



Senate Judicial Proceedings Committee

Workgroup Report on the Courts and Criminal Justice System During the COVID-19 Pandemic

Annapolis, Maryland
August 2020

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

August 10, 2020

The Honorable Bill Ferguson
President of the Senate
State House
Annapolis, Maryland 21401-1991

Dear President Ferguson:

The disease known as COVID-19 first emerged in late 2019. By early March 2020, the disease – then a few days away from being officially declared a pandemic – reached Maryland. In the intervening months it has become clear that detecting and adequately responding to the spread of disease has presented numerous and ongoing challenges at all levels of government. Put simply, the pandemic has drastically altered normal operations and the way that Marylanders interact with each other and their government, our courts and criminal justice system included.

While our courts have remained functional, the nature of hearings and other proceedings have changed dramatically. Our jail and prison populations have decreased significantly, and nearly every aspect of the criminal justice system is being reexamined and rethought in the context of the pandemic.

On May 7, 2020, the Senate Judicial Proceedings Committee held a briefing on issues facing the courts and criminal justice system during the COVID-19 pandemic. The Senate Judicial Proceedings Committee Chairman, William C. Smith, Jr., announced that a workgroup consisting of committee members would continue to ascertain information relating to these issues and produce recommendations. Members of the workgroup met virtually with stakeholders and partners in the criminal justice system to gain insight into the issues each faced and to develop recommendations.

This report examines the steps taken by the Maryland Judiciary and various stakeholders involved in the State's criminal justice system thus far in the COVID-19 pandemic, and offers the workgroup's recommendations as the response to the pandemic and efforts as reopening continues. In making these recommendations, the workgroup recognizes that the challenges brought on by the pandemic continue to evolve quickly at times, requiring the State's officials and employees to be dynamic in their decision making and actions.

The workgroup held four meetings to discuss issues related to the courts and criminal justice system during COVID-19 and heard from and took written testimony from a wide variety of stakeholders: the Maryland Judiciary, the Maryland State's Attorney's Association, the Office

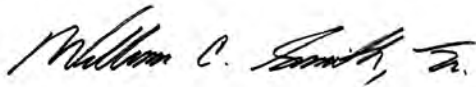
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of the Public Defender, the Department of Juvenile Services, the Maryland Association for Justice Reform, the Justice Policy Institute, the Department of Public Safety and Correctional Services, the Maryland Correctional Administrators Association, the Job Opportunities Task Force, Out for Justice, the Maryland Justice Project, the Maryland Prisoner's Right's Coalition, CLIA Youth – Baltimore, the Family Support Network, Life After Release, and the Maryland Chapter of the American Civil Liberties Union.

The workgroup believes that implementing the recommendations in this report will not only save lives but will ensure greater access to justice for all Marylanders.

We are most grateful to the members of the workgroup: Senator Jeff Waldstreicher (Vice Chairman of the Senate Judicial Proceedings Committee), Senator Michael J. Hough, Senator Susan C. Lee, and Senator Justin Ready, who were generous with their time and devoted much energy and thoughtful consideration to this report. Finally, thank you to Department of Legislative Services policy analyst and committee counsel, Jameson D. Lancaster, for his expertise, thoroughness, and tenacity in getting this report published.

Sincerely,



William C. Smith, Jr.
Chair, Judicial Proceedings Committee



Jill P. Carter
Member, Judicial Proceedings Committee

WCS:JPC/JDL/km

**General Assembly of Maryland
Senate Judicial Proceedings Committee
Workgroup on the Courts and Criminal Justice System
During the COVID-19 Pandemic
Membership Roster**

Jill P. Carter, Workgroup Leader

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Executive Summary

The Chairman of the Senate Judicial Proceedings Committee, William C. Smith, Jr., announced the creation of a workgroup on the courts and criminal justice system during the COVID-19 pandemic. This report, and the recommendations therein, are a product of the workgroup's efforts. This report contains a summary of actions taken by the courts and criminal justice stakeholders in managing challenges brought on during the pandemic and the workgroup's recommendations. Senator Michael J. Hough and Senator Justin Ready dissented in all of the workgroup's recommendations. The recommendations are summarized below.

- **Recommendation 1:** In an effort to depopulate correctional facilities further and thereby reduce the spread of COVID-19 within them, eligibility for release and expedited parole consideration under Governor Lawrence J. Hogan, Jr.'s April 18, 2020 executive order should be modified and expanded.
- **Recommendation 2:** The Maryland Judiciary should hold weekly – or otherwise regular – public meetings with representatives of organizations, including the State's Attorneys' Association, the Office of the Public Defender, and the Department of Juvenile Services (DJS), to address the implementation and further development of policies affecting the appropriate release of individuals from correctional facilities and juvenile facilities to reduce exposure to and the spread of COVID-19 within these facilities.
- **Recommendation 3:** Courts should continue to expand the use of remote hearings whenever possible. Courts should be mindful of transportation-related challenges and the possible coercive impact of pretrial detention and incarceration.
- **Recommendation 4:** Courts should not issue bench warrants or body attachments or impose any other sanction for failure to appear in a court proceeding during the pandemic or while the Governor's emergency declaration is in effect.
- **Recommendation 5:** Courts should give priority to and expedite transfer determinations ("reverse waivers") involving juveniles charged as adults.
- **Recommendation 6:** Courts should give priority to scheduling hearings for plea agreements.
- **Recommendation 7:** All correctional facilities, including local correctional facilities, should implement and continue universal testing and contact tracing for inmates, staff, and visitors. Testing should continue for as long as there is any risk of infection to the public, inmates, and correctional staff.
- **Recommendation 8:** DJS, in consultation with the Department of Public Safety and Correctional Services (DPSCS) and the Maryland Judiciary, should provide weekly updates on the DJS website on the number of children

being housed in State and local adult correctional facilities.

- **Recommendation 9:** DJS and the Maryland State Department of Education should continue to provide educational services to fill any gaps in learning caused by changes in instruction during the early stages of the pandemic and to bring detained juveniles up to the appropriate academic level by the start of the next academic year.
- **Recommendation 10:** All correctional facilities should (1) require strict adherence to personal protective equipment, cleaning, and safety protocols and (2) ensure proper training for staff related to COVID-19. In addition, inmates should be provided with adequate sanitary provisions on a daily basis. These sanitary provisions must be provided without cost to inmates.
- **Recommendation 11:** DPSCS should update information on its website relating to COVID-19 two times per week and, in addition to information already provided by the department, include additional information related to its policies and efforts related to COVID-19.
- **Recommendation 12:** Correctional facilities should continue to expand policies allowing for access to telephone and video communications that are free to inmates for communication between inmates and their attorneys, families, and friends.
- **Recommendation 13:** DPSCS, each local correctional facility, and DJS should work to maximize the amount of

time that individuals in their custody are able to spend outside of a cell or confined indoor area.

- **Recommendation 14:** All correctional facilities, including local correctional facilities, should provide inmates with at least five free, 15-minute telephone or video calls each week.
- **Recommendation 15:** State's Attorneys should work to identify ways to enable the appropriate release of criminal defendants from detention and incarceration to help limit the spread of COVID-19.
- **Recommendation 16:** The State and each local jurisdiction should ensure adequate pretrial services.
- **Recommendation 17:** Fees associated with monitoring (both pretrial and post-sentence) that are typically paid by the individuals being monitored should be eliminated or otherwise covered by State and local governments. The State should provide grant resources to local governments to satisfy this recommendation and, to the extent possible, should use the Pretrial Services Grant Fund to cover fees associated with pretrial supervision.
- **Recommendation 18:** The State should study rates of recidivism and outcomes for individuals released from incarceration under the Governor's April 18, 2020 executive order and the Court of Appeals's administrative orders relating to the release of individuals from confinement during the pandemic and determine whether any statistically

significant difference in recidivism and outcomes exists between those inmates released under the orders and those inmates released prior to the pandemic.

- **Recommendation 19:** Courts and correctional facilities should take steps to ensure confidential attorney-client communication. Correctional facilities should make every reasonable effort to ensure that attorney-client communications remain confidential from both staff and other inmates.

Senate Judicial Proceedings Committee

Workgroup Report on the Courts and Criminal Justice System During the COVID-19 Pandemic

Introduction

Reports of the spread of the disease known as COVID-19 first emerged in late 2019. By early March 2020, the disease – then a few days away from being officially declared a pandemic – reached Maryland. Officials throughout State and local governments had been planning their responses in the weeks leading up to its arrival. Each of the three branches of State government responded, enacting emergency orders, rule changes, and legislation to protect the safety and welfare of Marylanders.

On May 7, 2020, the Senate Judicial Proceedings Committee held a briefing on issues facing the courts and criminal justice system during the COVID-19 pandemic. The Senate Judicial Proceedings Committee Chairman, William C. Smith, Jr., announced that a workgroup consisting of committee members would continue to ascertain information relating to these issues and produce recommendations. In the weeks that followed, members of the workgroup met virtually with stakeholders and partners in the criminal justice system to gain insight into the issues each faced and to develop recommendations.

The workgroup held four meetings to discuss issues related to the courts and criminal justice system during COVID-19.

- **May 27, 2020:** Meeting with the Maryland Judiciary, the Maryland State’s Attorneys’ Association, the Office of the Public Defender (OPD), the Department of Juvenile Services (DJS), the Maryland Association for Justice Reform, and the Justice Policy Institute.
- **June 5, 2020:** Meeting with the Department of Public Safety and Correctional Services (DPSCS), the Maryland Correctional Administrators Association, the Job Opportunities Task Force, Out for Justice, the Maryland Justice Project, the Maryland Prisoners’ Rights Coalition, CLIA Youth – Baltimore, the Family Support Network, Life After Release, and the Maryland Chapter of the American Civil Liberties Union.
- **June 9, 2020:** Meeting to discuss recommendations.
- **June 17, 2020:** Meeting to discuss recommendations.

