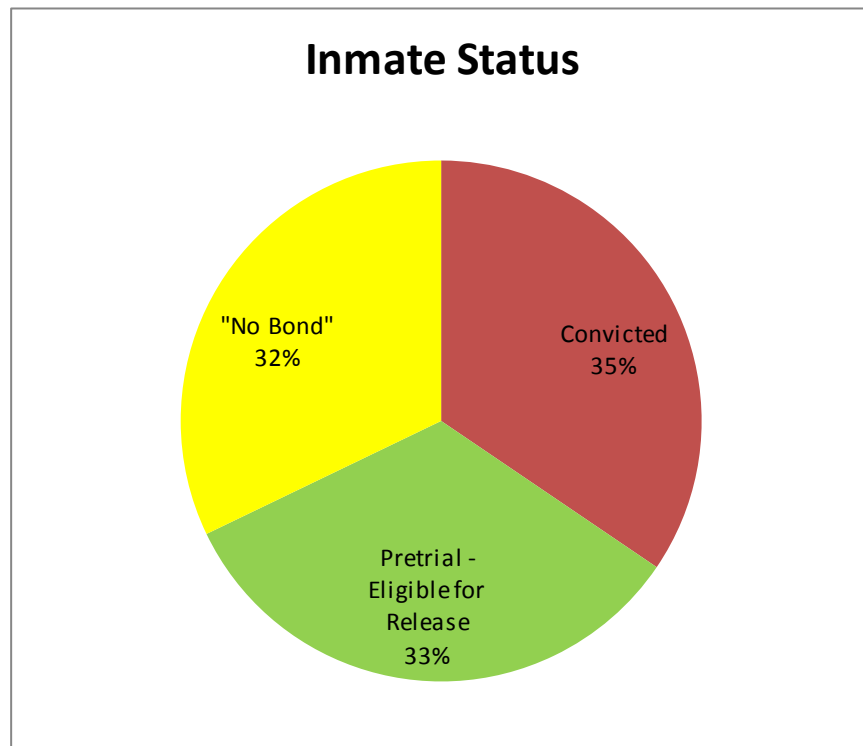
If convicted, people who await trial under community supervision with good behavior are more likely to be sentenced to probation rather than jail, allowing them to maintain their jobs, family, and role in the community. Individuals housed pretrial receive harsher punishment, as they are more likely to be sentenced to jail or prison for longer periods of time. As one report found, defendants who are detained for the entire pretrial period are "over four times more likely to be sentenced to jail and over three times more likely to be sentenced to prison than defendants who were released at some point pending trial." In addition to a greater likelihood of receiving a jail or prison sentence, defendants who are detained pretrial face *longer* sentences once convicted. The sentences of those who are detained pretrial are "significantly longer – almost three times as long for defendants sentenced to jail, and more than twice as long for those sentenced to prison." Recent studies have identified a causal link between pretrial detention and adverse case outcomes. One of those studies analyzed over 375,000 misdemeanor cases filed between 2008 and 2013 in Harris County, Texas, and concluded that "misdemeanor pretrial detention causally affects case outcomes." Whether guilty or not, defendants often plead guilty in order to be released sooner.

The current money bail system also exacerbates racial disparities in the criminal justice system. Money bail inherently discriminates against poor defendants, who are by definition less likely to be able to cover bond. Due to well-established linkages between wealth and race, money bail will often result in increased rates of pretrial detention for Black and Latino defendants. Studies have shown that Black and Hispanic defendants are more likely to be detained pretrial than white defendants and less likely to be able to post money bail as a condition of release. Because pretrial detention has such a profound effect on later-in-the-case outcomes, racial disparities in the application of cash bail may reinforce or exacerbate larger inequalities in rates of incarceration.

The reliance on money bail allows dangerous criminals to be released to the community while poor, less dangerous people sit in jail. The vast majority of people currently in jail or prison will be released to our community. We should ensure they are ready. Overall, pretrial detention is costly to our communities to the detriment of public safety.