In the months that have followed since the emergence of COVID-19 in Maryland, it has become clear that detecting and adequately responding to the spread of the disease has presented numerous and ongoing challenges at all levels of government. Put simply, the pandemic has drastically altered normal operations and the way that Marylanders interact with each other and their government. This report examines the steps taken by the Maryland Judiciary and various stakeholders involved in the State's criminal justice system thus far in the COVID-19 pandemic and offers the workgroup's recommendations as the response to the pandemic and efforts at reopening continue. In making these recommendations, the workgroup recognizes that the challenges brought on by the pandemic continue to evolve quickly at times, requiring State officials and employees to be dynamic in their decision making and actions.

Response by the Courts and Stakeholders to COVID-19

Response by the Governor

On March 5, 2020, Governor Lawrence J. Hogan, Jr. declared a state of emergency in order to mobilize State resources in response to the spread of the virus that causes COVID-19. Governor Hogan directed the Maryland Department of Health (MDH) and the Maryland Emergency Management Agency to coordinate among all State and local agencies. The Governor also designated Internet and phone resources for the public to obtain information and community resources related to the virus.

On March 9, 2020, Governor Hogan signed emergency legislation passed by the General Assembly authorizing the State to access rainy day funds for COVID-19 purposes. The Governor also convened a Coronavirus Response Team responsible for providing advice on health and emergency management decisions, issued guidance to cancel all out-of-state travel for all State employees, and advised all agencies to prepare for a period of mandatory telework to limit the spread of the virus in the State.

For a full list of the proclamations and executive orders issued by the Governor, see **Appendix 1** of this report.

Response by the Courts

Between March and June 2020, Chief Judge of the Court of Appeals Mary Ellen Barbera and District Court Chief Judge John P. Morrissey issued a series of administrative orders and policies including orders providing for the statewide closure of the courts to the public, suspension of jury trials, assignment of certain functions to District Court commissioners, and the emergency tolling or suspension of statutes of limitations and other deadlines.

On April 14, 2020, Chief Judge Barbera issued an administrative order guiding the response of trial courts during the pandemic relating to individuals who are incarcerated or imprisoned. Under the order, Chief Judge Barbera encouraged judges to communicate with justice system stakeholders to identify at-risk incarcerated persons for potential release in an effort to protect health. The order identified matters that courts should prioritize for prompt hearings, including technical or minor violations of probation; child support contempt matters; failure to pay costs or fines; and failures to appear. In addition to existing considerations for pretrial release under statute and the Maryland Rules, the April 14 order directed courts to consider a number of additional factors in determining whether to release an individual, including a defendant's medical issues and susceptibility to COVID-19, the risk of danger presented by a defendant, and the interest of justice. For a more complete list of actions taken and orders issued by the Judiciary, see **Appendix 2** of this report.

On May 22, 2020, Chief Judge Barbera issued four administrative orders providing for the gradual reopening of the courts, outlining how courts will gradually return to full operations through a five-phase approach, encouraging courts to continue to use technology for remote proceedings, and providing for the lifting of other orders issued during the pandemic.

On June 5, 2020, the courts moved into Phase II of the reopening plan. Under Phase II, the court continued to hear Phase I matters and began to hear other specified matters, both in person and remotely, including matters that were previously postponed. Examples of Phase II matters include:

- bail reconsiderations;
- matters regarding locally incarcerated defendants;
- guilty pleas with deferral of incarceration start date considered;
- mental health evaluations and competency matters;
- proceedings of drug, mental health, driving under the influence, veterans' and reentry matters in problem-solving courts;
- emergency *habeas corpus* matters;
- arraignments;
- extraditions; and
- plea agreements without recommendations for incarceration.

On July 20, 2020, the courts moved into Phase III of the reopening plan. For a more complete description of the courts' Coronavirus Phased Reopening Plan, see **Appendix 3** of this report.

Response by State and Local Corrections

On April 10, 2020, Secretary of Public Safety and Correctional Services, Robert L. Green reported¹ to the chairs of the Senate Judicial Proceedings and House Judiciary committees that DPSCS had adopted the following practices and procedures to prevent and mitigate the spread of COVID-19:

- enhancing hygiene and sanitation practices consistent with the recommendations of MDH and the federal Centers for Disease Control and Prevention;
- suspending visitation and volunteer-led programs at all correctional facilities, except for legal visits;
- conducting temperature checks and completing health questionnaires for staff at every shift change;
- modifying inmate movement and meal service to align more closely with social distancing protocols, including “grab and go” dining at most correctional facilities;
- ensuring adequate supply of cleaning, safety, and other operational critical supplies for all facilities;
- implementing video visitation for inmates; and
- providing five free, 15-minute phone calls each week for all inmates.

On April 18, 2020, the Governor issued an executive order providing for the depopulation of inmates committed to the Division of Correction through early mandatory supervision, expedited home detention, and accelerated parole. On May 20, 2020, the Governor ordered universal testing in all State correctional facilities.

Additional steps taken by DPSCS included (1) migrating compatible work functions to telework; (2) providing personal protective equipment (PPE) to facility staff; and (3) instituting

¹ For a full description of DPSCS's actions reported to the Senate Judicial Proceedings and House Judiciary committees, see the letter dated April 10, 2020, from the Secretary of Public Safety and Correctional Services, Robert Green, to the Honorable William Smith and the Honorable Luke Clippinger included in **Appendix 4** of this report.

COVID-19 facility compliance reviews. With respect to preventing the spread of COVID-19, the department instituted a number of policies, including limiting inmate gatherings to no more than 10 people, delivering meals to inmates, providing PPE and additional hygiene products to inmates, targeted testing of high-risk inmates, and instituting separate quarantine and isolation spaces for cohorting. DPSCS reported that it was collaborating with criminal justice stakeholders to fast-track release mechanisms; facilitating attorney teleconferencing; conducting remote parole and revocation hearings; providing expanded telehealth and telepsychiatry for court evaluations; and partnering with OPD to provide enhanced reentry services for high-need cases.

By May, the average daily inmate populations in local correctional facilities had decreased, in some cases dramatically, from levels seen prior to the arrival of COVID-19 in Maryland. As of June 5, 2020, nearly all local correctional facilities reported having policies for the issuance of masks to inmates and correctional staff. Local correctional facilities had suspended in-person visitations, and six jurisdictions reported either current use or planned implementation of video visitation.

Response by the Department of Juvenile Services

As the pandemic unfolded, DJS closed the Garrett Children's Center (formerly the Savage Mountain Youth Center) in Lonaconing and the J. DeWeese Carter Center in Chestertown, moving staff to other facilities to bolster facility staffing levels.

The department implemented social distancing measures in DJS facilities and developed procedures for communicating information about COVID-19 to juveniles and their families, DJS staff, and the public by holding virtual meetings to answer questions about the department's response to the pandemic. DJS also developed procedures for isolation and contact tracing involving interviews with staff or youth and review of facility logs and video footage to determine possible exposures. DJS staff were transitioned to telework and provided with necessary equipment to perform their work.

The department ended in-person visitations for juveniles being held in its facilities and provided access to cell phones and tablets to juveniles to allow them to stay in contact with their families. Recognizing that not all families may have access to Internet capabilities, the department provided hundreds of wireless hotspots to families to enable Internet access and facilitate contact within DJS facilities. Though the department also provided wireless hotspots to facilitate contact with juveniles under DJS supervision and care in the community and transitioned to conducting community supervision through telephone and Internet, it also continued to make in-person contact with youth in the community when necessary. Within DJS facilities, the department continued to provide in-facility health services but also had the capability to provide telemedicine or telehealth services if needed.

On April 6, 2020, teachers at DJS facilities transitioned to providing education to detained juveniles virtually and provided additional support and case management for students who receive

special education services.² Individualized Educational Program meetings for detained juveniles were also held virtually.

On April 13, 2020, Chief Judge Barbera issued an administrative order relating to juveniles who are detained, committed pending placement, or in commitments. Among other things, the order encouraged administrative judges and their designees to communicate with juvenile justice system stakeholders to identify detained and committed juveniles for potential release in order to protect the health of at-risk juveniles during the COVID-19 pandemic and encouraged judges to limit detention or commitment unless necessary to protect the safety of a juvenile respondent or the safety of others. In addition to the statutory factors required for consideration in determining whether to release a juvenile respondent, the order set out 12 factors relating generally to health risks associated with detention or commitment, the ability to fulfill the purposes of commitment for a particular juvenile, and the safety of the juvenile and others. On May 20, 2020, Governor Hogan ordered universal testing for COVID-19 in all juvenile detention facilities.

On June 19, 2020, all school staff at DJS facilities returned for on-site classroom instruction, and on July 6, 2020, the Maryland State Department of Education (MSDE) began summer school programming on-site for students to recover credits, engage in credit elective courses, and obtain Career and Technical Education credentialing.

Response by State's Attorneys

The spread of COVID-19 varied in different regions of the State, as did the response and approaches of State's Attorneys in each of the State's 24 jurisdictions. State's Attorneys in Baltimore City and Baltimore, Montgomery, and Prince George's counties reported to the workgroup on the actions being taken in their jurisdictions.

In Baltimore City, prosecutors declined to prosecute lower level offenses, including possession of controlled dangerous substances, prostitution, and trespassing. Prosecutors in Baltimore City generally worked from a presumption that defendants should be released pending trial, except in cases involving higher level or dangerous offenses. Baltimore City prosecutors began working remotely, and the State's Attorney's Office installed equipment to enable prosecutors to participate in remote hearings from the office.

Baltimore County began holding court dockets on Saturdays to conduct bail reviews and pleas, and Baltimore County prosecutors began teleworking.