Inmate Population

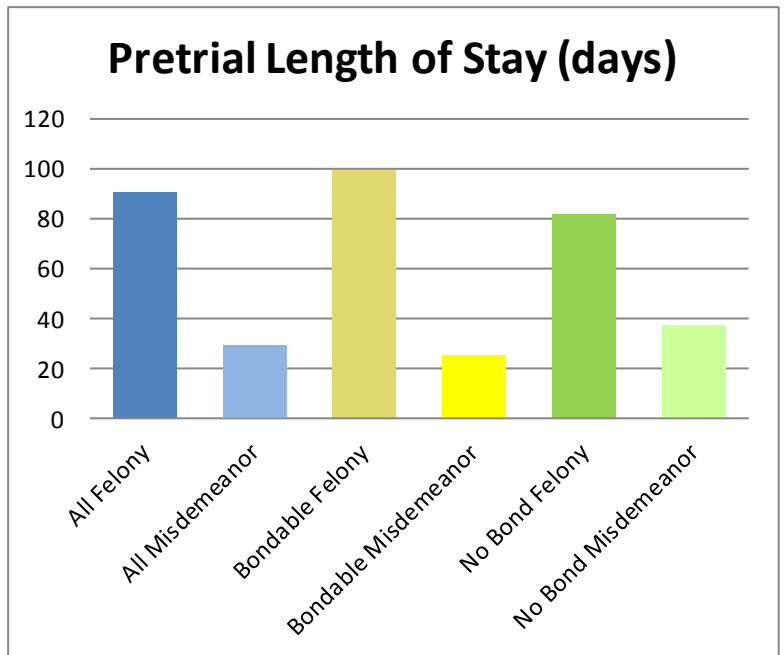
Approximately 35% of the people detained by Escambia have been convicted; the other roughly two-thirds have not been convicted. Some are deemed ineligible for pretrial release (32% of total jail) because of a probation violation, violation of terms of release / failed to appear, or other reasons.



Pretrial Inmates

The presumption of innocence leading to pretrial release stands at the heart of our notion of fairness. “Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning” and “the infliction of punishment prior to conviction” would result. *Stack v. Boyle*, 342 U.S. 1, 4 (1951). Accordingly, “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Florida recognizes in our Constitution that “every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions.” Art. I, § 14, Fla. Const. However, in practice, we don’t always remain faithful to these principals.

Even though they are presumed innocent and eligible for release, these inmates remain jailed too long. The typical inmate is too poor to pay for his release and has spent nearly 90 days in jail—99 days for those held on one or more felony charge and 25 days for misdemeanor charges. The county subsidizes the state prisons by detaining inmates pretrial as they receive credit off their prison term for time spent in jail before trial for those ultimately convicted. For those who are not found guilty, however, the county is simply eating the cost.



When the jail recorded their zip code, over 83% of them reside at a home whose zip code begins with 325. They are part of our community.

Inmates Eligible for Release

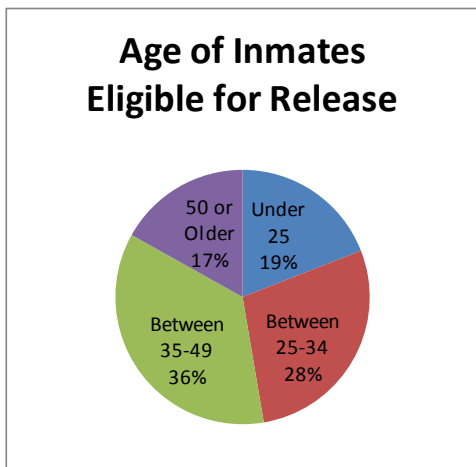
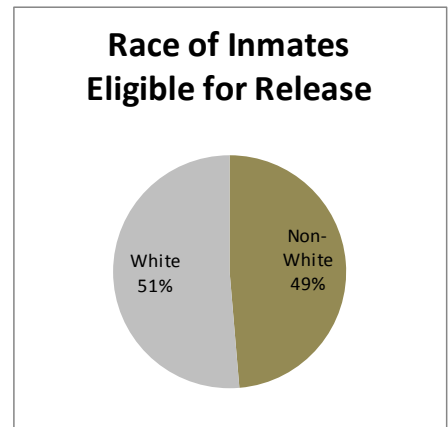
33% of the inmates in the Escambia jail as of this analysis— about 598 inmates—are eligible for release. The court set the terms for pretrial release and fixed the amount of bail. If the inmates cannot afford the monetary bail and meet the conditions, they remain incarcerated.