Montgomery County prosecutors worked to identify individuals at risk for issues related to COVID-19 for potential release, negotiating and scheduling pleas, dismissing cases without merit, resolving matters, and temporarily staying sentences during the pandemic. Additionally,

² Under § 22-303 of the Education Article, MSDE is responsible for developing and implementing juvenile services educational programs at all DJS residential facilities.

administrative judges in Montgomery County worked with the State's Attorney's Office in coordinating and responding to challenges.

In Prince George's County, prosecutors altered their priorities in response to the pandemic by focusing attention on cases involving higher level offenses and those involving defendants deemed to be high risk, sexual predators, or violent. The Prince George's County State's Attorney's Office further reported that prosecutors worked to identify cases without prosecutorial merit for dismissal.

Recommendations

The workgroup makes the following recommendations with Senator Michael J. Hough and Senator Justin Ready dissenting in all of the recommendations.

Recommendations for the Governor

Recommendation 1: In an effort to depopulate correctional facilities further and thereby reducing the spread of COVID-19 within them, eligibility for release and expedited parole consideration under the Governor's April 18, 2020 executive order should be modified and expanded.

According to DPSCS, the overall State pretrial population decreased between March 2020 and June 2020 at a rate that was seven times greater than the rate of decrease during the same period during 2019. DPSCS reports that between March 1, 2020, and June 1, 2020, 5,092 individuals were released from incarceration or commitment in the State, 1,569 of whom were serving a term of incarceration after having been sentenced.

In an effort to depopulate correctional facilities further and thereby reduce the spread of COVID-19 within them, the workgroup recommends the following policies modifying and expanding the Governor's April 18, 2020 executive order:

- all nonviolent inmates should be considered for expedited parole or furloughs;
- all inmates who have been authorized for parole should be released without delay;
- all medically vulnerable inmates should be considered for expedited parole or furloughs;
- all inmates who are within six months of their release date should be considered for early release; and

- all inmates serving life sentences who have been granted parole by the Maryland Parole Commission (MPC) or the Patuxent Board of Review (PBR) should be exempted from current statutory requirements delaying release pending a decision by the Governor of whether to disapprove release.³

To the extent that this recommendation can be carried out without the further enactment of an executive order, DPSCS should take steps to carry out this recommendation.

Recommendations for the Maryland Judiciary

Recommendation 2: The Maryland Judiciary should hold weekly – or otherwise regular – public meetings with representatives of organizations, including the State’s Attorneys’ Association, OPD, and DJS, to address the implementation and further development of policies affecting the appropriate release of individuals from correctional facilities and juvenile facilities to reduce exposure to and the spread of COVID-19 within these facilities.

On May 7, 2020, the Maryland Judiciary advised the Senate Judicial Proceedings Committee that throughout the pandemic the Judiciary has remained in contact with MDH, DJS, DPSCS, the Department of General Services, the Governor’s legal counsel, and the Office of the Attorney General to address issues and coordinate efforts. On a local level, administrative judges have sought to work with pertinent local justice partners to expand technology to permit and expedite remote hearings. The Judiciary has also been in continuing communication with the Maryland State Bar Association and other State and local bar associations, including town hall-style meetings with local bar associations.

It is clear that the State’s judiciary has taken significant steps to coordinate its response to the pandemic with relevant stakeholders and partners in the justice system. The workgroup recommends that in addition to the steps taken thus far, the Judiciary hold weekly – or otherwise

³ MPC has the exclusive power to authorize the parole of inmates in State correctional facilities. PBR has the exclusive power to recommend an inmate of the Patuxent Institution for parole to the Secretary of Public Safety and Correctional Services or the Governor. The parole of any person serving a parole-eligible term of life in either a State correctional facility or the Patuxent Institution requires the approval of the Governor. Chapter 623 of 2011 provides that if MPC or PBR decide to grant parole to an inmate sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, the decision must be transmitted to the Governor, who may disapprove the decision in writing within 180 days. However, if the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective.

Chapter 299 of 2008 established medical parole as a form of release from incarceration in a State or local correctional facility for incapacitated inmates who, as a result of a medical or mental health condition, disease, or syndrome, pose no danger to public safety. Pursuant to Chapter 515 of 2016, as of October 1, 2017, if MPC decides to grant medical parole to an inmate, MPC must transmit its decision to the Governor. The Governor is then required to disapprove a recommendation for medical parole within 180 days of the decision by MPC. If the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective.

regular – public meetings with representatives of organizations including the State’s Attorney’s Association, OPD, and DJS to address the implementation and further development of policies affecting the appropriate release of individuals from correctional facilities and juvenile facilities to reduce the spread of COVID-19 within these facilities. These meetings should provide an opportunity for specific questions and follow-up between sessions, and include discussion of whether:

- adequate steps are being taken to ensure the appropriate release from confinement of:
- inmates who are at least 60 years old;
- medically complex individuals; and
- individuals who can otherwise be safely placed in the community; and
- appropriate steps are being taken to minimize the coercive effects of the pretrial detention.

Recommendation 3: Courts should continue to expand the use of remote hearings whenever possible. Courts should be mindful of transportation-related challenges and the possible coercive impact of pretrial detention and incarceration.

Increased social distancing policies and limited operations in the State’s court system have led to an increase in hearings being held remotely.

The Maryland Correctional Administrators Association advised that local correctional facilities have also taken steps to facilitate remote court appearances when possible and have taken steps to reduce the need to transport individuals to and from court in order to reduce the risk of spreading the virus.

While the pandemic has presented health and safety concerns, it has also affected the availability of transportation, including a reduction in public transportation services.

Ongoing reductions and alterations to public transportation schedules present likely challenges for individuals required to make physical court appearances as the courts work toward resuming normal status. The workgroup is concerned that the combination of health risks presented by COVID-19 and the confined nature of pretrial detention and incarceration may have a coercive impact on individuals subject to bench warrants and body attachments issued for failure to appear in court in deciding whether or not to plead guilty to an offense. An individual may feel induced to plead guilty, even falsely, if doing so could result in avoiding pretrial detention or incarceration. The workgroup recommends that courts continue to expand the use of remote hearings whenever possible. To that end, courts should be mindful of transportation-related challenges and the possible coercive impact of pretrial detention and incarceration.

Recommendation 4: Courts should not issue bench warrants or body attachments or impose any other sanction for failure to appear in a court proceeding during the pandemic or while the Governor’s emergency declaration is in effect.

The workgroup notes that there are any number of issues related to the pandemic that may result in a person missing a scheduled court appearance, including sudden disruptions to a person’s health, work schedule, child care, or transportation. The issuance of a bench warrant or body attachment generally results in a person’s arrest and confinement, potentially risking exposure to infection of not only the individual arrested but also law enforcement, correctional staff, and other individuals who are incarcerated or detained. Accordingly, the workgroup recommends that courts not issue bench warrants or body attachments or impose any other sanction for failure to appear in a court proceeding during the pandemic or while the Governor’s emergency declaration is in effect.

Recommendation 5: Courts should give priority to and expedite transfer determinations (“reverse waivers”) involving juveniles charged as adults.

In general, the juvenile court has jurisdiction over a juvenile alleged to be delinquent, in need of supervision, or who has received a citation for specified violations. Under § 3-8A-03(d) of the Courts and Judicial Proceedings Article, the juvenile court does not have jurisdiction over juveniles at least age 16 who are alleged to have committed specified crimes, juveniles age 14 and older charged with a crime punishable by life imprisonment, and juveniles who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. However, a circuit court may transfer a case involving a juvenile charged as an adult to the juvenile court if such a transfer is believed to be in the interests of the juvenile or society (“reverse waiver”). A transfer is not permitted if the juvenile was convicted in an unrelated case excluded from the jurisdiction of the juvenile court or the alleged crime is murder in the first degree and the accused juvenile was at least age 16 when the alleged crime was committed.

Chief Judge Barbera’s April 13, 2020 administrative order instructs judges hearing juvenile matters to act expeditiously in issuing rulings or scheduling remote hearings. In addition, the April 14, 2020 administrative order specifies that certain matters relating to persons who are incarcerated are to be heard on an expedited basis. However, there is currently no specific instruction for courts to prioritize transfer determinations. The workgroup recommends that courts give priority to and expedite transfer determinations involving juveniles charged as adults.

Recommendation 6: Courts should give priority to scheduling hearings for plea agreements.

The workgroup notes that the resolution of matters involving plea agreements may help to reduce populations in correctional facilities further. For example, the resolution of these matters may decrease the population of correctional facilities by allowing individuals sentenced under plea agreements to become eligible for release under the Governor’s April 18, 2020 executive order.

Accordingly, the workgroup recommends that courts give priority to scheduling hearings for plea agreements.

Recommendations for the Department of Public Safety and Correctional Services, the Department of Juvenile Services, and Local Correctional Facilities

Recommendation 7: All correctional facilities, including local correctional facilities, should implement and continue universal testing and contact tracing for inmates, staff, and visitors. Testing should continue for as long as there is any risk of infection to the public, inmates, and correctional staff.

DPSCS advises that as of July 17, 2020, the department has performed 6,769 staff tests for COVID-19 (458 confirmed positive) and 18,883 inmate tests for COVID-19 (637 confirmed positive). The department also reported that 385 infected staff and 538 infected inmates had recovered from the virus, and 1 staff member and 8 inmates had died from the virus.⁴ While Governor Hogan ordered universal testing in State correctional facilities and juvenile detention facilities on May 20, 2020, the requirement does not currently apply to local correctional facilities. The workgroup recommends that all correctional facilities, including local correctional facilities, implement and continue universal testing and contact tracing for inmates, staff, and visitors. Testing should continue for as long as there is any risk of infection to the public, inmates, and correctional staff.

Recommendation 8: DJS, in consultation with DPSCS and the Maryland Judiciary, should provide weekly updates on the DJS website on the number of children being housed in State and local adult correctional facilities.

In general, juveniles charged as adults are not held in correctional facilities. Instead, when ordered detained, these juveniles are held in facilities operated by DJS. According to DJS, between March 2020 and May 2020, the average daily population of transfer-eligible (“reverse waiver-eligible”) juveniles charged as adults dropped from 129 in March to 88 in May. It is unclear what specific steps, if any, have been taken to reduce the number of juveniles who have either been charged as adults and detained in a correctional facility or who have been convicted of a criminal offense and committed to a correctional facility during the pandemic. Accordingly, the workgroup recommends that DJS, in consultation with DPSCS and the Maryland Judiciary, provide weekly updates on the DJS website on the number of children being housed in State and local adult correctional facilities.

⁴ For DPSCS testing data, see **Appendix 5** of this report.

Recommendation 9: DJS and the Maryland State Department of Education should continue to provide educational services to fill any gaps in learning caused by changes in instruction during the early stages of the pandemic and to bring detained juveniles up to the appropriate academic level by the start of the next academic year.

As COVID-19 continued to spread in April 2020, teachers at DJS facilities, much like teachers in schools throughout the State, transitioned to providing educational services virtually. Since June 19, 2020, all school staff have returned to DJS facilities, in-person classroom instruction has resumed, and MSDE has begun on-site summer school programming for students to recover credits. The workgroup notes that, across the country, the shift to virtual school instruction during the pandemic has been criticized as an inadequate substitute for in-classroom learning. Youth who are involved in the juvenile justice system may be those most in need of additional educational support and services to ensure academic achievement. The workgroup recommends that DJS and MSDE continue to provide educational services to fill any gaps in learning caused by changes in instruction during the early stages of the pandemic and to bring detained juveniles up to the appropriate academic level by the start of the next academic year.

Recommendation 10: All correctional facilities should (1) require strict adherence to PPE, cleaning, and safety protocols and (2) ensure proper training for staff related to COVID-19. In addition, inmates should be provided with adequate sanitary provisions on a daily basis. These sanitary provisions must be provided without cost to inmates.

OPD reported to the workgroup that not all correctional facilities had taken sufficient measures to protect OPD staff and others entering correctional facilities. In addition, many correctional facilities did not appear to hold officials accountable for ignoring basic measures, such as wearing a mask when interacting with OPD staff. Stakeholders reported to the workgroup that the distribution of sanitary provisions (*e.g.*, soap and cleaning supplies) to inmates was severely inadequate. It is unclear whether these incidents were observed in State or local correctional facilities, although the workgroup does note that DPSCS has adopted policies providing for the use of PPE, enhanced cleaning and sanitation, and inmate hygiene. Additionally, the department has instituted COVID-19 facility compliance reviews to ensure adherence to its policies.

Regardless of whether these incidents occurred at State or local correctional facilities, the workgroup recommends that all correctional facilities require strict adherence to PPE, cleaning, and safety protocols and ensure proper training for staff related to COVID-19. In addition, inmates should be provided with adequate sanitary provisions on a daily basis. These sanitary provisions must be provided without cost to inmates.

Recommendation 11: DPSCS should update information on its website relating to COVID-19 two times per week and, in addition to information already provided by the department, include additional information related to its policies and efforts related to COVID-19.

DPSCS currently provides information on its website relating to COVID-19 testing data and the department's policies in response to the pandemic. The department's testing data is updated on a weekly basis. Given ongoing pandemic-related developments, the workgroup recommends that DPSCS update information relating to COVID-19 two times per week and, in addition to information already provided by the department, include information regarding:

- the deployment of tests across facilities and any prioritization of testing of certain facilities, inmates, or staff;
- the department's plan for continued testing throughout the duration of the pandemic;
- the department's efforts to address the welfare of Maryland inmates housed outside the state;
- the department's protocols for treating and housing persons who test positive for COVID-19 and the methods used to enforce the protocols;
- information pertaining to the implementation of the Governor's April 18, 2020 executive order, including:
 - the number of persons released as a result of the executive order, disaggregated by:
 - race and ethnicity;
 - age;
 - gender;
 - scheduled parole eligibility date; and
 - facility; and
 - the number of tests administered in each facility and a breakdown by facility of the number of positive and negative test results.

Recommendation 12: Correctional facilities should continue to expand policies allowing for access to telephone and video communications that are free to inmates for communication between inmates and their attorneys, families, and friends.

In response to the pandemic, both State and local correctional facilities took steps to curb the spread of COVID-19 into correctional facilities by eliminating physical visitations other than those made for the purpose of providing legal representation. The workgroup believes that the expanded use of free phone calls and video communications in lieu of physical visitation is not only necessary for inmate well-being and reducing future spread of the virus but may also provide an ongoing alternative to physical visitations by providing additional avenues for inmates to remain in contact with family and friends. The continued use of viable alternatives to physical visitations after the pandemic may also have an added benefit of reducing the introduction of contraband into facilities after restrictions are lifted and in-person visitations resume. Free access to communication will remove an unnecessary barrier to maintaining family and social contacts during incarceration. The workgroup believes that removing this barrier may also provide benefits to reentry and lower recidivism rates. Therefore, the workgroup recommends that correctional facilities should continue to expand policies allowing for access to telephone and video communications that are free to inmates for communication between inmates and their attorneys as well as between inmates and their families and friends.

Recommendation 13: DPSCS, each local correctional facility, and DJS should work to maximize the amount of time that individuals in their custody are able to spend outside of a cell or confined indoor area.

The workgroup is concerned that policies aimed at preventing the spread of COVID-19 in correctional and juvenile facilities may result in prolonged periods of confinement and isolation in cells in correctional facilities or confined indoor areas in juvenile facilities. According to the Family Support Network, due to social distancing policies, some inmates are given only one hour *or less* outside of cells each day. The workgroup is concerned that social distancing policies – specifically those that result in prolonged periods of isolation – may result in physical and psychological harm to inmates. For this reason, the workgroup recommends that DPSCS, each local correctional facility, and DJS work to maximize the amount of time that individuals in custody are able to spend outside of a cell or confined indoor area.

Recommendation 14: All correctional facilities, including local correctional facilities, should provide inmates with at least five free, 15-minute telephone or video calls each week.

DPSCS advised that it implemented a policy of providing inmates with five free, 15-minute phone calls each week. The workgroup believes there is significant value and importance in providing enough contact between inmates and their families and friends, particularly at a time when physical visitation is not possible. Therefore, the workgroup recommends that all correctional facilities, including local correctional facilities, should provide inmates with at least five free, 15-minute telephone or video calls each week.

Recommendations for State's Attorneys

Recommendation 15: State's Attorneys should work to identify ways to enable the appropriate release of criminal defendants from detention and incarceration to help limit the spread of COVID-19.

State's Attorneys throughout the State have worked to diligently implement the Governor's April 18, 2020 executive order and Chief Judge Barbera's April 14, 2020 administrative order guiding the response of trial courts to the COVID-19 emergency as it relates to persons who are incarcerated or imprisoned. The workgroup notes that State's Attorneys are in a unique position to take additional action to work toward depopulating correctional facilities and reduce the spread of COVID-19. Accordingly, the workgroup recommends that State's Attorneys work to:

- identify and dismiss cases with defects;
- screen out cases without prosecutorial merit;
- identify cases for diversion;
- extend sensible plea offers;
- conduct review of bonds set at initial intake;
- reevaluate and request reconsideration of bonds set prior to the onset of the pandemic to enable release of additional pretrial detainees back into the community;
- work with other criminal justice stakeholders to identify candidates for early termination of sentences;
- schedule and hold time served plea hearings and negotiated pleas;
- move to *nolle prosequi* cases after review of merits of the case;
- request stays on the execution of sentences until the pandemic ends;
- avoid recommendations for holding defendants without bail on misdemeanor offenses; and

- in domestic violence cases, review each defendant's circumstances and consider whether GPS monitoring would be effective in lieu of holding a defendant without bail before trial.

General Recommendations

Recommendation 16: The State and each local jurisdiction should ensure adequate pretrial services.

Based on information received by the Department of Legislative Services, as of July 2020, all but four jurisdictions in the State (Allegany, Charles, Garrett, and Howard counties) currently operate pretrial services programs. Programs vary in scope and services offered from county to county. Howard County advised that the pandemic had impacted its plans to implement a pretrial services program. Charles County advised that parole and probation resources are used in its jurisdiction to conduct pretrial supervision of defendants.

Given the higher number of individuals likely to be released pending trial during the pandemic and the importance of depopulating correctional facilities while also ensuring public safety and compliance by released individuals, the workgroup recommends that the State and each local jurisdiction ensure adequate pretrial services.

Recommendation 17: Fees associated with monitoring (both pretrial and post-sentence) that are typically paid by the individuals being monitored should be eliminated or otherwise covered by State and local governments. The State should provide grant resources to local governments to satisfy this recommendation and, to the extent possible, should use the Pretrial Services Grant Fund to cover fees associated with pretrial supervision.

The pandemic has resulted in unprecedented unemployment and financial hardship. The workgroup notes that fees associated with release and monitoring that are typically paid by the individuals being monitored present an unnecessary hardship and barrier to release during the pandemic, placing the poorest in our State at the greatest disadvantage and potential risk to health.