Violent Charge

44% are held on non-violent charges. These are people who are not suspected of being a danger to the community and thus should not be incarcerated.

Race & Age

Non-white inmates eligible for release are disproportionately represented in our jail. Roughly 30% of our community is non-white. Yet, 49% of the bondable inmates are non-white—a rate nearly 2 times that of whites in our community.



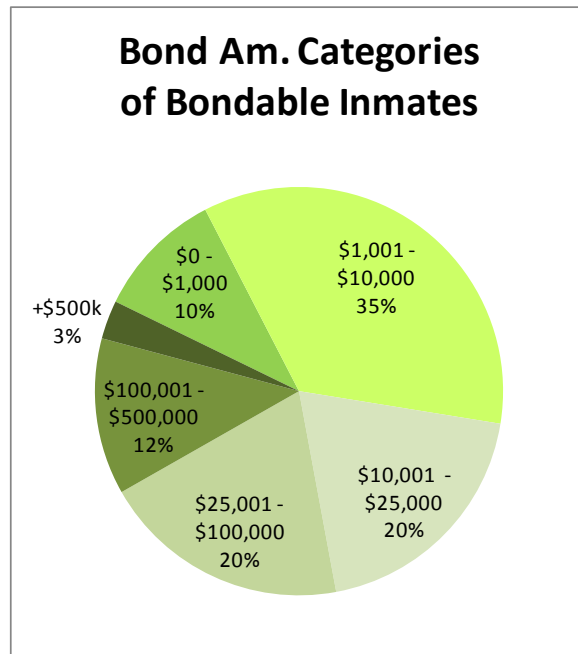
Crime is a young man's game. Yet, 17% of the bondable inmates are 50 or older and 36% are between 35 and 49. An aging jail population contributes to the \$7.4 in medical costs the jail spends.

Low Financial Capacity

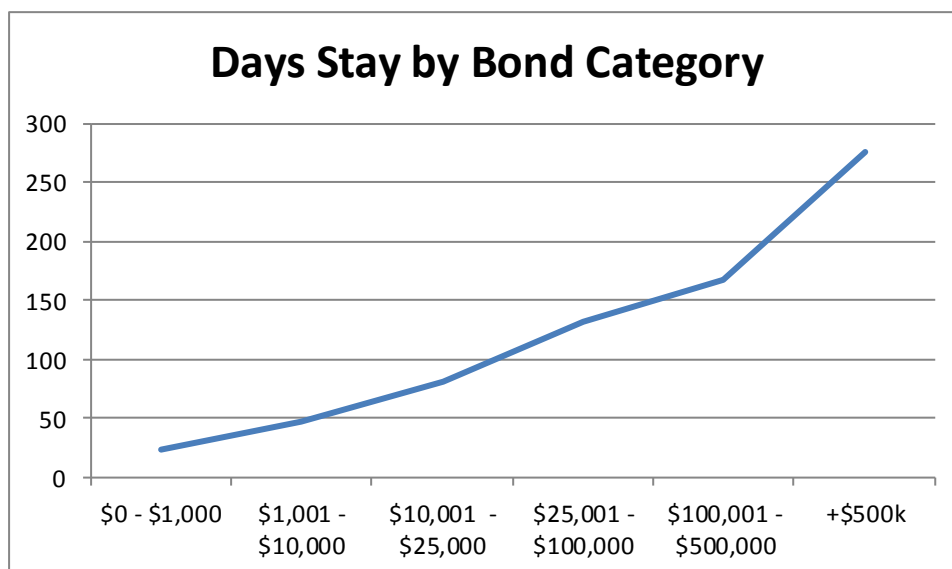
Escambia's per capita income is roughly \$24,000. And criminal defendants are among our poorest. Eighty to ninety percent of them are represented by an attorney appointed by the court at the state's expense—which means they have income no higher than 200% of the poverty line. Furthermore, 44% of American adults say that without help or selling something, they could not cover an emergency expense costing \$400. Again, most criminal defendants fall into this low-reserves category. It is not surprising they often cannot afford monetary bail.