Chapter 771 of 2018 established the Pretrial Services Program Grant Fund to provide grants to eligible counties to establish pretrial services programs or to improve existing pretrial services programs to comply with specified requirements. An eligible county is (1) a county that does not provide defendants with pretrial services or (2) a county that does provide defendants with pretrial services but seeks to improve the services to comply with specified requirements for grant recipients. A pretrial services program established or improved using a grant from the fund must (1) use a validated, evidence-based, and race-neutral risk scoring instrument that is consistent with the Maryland Rules to make pretrial release-related recommendations to a judicial officer; (2) apply best practices shown to be effective in other jurisdictions; and (3) incorporate multiple levels of supervision based on defendant risk scores with features that include specified items, including cellular telephone reminders of a defendant's hearing date and drug and alcohol testing. The Governor's Office of Crime Prevention, Youth, and Victim Services administers the fund.

The workgroup recommends that fees associated with monitoring that are typically paid by the individuals being monitored should be eliminated or otherwise covered by State and local governments. The State should provide grant resources to local governments to satisfy this recommendation and, to the extent possible, should use the Pretrial Services Grant Fund to cover fees associated with pretrial supervision.

Recommendation 18: The State should study rates of recidivism and outcomes for individuals released from incarceration under the Governor’s April 18, 2020 executive order and the Court of Appeals’s administrative orders relating to the release of individuals from confinement during the pandemic and determine whether any statistically significant difference in recidivism and outcomes exists between those inmates released under the orders and those inmates released prior to the pandemic.

The steps taken by the Governor and the Court of Appeals to provide for the release of incarcerated and detained individuals in the State during the pandemic are unprecedented. Prior to the pandemic, Maryland, like many other states, had taken significant steps to reform and refocus its policies on criminal justice and incarceration. The workgroup recognizes that depopulation is an ongoing goal and believes that data relating to those who have been released pursuant to these measures may prove invaluable in informing the development of future policies. For this reason, the workgroup recommends that the State study rates of recidivism and outcomes for individuals released from incarceration under the Governor’s April 18, 2020 executive order and the Court of Appeals’s administrative orders relating to the release of individuals from confinement during the pandemic and determine whether any statistically significant difference in recidivism and outcomes exists between those inmates released under the orders and those inmates released prior to the pandemic.

Recommendation 19: Courts and correctional facilities should take steps to ensure confidential attorney-client communication. Correctional facilities should make every reasonable effort to ensure that attorney-client communications remain confidential from both staff and other inmates.

Various stakeholders representing the interests of incarcerated individuals and criminal defendants reported to members of the workgroup that social distancing measures taken in courthouses and correctional facilities in the State have created instances where criminal defendants are not able to have private discussions with their attorneys during court proceedings or while confined in correctional facilities. At times, social distancing policies have led to some inmates having to converse with counsel within earshot of correctional staff or other inmates.

The workgroup notes that these incidents are troubling as they create the potential for otherwise privileged information to be used against incarcerated persons by correctional staff or other inmates. For this reason, the workgroup urges the Judiciary and correctional facilities throughout the State to ensure that policies adopted for social distancing purposes include precautions to ensure confidential attorney-client communication. Correctional facilities should

make every reasonable effort to ensure that attorney-client communications remain confidential from both staff and other inmates.

Conclusion

The pandemic has presented unprecedented challenges to our courts and criminal justice system. The workgroup believes that implementing the recommendations in this report will not only save lives, but will ensure greater access to justice for all Marylanders.

Appendices

Appendix 1

Proclamations and Executive Orders by the Governor Relevant to the COVID-19 Pandemic

<u>Proclamation or Order</u>	<u>Date Issued</u>
<u>Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19</u>	March 5, 2020
<u>Order Prohibiting Large Gatherings and Events and Closing Senior Centers</u>	March 12, 2020
<u>Order Calling the Maryland National Guard into State Active Duty</u>	March 12, 2020
<u>Order Prohibiting Movement of Persons to and From Certain Vessels Berthing at Terminals and Port Facilities in the Ports and Harbors of the State (Port – Closure to Passenger Vessels)</u>	March 12, 2020
<u>Order for the Implementation of Elevated Level II of Pandemic Flu and Other Infectious Diseases Attendance and Leave Policy for Executive Branch State Employees</u>	March 12, 2020
<u>Order Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations, and Authorizing Suspension of Legal Time Requirements</u>	March 12, 2020
<u>Order Expanding Childcare Access</u>	March 13, 2020
<u>Order Closing Casinos, Racetracks and Simulcast Betting Facilities</u>	March 15, 2020
<u>Order Amending and Restating the Order of March 12, 2020, Prohibiting Large Gatherings and Events and Closing Senior Centers, and Additionally Closing Bars, Restaurants, Fitness Centers, and Theaters</u>	March 16, 2020
<u>Order Temporarily Prohibiting Evictions of Tenants Suffering Substantial Loss of Income Due to COVID-19</u>	March 16, 2020
<u>Order Prohibiting Termination of Residential Services and Late Fees</u>	March 16, 2020
<u>Order Relating to Various Healthcare Matters</u>	March 16, 2020
<u>Renewal of Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19 (Election)</u>	March 17, 2020
<u>Order Waiving Regulations Adopted for Motor Carrier Transportation (Weight Limits for Delivery Trucks)</u>	March 18, 2020

<u>Proclamation or Order</u>	<u>Date Issued</u>
<u>Order Amending and Restating the Order of March 16, 2020, Prohibiting Large Gatherings and Events and Closing Senior Centers, and Additionally Closing Various Other Establishments</u>	March 19, 2020
<u>Order Expanding Alcohol Beverage Delivery and Carryout Services</u>	March 19, 2020
<u>Order Augmenting the Emergency Medical Services Workforce</u>	March 19, 2020
<u>Order Authorizing Reimbursement of Audio-Only Health Care Services</u>	March 20, 2020
<u>Order Amending and Restating the Order of March 19, 2020, Prohibiting Large Gatherings and Events and Closing Senior Centers, and Additionally Closing All Non-Essential Businesses and Other Establishments</u>	March 23, 2020
<u>Order Prohibiting Excess Profits on Certain Goods and Services (Price Gouging)</u>	March 23, 2020
<u>Order Initiating an Process for Authorization of Laboratories in Maryland to Develop and Perform COVID-19 Testing</u>	March 23, 2020
<u>Order Amending and Restating the Order of March 13, 2020, Controlling Child Care Access</u>	March 25, 2020
<u>Order Amending and Restating the Order of March 23, 2020, Prohibiting Large Gatherings and Events and Closing Senior Centers, and all Non-Essential Businesses and Other Establishments, and Additionally Requiring all Persons to Stay at Home</u>	March 30, 2020
<u>Order Authorizing Remote Notarizations</u>	March 30, 2020
<u>Order Waiving Family Contributions for the Maryland Children's Health Program</u>	March 30, 2020
<u>Order Enabling Municipalities to Postpone Elections</u>	March 30, 2020
<u>Order Adjusting the Timing of Certain Tax Deadlines and Oaths of Office</u>	March 31, 2020
<u>Order Amending and Restating Order No. 20-03-20-01 to Further Authorize Additional Telehealth Services</u>	April 1, 2020
<u>Order Determining that Disability Services Personnel are Health Care Providers Necessary for Maryland's Response to COVID-19</u>	April 1, 2020
<u>Proclamation for a Moment of Prayer and Reflection, April 5, 2020</u>	April 3, 2020

<u>Proclamation or Order</u>	<u>Date Issued</u>
<u>Order Amending and Restating the Order Dated March 16, 2020 Temporarily Prohibiting Evictions of Tenants Suffering Substantial Loss of Income Due to COVID-19, and Additionally Prohibiting Certain Repossessions, Stopping Initiation of Residential Mortgage Foreclosures, Prohibiting Commercial Evictions, and Allowing Suspension of Certain Lending Limits</u>	April 3, 2020
<u>Order Authorizing Various Actions Related to Nursing Homes and Other Healthcare Facilities</u>	April 5, 2020
<u>Order Delegating Authority to Local Health Officials to Control and Close Unsafe Facilities</u>	April 5, 2020
<u>Order Authorizing Remote Witnessing and Electronic Signing of Certain Documents</u>	April 10, 2020
<u>Renewal of Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19 (Ratifying Plan for June 2 Primary Election)</u>	April 10, 2020
<u>Proclamation for Easter Bunny “Essential Service Day,” April 12, 2020</u>	April 10, 2020
<u>Order Facilitating Meetings of Stockholders of Maryland Corporations and Meetings of Shareholders of Maryland Real Estate Investment Trusts by Remote Communication</u>	April 15, 2020
<u>Order Preserving the Supply of Necessary Drugs</u>	April 15, 2020
<u>Order Requiring the use of Face Coverings Under Certain Circumstances and Requiring Implementation of Certain Physical Distancing Measures</u>	April 15, 2020
<u>Order Implementing Alternative Correctional Detention and Supervision</u>	April 19, 2020
<u>Order Establishing Alternate Care Sites</u>	April 20, 2020
<u>Order Amending and Restating the Order Dated April 5, 2020 Authorizing Various Actions Related to Nursing Homes and Other Health Care Facilities</u>	April 29, 2020
<u>Order Amending and Restating the Order Dated March 16, 2020 Prohibiting Termination of Residential Services and Late Fees</u>	April 29, 2020
<u>Order Prohibiting Garnishment of Cares Act Recovery Rebates</u>	April 29, 2020
<u>Proclamation for Healthcare Heroes Day, May 2, 2020</u>	May 1, 2020

<u>Proclamation or Order</u>	<u>Date Issued</u>
<u>Renewal of Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19 (June 2 Primary)</u>	May 6, 2020
<u>Order Amending and Restating the Order of March 30, 2020, Prohibiting Large Gatherings and Events and Closing Senior Centers, And all Non-Essential Businesses and Other Establishments, and Additionally Requiring all Persons to Stay at Home</u>	May 6, 2020
<u>Order Amending and Restating the Order of May 6, 2020, Allowing Reopening of Certain Businesses and Facilities, Subject to Local Regulation</u>	May 13, 2020
<u>Order Enabling Alternative Processes for Marriage Applications and Ceremonies</u>	May 13, 2020
<u>Order Authorizing COVID-19 Testing by Licensed Pharmacists</u>	May 19, 2020
<u>Order Amending and Restating the Order of May 13, 2020, Allowing Reopening of Certain Businesses and Facilities, Subject to Local Regulation</u>	May 27, 2020
<u>Order Amending and Restating Order No. 20-03-19-02 Enabling Alternative Alcohol Services</u>	May 29, 2020
<u>Order Amending and Restating the Order Dated April 29, 2020 Prohibiting Termination of Residential Services and Late Fees</u>	May 29, 2020
<u>Order Amending and Restating the Order of May 27, 2020, Allowing Reopening of Certain Businesses and Facilities, Subject to Local Regulation</u>	June 3, 2020
<u>Order Amending and Restating the Order of June 3, 2020, Allowing Reopening of Certain Businesses and Facilities, Subject to Local Regulation</u>	June 10, 2020
<u>Order Authorizing Suspension of Alcoholic Beverage License Fees</u>	June 11, 2020
<u>Order Amending and Restating the Order of March 12, 2020, Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations and Authorizing Suspension of Legal Time Requirements</u>	June 19, 2020
<u>Order Amending and Restating the Order Dated May 29, 2020 Prohibiting Termination of Residential Services and Late Fees</u>	June 30, 2020



Appendix 2

Maryland Judiciary COVID-19 Timeline of Events

Date	Action Taken by the Judiciary
March 12, 2020	<p>Chief Judge Mary Ellen Barbera issues two administrative orders – Statewide Suspension of Non-Essential Judicial Activities due to Emergency and Statewide Suspension of Jury Trials. These orders balance the need for courts to remain operational with the health and safety of employees and court visitors and include restricting non-essential functions of the Judiciary such as travel, training, and in-person committee meetings; provide for the remote electronic participation of hearings; and suspend jury trials scheduled between March 16, 2020, to April 3, 2020.</p>
March 2020	<p>Judge Laura Ripken, Administrative Judge for the Fifth Judicial Circuit and Chair of the Conference of Circuit Judges, begins a series of Monday, Wednesday, and Friday Skype calls with the circuit administrative judges as well as the State Court Administrator, Chair of the Conference of Circuit Court Clerks, and the Chair of the Conference of Court Administrators.</p> <p>Chief Judge John Morrissey, Chief Judge of the District Court, also begins a series of Monday, Wednesday, and Friday Skype calls with the administrative judges for each of the twelve districts that comprise the leadership of the District Court. These calls for both the Circuit Courts and District Court are to discuss best practices, share new and ongoing concerns, and explore new and technology driven approaches to expand the Judiciary’s ability to conduct additional court business.</p> <p>Administrative judges in both the Circuit Courts and District Court continue to review the list of those individuals currently incarcerated and reach out to their local jails, police, state’s attorneys, public defenders, and local departments of health to work collaboratively to address the pandemic. To date, the courts have conducted multiple re-reviews of detainees, on a case-by-case basis, to ensure that only those individuals that represent an unacceptable risk to public safety remain in the detention centers.</p>
March 13, 2020	<p>Chief Judge Barbera issues an administrative order Statewide Closing of the Courts to the Public Due to the COVID-19 Emergency. This order closes the courthouses to the public effective March 16, 2020, through April 3, 2020, except for emergency matters. Court locations and offices are minimally staffed to only hear emergency court matters and answer calls until April 3, 2020. Emergency matters include, but are not limited to, domestic violence petitions, family law emergencies, extreme risk protective orders, bail reviews, juvenile detention hearings, and search warrants. All other non-emergency matters will be postponed.</p>
March 16, 2020	<p>The Court of Appeals issues an administrative order: Court of Appeals Emergency Rules Meeting to Consider the 204th Report of the Rules Committee. This order provides for the Court of Appeals to consider on March 16, 2020, the 204th Report which proposes new rules</p>

March 16, 2020 (cont.)	<p>describing the Chief Judge of the Court of Appeals’ administrative authority during an emergency. The Court of Appeals holds an open meeting on March 16, 2020 and unanimously approves the proposed rules.</p> <p>Chief Judge Barbera issues a new administrative order on Statewide Judiciary Restricted Operations Due to the COVID-19 Emergency. Effective March 17, 2020, the Maryland Judiciary requires <i>essential</i> employees only to report to courthouse locations and offices while non-essential employees are to work remotely. Court locations and offices are staffed to hear emergency court matters and answer calls until April 3, 2020, when the courts are scheduled to reopen to the public.</p>
March 17, 2020	<p>The Court of Appeals postpones oral arguments scheduled in April: Postponing April Oral Arguments in the Court of Appeals. Chief Judge Barbera also issues an administrative order authorizing the administration of attorney oaths by the clerk of the court by telephone during a proceeding held in open court at the Court of Appeals, with safeguards taken to assure the identity of the person being sworn: Administration of the Attorney Oath during the COVID-19 Emergency.</p>
March 18, 2020	<p>Chief Judge Barbera issues an administrative order Statewide Operations That Must be Maintained during the COVID-19 Emergency: Land Records and Suspension of Foreclosures and Evictions during the COVID-19 Emergency. These orders require land record transaction filings to continue to be recorded in the circuit courts’ clerk’s offices and stays (suspends) orders to foreclose residential properties and rights of redemption of tax sales of residential properties, or to evict from residential rental properties during the COVID-19 emergency period. New residential foreclosures, foreclosures of right of redemption after a tax sale, and evictions may be filed but those new filings are stayed and will not begin until the courts resume normal operations or otherwise notified.</p> <p>Chief Judge Morrissey issues a Policy on Interim Orders during the Emergency which dictates the process for new protective, peace, and extreme risk protective order petitions and interim orders.</p>
March 20, 2020	<p>Chief Judge Barbera issues administrative order Remote Hearings Held during the COVID-19 Emergency. This order authorizes courts to hear emergency and other matters remotely.</p>
March 23, 2020	<p>Chief Judge Barbera releases a video update message to the legal community.</p>
March 25, 2020	<p>Chief Judge Barbera issues two administrative orders Extending the Length of Statewide Judiciary Restricted Operations due to the COVID-19 Emergency and Suspension During the COVID-19 Emergency of Foreclosures, Evictions, and Other Ejectments Involving Residences. These orders extend the court closures to May 1, 2020, and provide that foreclosures of residential property, foreclosures of the right to redeem residential property sold in a tax sale, residential evictions, and executions on residential real property under levy or lien are stayed and new or pending types of these actions will be accepted but not proceed during this time.</p>

<p>March 27, 2020</p>	<p>Chief Judge Barbera issues the Administrative Order on Permissive Use of the MDEC System for Appellate Filings during the COVID-19 Emergency. This order provides that counsel and self-represented parties who are registered users of the MDEC system may file, in new and pending matters before the Court of Appeals and Court of Special Appeals, all papers through the MDEC system originating in Baltimore City, Montgomery County, and Prince George's County, those jurisdictions where MDEC has not yet been implemented.</p> <p>Chief Judge Morrissey issues a Revised Policy on Interim Orders during the Emergency pursuant to Chief Judge Barbera's order of March 25, 2020, extending the length of restricted court operations. This policy dictates the process for new protective, peace, and extreme risk protective order petitions and interim orders.</p> <p>The Judiciary also issues a Statement from the Maryland Judiciary concerning Children and Families to clarify the concerns of those families with court orders in family matters during the emergency.</p>
<p>March 31, 2020</p>	<p>The Court of Appeals issues an administrative order Rescheduling April Oral Arguments and Postponing May Oral Arguments in the Court of Appeals. This order reschedules the April oral arguments before the Court of Appeals to May 12 and May 13, 2020, postpones the oral arguments scheduled for May 2020, and invites litigants, whose matters have been postponed, to request, pursuant to Maryland Rule 8-523(a)(2), that their appeals be considered on the briefs filed without argument.</p> <p>Chief Judge Barbera releases a video to Maryland judges and Judiciary personnel regarding their work and service during the pandemic.</p>
<p>April 3, 2020</p>	<p>Chief Judge Barbera issues two new administrative orders Expanding the Statewide Suspension of Jury Trials and Suspending Grand Juries and Emergency Tolling or Suspension of Statutes of Limitations and Statutory Rules and Deadlines and revises existing order Expanding Statewide Judiciary Restricted Operations due to the Expanding Statewide Judiciary Restricted Operations due to the COVID-19 Emergency, COVID-19 Emergency. These orders toll or suspend statutory and rule deadlines related to the initiation of court matters effective March 16, 2020, as well as all statutes and rules deadlines to hear pending matters, suspends all jury trials until further notice including grand juries. The latter order expands the courts' ability to handle certain proceedings remotely and permits those jurisdictions that do not have electronic filing capabilities through MDEC to do so using new virtual drop boxes.</p> <p>The Court of Special Appeals hears oral arguments remotely for the first time during the emergency.</p>
<p>April 7, 2020</p>	<p>Chief Judge Barbera issues an updated administrative order Administration of the Attorney Oath.</p>