High Monetary Bail

Monetary bail is often set out of reach. The typical monetary bail across all charges is \$16,000. 1-in-7 defendants faces a \$100,000 bail or greater. Those held on misdemeanor charges have an average bail amount of \$3,700 - several times higher than the bond schedule. Furthermore, approximately 60 inmates, or 10% of those eligible, for release sit in jail because they are too poor to satisfy a bail of \$1,000 or less.



Furthermore, an inmate's length of stay is directly related to the amount of his monetary bail. Higher bails translate into more time pretrial inmates spend in jail.



Other Conditions—GPS & Drug Testing

Additionally, for those eligible for release, the court often imposes pretrial release (PTR) supervision (37% of inmates eligible for pretrial release) and may require GPS monitoring (19% of inmates eligible for pretrial release). Each comes with a cost. PTR requires a person on pretrial release to regularly check-in with county officials. It was originally designed to replace monetary bail as an alternate means to assure a defendant appears for court. Now, courts regularly impose PTR *in addition to* a monetary bail and many times require people submit to drug and alcohol tests, at a cost of \$15-\$25 per test, even when the underlying charges was not predicated by drug or alcohol use. GPS costs \$305 for the first week and \$105 thereafter; however, the county is wisely funding those who cannot afford these prices.

Recommended Solutions

Escambia can forge a new path for pretrial justice that furthers the highest ideals of our legal system and ensures fair, safe, and cost-efficient administration of justice. With intensive reexamination of our policies and practices, we can develop workable new models guided by local needs that ensure our jail functions efficiently without detriment to public safety or tax dollars. The following list includes best practices from other jurisdictions and suggestions from local stakeholders and community groups. Together, we can improve the criminal justice system in Escambia County.

A. Expand and Improve Pretrial Supervision Practices

Pretrial services can take many forms, but generally encompass the bundle of interventions that will ensure that an individual defendant appears at trial and is not rearrested during the pretrial period. Robust pretrial service programs are key components to effective pretrial reform. Instead of relying on unaffordable bonds and pretrial detention, Escambia should utilize an array of less-restrictive tools that are likely to produce better outcomes for the community. To achieve meaningful reform, we must expand evidence-based, strategic pretrial supervision strategies to include the following:

1. Actuarial Risk Assessment: Update risk assessment to a validated, evidence-based tool upon which judges can confidently rely

At a defendant's first appearance in court after arrest (usually within 48 hours), the court sets the conditions of his pretrial release (if eligible), including any monetary bail. Calibrating these

conditions to mitigate risks to public safety and flight is always, at bottom, a process of risk assessment. To assist the court and the lawyers, the county's Pretrial Services prepares a *Pretrial Release Assessment*. This risk assessment details the defendant's residence in the community, employment, history of substance abuse, criminal record, and previous failures to appear for criminal court hearings. It then rates the likelihood that the defendant will appear for future court hearings and not be arrested again.

Pretrial release determinations should be based on science, research, and study, not intuition, hunches, and best guesses. An actuarial risk assessment that is empirically-derived and validated through a research study would accurately forecast who will make court appearances without any new arrests. Absent a reason to depart from the actuarial risk assessment's prediction, judges and prosecutors should rely on them. Judges should make the actuarial risk assessment part of the record and announce reasons for departing from it. Furthermore, an actuarial risk assessment tools may supply courts with an objective basis to release low-risk defendants on their own recognizance or with limited pretrial conditions.

The Florida Tax Watch found in a 2012 study that a vast majority of *conservative* voters in Florida agree that scientific risk assessments, not a defendant's wealth, ought to be the main factor in determining whether a pretrial inmate is released. However, too often an inmate's pretrial release turns on whether he can afford the imposed bail, not whether the prosecutor has shown him to pose an unacceptable risk for flight or to public safety.