April 8, 2020	Chief Judge Barbera revises two existing administrative orders Amended Administrative Order on Emergency Tolling or Suspension of Statutes of Limitations and Statutory and Rules Deadlines and Amended Administrative Order on Expanding Statewide Judiciary Restricted Operation due to the COVID-19 Emergency . These orders provide that all statutory and rules deadlines to initiate matters, including statute of limitations, as well as the deadlines to hear pending matters shall be tolled or suspended effective March 16, 2020, by the number of days that the courts are closed to the public, plus length of time to file after reopening to be determined by later order and expands the types of emergency matters the courts are required to be heard on an emergency basis and expands the courts' authorization to hear remotely.
April 13, 2020	Chief Judge Barbera issues an administrative order Guiding the Response of Circuit Courts Sitting as Juvenile Courts to the COVID-19 Emergency . This order addresses juveniles who are detained and committed pending placement or in commitment.
April 14, 2020	Chief Judge Barbera issues a new administrative order Guiding the Response of the Trial Courts of Maryland to the COVID-19 Emergency and revises an existing order Second Amended Administrative Order Expanding and Extending Statewide Judiciary Restricted Operations Due to the COVID-19 Emergency . The new order guides the response of the trial courts in Maryland regarding individuals who are incarcerated or imprisoned, and the amended order extends the closure of the courts to the public with limited exceptions for certain emergency court matters through June 5, 2020 .
April 23, 2020	The Maryland Judiciary issues a new video on Court Resources and Tools for the Public during COVID-19.
April 24, 2020	Chief Judge Barbera issues an administrative order Clarifying the Emergency Tolling or Suspension of Statutes of Limitations and Statutory Rules Deadlines . This clarifies that ordering the suspension of filing deadlines to initiate matters shall be applied consistently and equitably, and no party or parties shall be compelled to prove his, her, its, or their practical inability to comply with such a deadline if it occurred during the COVID-19 emergency.
April 28, 2020	The Court of Appeals revises an existing administrative order Amended Administrative Order on Rescheduling April Oral Arguments and Postponing May Oral Arguments in the Court of Appeals . This order provides that April oral arguments before the Court of Appeals are rescheduled to May 11, 12, and 13, 2020, cause having been found to conduct the hearings outside the city limits of Annapolis (to be conducted remotely), by virtue of the COVID-19 pandemic, with May oral arguments continuing to be postponed and a date to be set.

April and May 2020	The Maryland Judiciary continues to request, receive and deploy Personal Protective Equipment (PPE), including masks, protective gloves, face shields, no contact thermometers, hand sanitizer and sanitizing wipes, Plexiglas sneeze guards, signage and six-foot separation markers, from MEMA and outside vendors.
May 1, 2020	Chief Judge Barbera issues a new administrative order and revises two existing administrative orders Case Time Standards and Related Reports for Fiscal Years 2020 and 2021 in Light of the COVID-19 Emergency , Third Amended Administrative Order Expanding and Extending Statewide Judiciary Restricted Operations Due to the COVID-19 Emergency , and Amended Administrative Order on Remote Proceedings Held during the COVID-19 Emergency . These orders provide that case time standards shall be suspended for cases reaching a conclusion in the Circuit Courts and District Court between March 16, 2020, and December 31, 2020, and that application of time standards will resume January 1, 2021, adds language referring to the Case Time Standards order in the Restricted Operations order and provides that approval from the State Court Administrator on various technology platforms is waived, but that platforms determined to pose an unacceptable risk to state networks are not to be used and courts using such communication platforms are to migrate to one that does not.
May 4, 2020	<p>Chief Judge Barbera revises two existing administrative orders Amended Administrative Order Further Clarifying the Emergency Tolling or Suspension of Statutes of Limitations and Statutory Rules and Deadlines and Fourth Amended Administrative Order Expanding and Extending Statewide Judiciary Restricted Operations due to the COVID-19 Emergency. These orders clarify that all deadlines to initiate a case or an appeal and hearing deadlines for pending cases are tolled or suspended effective March 16, 2020, and adds a reference to this revised order to the existing order that restricts operations.</p> <p>Chief Judge Barbera releases a video to Maryland Judiciary judges and court staff regarding their work and service during the pandemic and information about the reopening process.</p> <p>The Maryland Judiciary issues a Statement concerning Guardianships of Adults and Minors. This statement provides guidance on guardianships to protect vulnerable adults or minors during the COVID-19 emergency.</p>
May 5, 2020	Chief Judge Morrissey issues a Revised Policy on Interim Orders during the Emergency which provides that interim and temporary orders will remain in effect until action is taken by the court.
May 6, 2020	Chief Judge Morrissey issues a Communication Regarding Domestic Violence Protective Orders, Peace Orders and Extreme Risk Protective Orders which provides that all pending interim and temporary protective, peace, and extreme risk protective orders will remain in effect (even if the date has passed on the order) until such time that the court has conducted a hearing or has otherwise communicated with the parties.
May 7, 2020	Chief Judge Barbera, Judge Ripken, Chief Judge Morrissey, and State Court Administrator Pam Harris, with other criminal justice partners, participate in a virtual briefing before the Maryland Senate Judicial Proceedings Committee regarding the impact of COVID-19 on the courts and the criminal justice system.

May 13, 2020	Clerks of the Circuit Courts expand issuance of marriage licenses during the emergency with revised Marriage License application and Marriage License Application Instructions .
May 14, 2020	Chief Judge Morrissey briefs the Maryland Senate Judicial Proceedings Workgroup on Residential Property and COVID-19.
May 15, 2020	Chief Judge Morrissey issues a Communication regarding Affidavit Judgments .
May 18, 2020	<p>The Court of Appeals issues administrative order Rescheduling May Oral Arguments and Postponing Other Oral Arguments. This order provides that certain oral arguments before the Court of Appeals are rescheduled to May 28 and June 10 as well as to other dates designated to be heard in the September and October Sessions of the 2020 Term, cause having been found to conduct the hearings outside the city limits of Annapolis (to be conducted remotely), by virtue of the COVID-19 pandemic.</p> <p>Chief Judge Barbera delivers a video message to the public and legal community as Maryland courts prepare to reopen.</p>
May 22, 2020	<p>Chief Judge Barbera issues four administrative orders regarding the gradual reopening of the courts. The Administrative Order on the Progressive Resumption of Full Function of Judiciary Operations outlines how courts across the state will gradually return to full operations through a 5-phase approach. This order also encourages the courts to continue to use technology for remote proceedings either through video or telephonic purposes.</p> <p>The Administrative Order Lifting the Statewide Suspension of Jury Trials and Resuming Grand Juries states, in part, that grand juries may resume at the discretion of an administrative judge and new grand juries may be empaneled, as necessary. Additionally, grand juries that are currently convened may be extended by the administrative judge and all jury trials, both criminal and civil, will resume and trial dates will be scheduled beginning October 5, 2020.</p> <p>The Revised Administrative Order on the Emergency Tolling or Suspension of Statutes of Limitations and Statutory and Rules Deadlines Related to the Initiation of Matters and Certain Statutory and Rules Deadline in Pending Matters provides, in part, that the number of days that the courts were closed to the public does not count against the time remaining for the initiation of a court matter. Filing deadlines to initiate matters will be extended by an additional 15 days, depending on the date in which a specific clerk's office opens.</p> <p>The Administrative Order on Suspension during the COVID-19 Emergency of Foreclosures, Evictions, and Other Ejectments Involving Residences provides, in part, that the stay on residential foreclosures and evictions will be lifted effective July 25, 2020.</p>
May 26, 2020	Chief Judge Barbera issues an administrative order Administrative Order on Postponement of the July 2020 Maryland Bar Examination which postpones the July 2020 Bar Exam due to the COVID-19 health emergency. It is tentatively rescheduled for September 9 and 10.
June 3, 2020	Chief Judge Barbera amended four existing administrative orders with technical changes and cross-references. The Amended Administrative Order on the Progressive Resumption of Full Function of Judiciary Operations Previously Restricted Due to the COVID-19 Emergency has technical changes and a clarification to Phase III as it pertains to the resumption of non-jury trials in both the District Court and circuit courts. The Second Revised Administrative Order on the Emergency Tolling or Suspension of Statutes of Limitations and Statutory Rules and Deadlines Related to the Initiation of Matters and Certain Statutory and Rules Deadlines in

June 3, 2020 (cont.)	<p>Pending Matters has technical changes and the paragraph on “warrants of restitution” has been deleted. The Amended Administrative Order Lifting the Suspension During the COVID-19 Emergency of Foreclosures, Evictions and Other Ejectments Involving Residences has technical changes plus adds the District Court where a matter might also be filed, if there is jurisdiction to do so, revises paragraph (J) clarifying deadlines, and adds paragraph (K) to allow certain warrants of restitution to be considered during Phases II and III. The Amended Administrative Order Lifting the Statewide Suspension of Jury Trials and Resuming Grand Juries has technical changes and clarifying language in paragraph (I).</p> <p>Chief Judge Morrissey issues a Revised Communication Regarding Affidavit Judgments in the District Court which provides no District Court shall process Affidavit Judgments until such time as the District Court is authorized to expand emergency operations.</p>
June 5, 2020	Maryland courts move into Phase 2 of its progressive phased reopening plan.
June 11, 2020	Chief Judge Morrissey issues a Communication Regarding Resuming Landlord/Tenant Actions in the District Court .
July 10, 2020	Chief Judge Morrissey issues updated communication regarding Affidavit Judgments in the District Court of Maryland.
July 13, 2020	Chief Judge Barbera releases a new video to the Judiciary and the public on Phase 3 of the Court’s reopening, scheduled for July 20.
July 16, 2020	WBAL TV highlights the Maryland Judiciary and its efforts to take necessary safety measures in courthouses and courtrooms days before welcoming the public coming back into the courts.
July 17, 2020	<p>The Maryland Judiciary issues a news release regarding Phase 3 implementation.</p> <p>The District Court of Maryland issues new communication regarding Landlord/Tenant Actions and CARES Act Information during Phase III of the Maryland Judiciary’s Reopening Plan.</p>
July 20, 2020	Maryland courts move into Phase III of its progressive phased reopening plan.
Ongoing efforts and communications	<p>The Maryland Judiciary has maintained ongoing communication with the Maryland Department of Health, the Department of Public Safety and Correctional Services, Department of Juvenile Services, the Department of General Services, the Maryland State Bar Association and the Governor’s Office of Legal Counsel. On a local level, administrative judges are working with state’s attorneys, public defenders, private defense counsel, the sheriff’s departments, detention centers, local bar associations, and other justice partners. Judicial leadership on a local level have also been attending “town hall” meetings with their local bar associations.</p> <p>Workgroups have been formed in both the District Court and Circuit Courts to review and address best practices and strategies when the time comes to safely re-open or phase in additional court functions.</p> <p>Through online chat and phone services, the Self-help Center has remained open throughout the emergency and provide free remote legal advice to those that have civil legal needs.</p>