Actuarial pretrial risk assessment tools are in use around the country. They are currently employed statewide in Virginia, Kentucky, New Jersey, and Ohio. Escambia's current assessment has not been validated to accurately predict pretrial release outcomes. However, it should consider adopting a risk assessment used in New Jersey. Its assessment was developed with help from the **Laura and John Arnold Foundation** using a database of over 1.5 million cases drawn from more than 300 U.S. jurisdictions that is designed to assist judges in making release/detention determinations: <http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/public-safety-assessment/>

2. Court Date Notification: Implement calling / texting service to notify defendants of upcoming court dates

In Escambia, 31% of no bond inmates are held without bond because they violated the terms of release and their bond was revoked. Often, they simply forgot and missed a court date. The least invasive tool to ensure that defendants show up to court is also one that has been shown to be quite effective: reminders. Over the past three decades, studies have demonstrated that simply reminding defendants of their upcoming court date improved appearance rates.

The county should remind criminal defendants of their court dates by calling or sending an automated voice/text message to the criminal defendant, a close family member or friend, or both. This would reduce the number of “failures to appear” and thus the numbers of instances courts revoke bail.

3. Pretrial Services: Rely on the County’s Pretrial Services in lieu of monetary bail.

The County funds (~\$586,000) a pretrial release (PTR) program to monitor to assure their appearance in court. The court orders defendants to enroll in PTR for roughly 37% of those eligible for release. Because this program serves many of the same purposes as a bail bondman, it may be used as a substitute. However, too often the court orders jail inmates to PTR (without testing) in addition to a monetary bail—67% of the time. This duplicates services.

Critics claim that bail bondsmen help locate defendants who have failed to appear—a service that PTR does not currently perform. However, with additional PTR funding there is no reason that staff cannot telephone the defendant or his friends and family to notify them of his missed court date or go to his house to locate him like a responsible bail bondsman. Adding this service to PTR would eliminate the any perceived benefit of bail bondsman and permit courts to release the defendant without a monetary bail.

4. GPS Monitoring: Limit electronic monitoring to high-risk defendants and only as an alternative to pretrial detention—at public expense

Existing research on the efficacy of electronic monitoring (GPS) has documented mixed results. Proponents claim it can help track a defendant’s movement in order to deter him from absconding or returning to a place to commit a serious offense. Yet, electronic monitoring as a condition of pretrial release has not been shown to reduce pretrial failure.

Everyone can agree that electronic monitoring is not a neutral restriction—it restricts liberty in both profound and subtle ways. It can be intrusive and deleterious to a defendant’s relationships and employment. In a survey of probation officers and convicted people who were given an electronic monitoring device in Florida, both groups described a negative impact on the individual’s relationships and employment. Those who had to wear the electronic monitoring device told researchers that the device gave them a “sense of shame” and a feeling of being “unfairly stigmatized.” Forty-three percent of those who wore it believe that electronic monitoring had a negative impact on their partners because of the inconvenience it created. Probation officers and those who wore the devices were unanimous in their belief that wearing an electronic monitoring device made it difficult to hold a job.

Accordingly, it should be reserved for high-risk defendants and only as an alternative to pretrial detention. It should never be imposed as a matter of course as a way to monitor low or medium-risk defendants whose detention would clearly not be justified.

Electronic monitoring is significantly cheaper than incarceration. Instead of paying \$50 or more per day to jail them, the county could pay just over \$15 per day for their GPS monitor. Yet, some defendants cannot afford it and remain in jail. For inmates remaining in jail simply because of their inability to secure the *additional* money for the GPS, the County should continue offer to pay for the GPS.

5. Drug Testing: Significantly limit or eliminate drug testing as a condition of pretrial release

Judges often (13%) impose drug or alcohol testing as a condition of pretrial release—even on charges that are not violations of drug or alcohol use. Yet, no empirical studies have found solid evidence that it effectively improves pretrial outcomes. Without this reality-based justification, the drug testing amounts to a pointless invasion of privacy and fails Fourth Amendment scrutiny. *See United States v. Scott*, 450 F.3d 863, 870 (9th Cir. 2006) (“But the connection between the object of the test (drug use) and the harm to be avoided (non-appearance in court) is tenuous.”).

At a maximum, we should only impose drug or alcohol testing when drugs or alcohol contributed to the underlying charged offense, e.g., drunk driving.

B. Tailor any Monetary Bail to its Purpose

Monetary bail is historically a tool meant to allow courts to minimize the intrusion on a defendant’s liberty while helping to assure appearance at trial. It is one mechanism available to administer the pretrial process. Yet in courtrooms around the country, judges use secured money bail to ensure that certain defendants are detained prior to their trial. Bail prevents many indigent defendants from leaving jail while their cases are pending—even though often these defendants do not pose a threat to the community. Too many people are jailed unnecessarily, with their economic status often defining pretrial outcomes. The following suggestions will help promote an effective bail system for Escambia:

6. Signature Bonds: Permit unsecured appearance bonds

The court may permit a criminal defendant to satisfy a monetary bail in three ways: (1) a commercial or professional bail bond, (2) cash, or (3) an appearance bond. Fla.R.Crim.P. 3.131(b)(1). Escambia judges frequently require the criminal defendant to post a “cash or professional” bond; and they often discount the appearance bond. *See* § 903.105, Fla. Stat.

In an appearance bond, the criminal defendant (as opposed to a professional bail bondman) guarantees the payment of the bond if the defendant fails to appear for court hearings. The appearance bond may be “secured” with collateral (e.g., a house, retirement savings, or some other property) or it may be “unsecured” with only the defendant’s signature and promise providing the assurance of payment upon default. Fla.R.Crim.P. 3.131(b)(1)(B). Importantly, in an unsecured appearance bond or “signature bond,” the criminal defendant need not deposit anything. In this way, a poor inmate may still be released without any money in his pocket on the promise he will be liable for the entire bond amount if he fails to appear in court.

“Unsecured bonds are as effective as secured bonds at achieving court appearance.” Michael R. Jones, *Unsecured Bonds: The As Effective And Most Efficient Pretrial Release Option*, Pretrial Justice Inst. (Oct. 2013), available from <http://www.pretrial.org>. Because an unsecured appearance bond provides similar incentives to other bonds and are more accessible to poor defendants, we should permit arrestees to satisfy monetary bail requirements with them and be released.

7. Single Charge Bail: Impose monetary bail only on most serious charge

Since 2006 with the passage of Ch. 2006-279, § 1, Laws of Fla., § 903.02(4), Fla. Stat., requires judges who impose a monetary bail to “set a separate and specific bail amount for each charge or offense.” Accordingly, judges frequently impose a monetary bail on each charge when a defendant faces multiple charges. Yet, the purpose of each monetary bail is often the duplicative—to ensure the appearance at criminal court hearings and trial. Because the monetary bail on a single charge would be sufficient to fulfill this goal, the imposition of monetary bail on other charges is duplicative and creates a redundant hurdle to pretrial release. Courts can accomplish the purpose of a monetary bail and comply with the law without imposing needlessly duplicative monetary bail.

The court should decide which of the charges is the most serious and only impose a monetary bail on it. The court should impose no monetary conditions of pretrial release on the remaining lesser charges. Because § 903.02(4), Fla. Stat., only requires the court set a specific bail amount when it imposes a monetary bail, if the court imposes no monetary bail on the remaining charges, the courts complies with the law. If the prosecutor decides to drop the sole charge with a monetary bail, it could move to modify the bail set for another charge and transfer the monetary bail obligation to an existing charge before the first is dropped.

8. Unaffordable Bail: Require state to justify need for unaffordable bail and find that no alternative measures or additional conditions of pretrial release.

When a criminal defendant shows that he cannot afford the bail, pretrial detention is effected through the imposition of an unaffordable bail. Two consequences follow. First, to ensure the court has the required “degree of confidence,” the state must show by clear and convincing proof that that no lesser monetary bail will reasonably assure the defendant’s presence at trial. Second, to ensure a person is not in jail simply because he is poor, the court must find that no alternative measures or additional conditions of pretrial release (other than an unaffordable bail and de facto pretrial detention) would achieve the government’s legitimate interests. This sub rosa method of imposing pretrial detention skirts the strictures required by the Florida pretrial detention statute (codified at § 903.047(4), Fla. Stat.) and constitutional procedural due process.

9. Consideration of Dangerousness: Manage dangerous defendants through the established procedure for pretrial detention, not by imposing high monetary bail

Florida permits the state to detain pretrial defendants who pose an unreasonable risk to public safety. *See* § 903.047(4), Fla. Stat. However to do so, the state must establish the need with clear and convincing evidence. *United States v. Salerno*, 481 U.S. 739, 751-52 (1987).

Compliance with the pretrial detention statute—instead of simply asking for a higher monetary bail—makes sense. Monetary bail does nothing to protect the public from a potentially dangerous criminal defendant. So long as the criminal defendant does not flee, no financial consequence results from his committing a future crime. *See* § 903.28, Fla. Stat. Accordingly, the monetary bail furthers no legitimate government’s interest in community safety—and therefore cannot constitutionally be put to this use.

Prosecutors should move for and transparently establish the need for pretrial detention of dangerous defendants. They should not be permitted to bypass the evidentiary showing and rely on courts to order pretrial detention through the sub rosa imposition of an unaffordable monetary bail.

C. Streamline the System—From Arrest to Resolution

While robust pretrial supervision and reformed bail practices impact the pretrial process, other meaningful reforms will impact Escambia’s jail population. Improvement requires buy-in from each stakeholder, from the Escambia County Sheriff’s Office to the Public Defender’s Office. If we streamline the system as a whole, the results will benefit individual citizens and reduce costs to

the taxpayers. The following suggestions will help expedite criminal justice processes and reduce the jail population:

10. Notice to Appear: Law enforcement use notice to appear in lieu of arrest

When a law enforcement officer personally observes a misdemeanor offense, he has two choices. He may arrest the person or he may issue a notice to appear in lieu of arrest. Florida Rule of Criminal Procedure 3.125 empowers a law enforcement officer to issue a notice to appear when the person sufficiently identifies himself, agrees to appear in court, and otherwise does not unreasonably pose a danger to the community or flight risk.

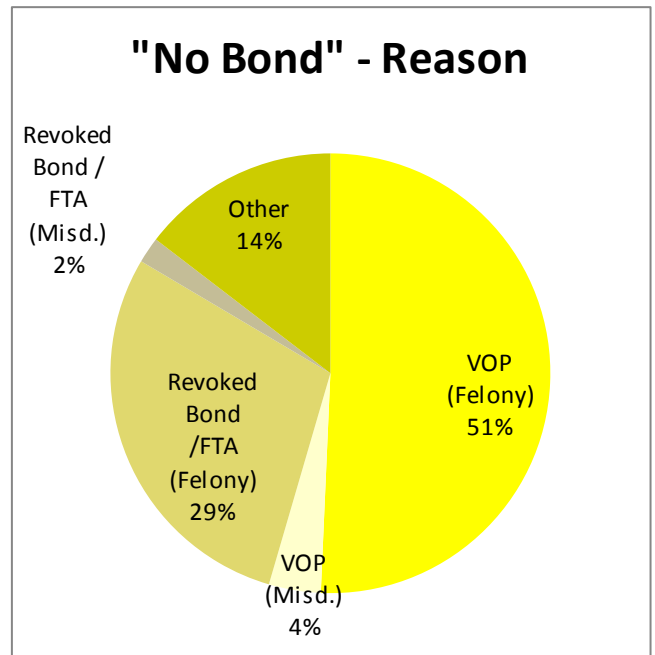
Yet, 77 of the bondable inmates at the time of this analysis are held in jail solely on misdemeanor offenses. Law enforcement should arrest those only when they could not otherwise simply release them with a promise to appear at a future court date. The Sheriff increasingly issues notices to appear, but this trend should further increase.

11. VOP & FTA No Bonds: Issue summons for violation of probation and failure to appear

When a person violates the terms of pretrial release or probation, the court often orders his “no bond” arrest. These two categories together account for most of the roughly 85% of the jail population that are detained “no bond” and deemed ineligible for pretrial release:

However, these no bond detentions are not always appropriate or lawful.

If a criminal defendant missed a court date for reasons beyond his control, e.g., he was in the hospital, the court should not revoke his pretrial release or increase the monetary bail amount. A court can only revoke pretrial release for a *willful* breach of the conditions of pretrial release. *State v. Blair*, 39 So. 3d 1190, 1194 (Fla. 2010). And the augmented monetary bail required by § 903.046(2)(d), Fla. Stat., only applies when the defendant had the ability to appear, but didn't.



When a defendant misses a court date, the court should issue a criminal summon to the defendant to appear and explain his absence. The court might set a hearing date dependent on the time the notice was served to reduce the work load of law enforcement tasked with serving the notices. If

substantial evidence indicates that the defendant willfully failed to appear and the court issues an arrest warrant, it should review the reasons for the failure to appear *expeditiously* after arrest to ensure a criminal defendant is not needless held without bond or an excessive one. Furthermore, an absent criminal defendant should only be denied bail (“no bond”) when the state moves for and satisfies the requirements for pretrial detention in § 903.0471(4), Fla. Stat. *Blair*, 39 So. 3d 1190

When a probationer violates the terms of probation, the probation officer will submit to the sentencing judge an affidavit detailing the violation. The officer will often include recommended sanction for the alleged violation, which may be to enlarge probation or some other remedial measure. The judge often issues a no bond arrest warrant regardless of the proposed sanction. This is certainly lawful, except when the probation violation is for failure to pay court costs. § 903.0471; Fla. Stat. (no bond for violation of probation); § 948.06(2)(d), Fla. Stat. (same); *Del Valle v. State*, 80 So. 3d 999, 1005 (Fla. 2011) (no revocation of probation for involuntary non-payment of court costs).

Yet, when the probation officer recommends enlarging the term of probation or other non-detention sanctions or that is the likely result, the trial judge should not order the probationer arrested. In that case, because the probationer does not pose a threat to the community and will be release to the community to serve any remaining probation, permitting the probationer to live in the community until the court may determine the alleged violation is more sensible. Instead of arrest, a criminal summons should be issued. This is especially true for the roughly 4% of no bond detainees who are alleged to have violated their misdemeanor probation.

12. Bail Hearings: Promptly hear motions to modify bail

At first appearance, the court sets the conditions of pretrial release usually in an expedited fashion without hearing individualized evidence of the criminal defendant’s financial resources and ties to the community. Later, the case is assigned the trial judge who will preside over the matter. Often, the trial judge is not the same as the one at first appearance.

When the criminal defendant believes the monetary bail set by the first appearance judge are excessive, he can request the trial judge revisit the conditions of pretrial release. However, this takes time. First, in the case of indigent defendants (accounting for nearly 90% of criminal cases), the public defender must assign the case to an assistant public defender (APD). This may take up to three weeks. Then, the APD must meet with the defendant and prepare and file a motion. Lastly, the court must set a hearing on the motion to modify bail. Some judges refuse to hear these motions except during their normally schedule motion-hearings week—which may be 4 to 5 weeks in the future. All this time—up to two to three months—the criminal defendant sits in jail on a monetary bail that was inappropriately set at first appearance. This is needless.

The public defender should flag challengeable monetary bail set at first appearance and immediately assign an APD to prepare and file a motion to reduce the bail. Once the motion is filed, trial judges should prioritize these motions and hear them within a week, perhaps by reserving a specific day of the week to resolve bail reduction motions. Additionally, the Chief Judge may consider hearing motions that remain unresolved after 10 days pursuant to her authority granted by Fla.R.Crim.P. 3.131(d)(1)(B).

13. Waive Court Appearance: Reduce failures to appear by eliminating the need to appear.

A criminal defendant may be excused from attending some pre-trial hearings. Fla.R.Crim.P. 3.180(a) permits him to waive appearance. Doing so would eliminate the risk that he will fail to appear and have a bench warrant issued for his arrest. Criminal defense lawyers should inform defendants of this possibility and encourage waiver in appropriate circumstances.

14. Plea Offers: Timely provide charge assessment and plea offers (score sheets)

Nearly all criminal cases will be resolved through a plea bargain. When the pending charge is minor, an inmate may ultimately be sentenced jail for a minimal time (2-3 weeks) or even just released and placed on probation. However, about 9% of pretrial inmates (~111 inmates) are held on misdemeanor charges. And a typical person held on misdemeanor charges stays in jail for 29 days. Resolving these cases expeditiously would reduce the pretrial population.

Prosecutors should quickly review and make plea offers for charges that will not likely result in jail or prison time. The public defender should review the pleas and score sheets delineating the sentencing guidelines with his client. In this way, criminal charges may be resolved at the first hearing before the trial judge or on special request—instead of weeks later. Criminal defendants whose are sentenced to probation or time served may be released; others may begin their sentence in the county jail.