	<p>The Maryland Judiciary website www.mdcourts.gov is updated daily with information related to the Judiciary's efforts with regards to the COVID-19 emergency. This includes a webpage with links to local court information and orders, a webpage for the public, with information and available resources and tools translated into six languages, and webpages for administrative orders and news releases.</p>
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Appendix 3
Maryland Judiciary Coronavirus Phased Reopening Plan

Phase I
(March 16, 2020 to June 5, 2020)

District Courts

- Bail reviews
- Bench warrants
- Emergency evaluations
- Quarantine and isolation violations
- Body attachments

***District Court
Commissioners***

- New extreme risk protective order petitions
- New domestic violence protective order petitions (adult respondents)
- New peace order petitions
- Initial appearances
- Applications for statement of charges
- Bail bonds
- Bench warrant satisfactions

Circuit Courts

- Bail reviews
- Bench warrants
- Arraignments for detained defendants
- Juvenile detention
- Juvenile shelter care
- Peace order petitions (juvenile respondents)
- Emergency evaluations
- Quarantine and isolation
- Extradition
- Body attachments
- Extreme risk protective order appeals

Court of Special Appeals

- Injunctive relief pending appeal
- Appeals if lack of action would result in dispositive outcome
- Appeals from quarantine and isolation matters

Court of Appeals

- Certain election law matters
- Mandamus
- Certified questions of law
- Quarantine and isolation

Phase II
(June 5, 2020 to July 20, 2020)

Phase II includes Phase I matters in addition to the following:

District Courts

Criminal and Traffic

- Bail reconsiderations
- Matters regarding locally incarcerated defendants
- Guilty pleas with deferral of incarceration start date considered
- Mental health evaluations and competency matters
- Preliminary hearings with proposed resolution and no testimony required

Civil

- Temporary and final domestic violence, peace, and extreme risk protective orders
- Temporary restraining orders

Landlord/Tenant

- Emergency breach of lease involving threat to person or property and associated warrants of restitution
- Emergency wrongful detainer actions and associated warrants of restitution

Problem-solving Courts

- Proceedings of drug, mental health, driving under the influence (DUI), veterans', and reentry courts

*District Court
Commissioners*

- Continue Phase I matters

Circuit Courts

Civil

- Emergency *habeas corpus* matters
- Temporary restraining orders
- Scheduling conferences
- Status conferences
- On the record appeals
- Matters that can be handled remotely or without testimony or both

Criminal

- Bail reconsiderations
- Matters regarding locally incarcerated defendants (in accordance with April 14 order)
- Arraignments for detained defendants
- Extradition cases
- Competency, criminal responsibility issues not requiring witness testimony status, and discovery and Hicks issues
- Deferred sentencing for nonincarcerated defendants
- Pleas agreements without recommendations for incarceration
- Deferred sentencing
- Motions that can be handled remotely or without testimony or both

Family

- Scheduling conferences
- Status conferences
- Uncontested divorce and other uncontested matters
- Domestic violence protective orders
- Domestic violence, peace, and extreme risk protective order appeals
- Family law emergencies that have been determined to require an expedited hearing
- Emergency issues in guardianship matters
- Temporary restraining orders
- Default hearings
- Exceptions not requiring witness testimony

- Matters that can be handled remotely or without testimony or both

Child in Need of Assistance (CINA)

- Shelter care hearings
- CINA matters that are uncontested or can be heard by proffer including adjudications, dispositions, permanency plans, and permanency plan reviews.
- Termination of parental rights (TPR) that are by consent or proffer
- Exceptions (uncontested, consented to, or requiring legal argument only)
- Family Treatment/Recovery Court reviews
- Guardianships under juvenile causes
- Adoptions re CINA and TPR youth
- Matters that can be handled remotely or without testimony or both

Juvenile Delinquency

- Detention hearings
- Peace order petitions (juvenile respondents)
- Arraignments and first appearances
- Emergency delinquency matters
- Adjudication with agreed to plea and/or by proffer
- Disposition by consent or proffer
- Disposition reviews
- Delinquency juvenile treatment plans and reviews
- Closure of probation and jurisdiction not requiring testimony
- Juvenile expungements not requiring testimony
- Juvenile permanency plans and reviews by consent or proffer
- Juvenile waivers by consent and not requiring testimony
- Exceptions not requiring witness testimony
- Matters that can be heard remotely or without testimony or both

Problem-solving Courts

- Proceedings of drug, mental health, family/dependence recovery, DUI, veterans', juvenile drug, and truancy courts

Court of Special Appeals

- Fully operational
- The court will hear all matters in its jurisdiction
- Most hearings will be held remotely
- Mediation conducted by the Maryland Court of Special Appeals Alternative Dispute Resolution Division may be handled remotely

Court of Appeals

- Fully operational
- The court will hear all matters in its jurisdiction
- Hearings will be held remotely

Phase III (Began July 20, 2020)

Phase III includes Phase I and Phase II matters in addition to the following:

District Courts

Criminal and Traffic

- Trials for incarcerated defendants
- Other cases alleging violent acts, alcohol-related motor vehicle matters
- Preliminary hearings
- Begin scheduling minor traffic matters for dockets that begin during Phase IV, including previously postponed matters
- Violation of probation

Civil

- Resume handling temporary domestic violence protective, peace, and extreme risk protective order petitions during court hours
- Begin scheduling civil matters, including trials, for dockets that begin during Phase IV, including previously postponed matters

Landlord/Tenant

- Rent escrow actions, provided local inspection practices can be conducted
- Tenant holding over actions and associated warrants of restitution
- Breach of lease actions and any associated warrants of restitution
- Wrongful detainer actions and associated warrants of restitution
- Processing of warrants of restitution for failure to pay rent actions to begin after July 25, 2020, consistent with the Amended Order in regard to Foreclosures, Evictions, and Other Ejectments involving Residences

District Court Commissioners

- Commissioners will resume hearing interim domestic violence protective order, peace and extreme risk protective order petitions only after regular court hours
- Continue to accept circuit court bail bonds through Phase IV

Circuit Courts

Civil

- Motions requiring witness testimony
- Settlement hearings
- Attorney disciplinary hearings

Criminal

- Motions
- Expungements
- Violation of probation
- Nonjury trials
- Jury prayer status hearings
- Sentencings previously deferred

Family

- Resume handling temporary domestic violence protective order petitions during court hours
- Motions requiring witness testimony
- *Pendente lite* hearings
- Contempt proceedings

- Adoptions
- Guardianship – nonemergency
- Child support establishment
- Settlement hearings
- Court-ordered mediation

CINA

- All matters and motions that are contested and/or require testimony
- Adjudications, dispositions, permanency plans, and permanency plan reviews
- Exceptions hearings requiring witness testimony
- Contested TPRs

Juvenile Delinquency

- All matters that are contested and/or require testimony
- Adjudications
- Dispositions
- Disposition review
- Closure of probation and jurisdiction
- Motions
- Juvenile expungements
- Juvenile Permanency plan and permanency plan review
- Juvenile and adult sex offender registration
- Waiver hearings, including to and from Juvenile Court
- Exception hearings

Court of Special Appeals

- Same as Phase II

Court of Appeals

- Same as Phase II

Phase IV
(Planned to Start August 31, 2020)

Phase IV includes Phase I, Phase II, and Phase III matters in addition to the following:

District Courts

Criminal and Traffic

- All criminal matters
- Minor traffic matters
- Begin scheduling dockets that begin during Phase V for:
 - Red light
 - Parking
 - Speed camera
 - School bus
 - Toll/Maryland Transit Administration
 - Other civil citations including previously postponed matters

Civil

- All civil matters

Landlord/Tenant

- Failure to pay rent

Problem-solving Courts

- Fully operational

***District Court
Commissioners***

- Fully operational
- Continue to accept circuit court bail bonds through Phase IV

Circuit Courts

Civil

- Non-jury trials
- *De novo* appeals

Criminal

- Post-conviction hearings
- Three-judge panel sentence reviews

Family

- Hearings and trials
- Child support contempt

(CINA

- Fully operational

Juvenile Delinquency

- Fully operational

Problem-solving Courts

- Fully operational

Court of Special Appeals

- Same as Phase II

Court of Appeals

- Same as Phase II

Phase V

(Planned to start October 5, 2020)

District Courts

- Fully operational

*District Court
Commissioners*

- Fully operational

Circuit Courts

- Fully operational

Court of Special Appeals

- Fully operational

Court of Appeals

- Fully operational



Appendix 4

Department of Public Safety and Correctional Services

Office of the Secretary

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STATE OF MARYLAND

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CAROLYN J. SCRUGGS
ASSISTANT SECRETARY

GARY W. McLHINNEY
ASSISTANT SECRETARY

April 10, 2020

Via Electronic Mail

The Honorable William C. Smith, Jr.
Chairman, Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East Wing
11 Bladen St., Annapolis, MD 21401

The Honorable Luke Clippinger
Chairman, House Judiciary Committee
House Office Building, Room 101
6 Bladen St., Annapolis, MD 21401

Dear Chairmen Smith & Clippinger:

Thank you for your concern and collaboration as we all work to address the ongoing coronavirus pandemic. Maryland's focus is on maintaining good public health practices to 'flatten the curve' and to stand up and expand the state's emergency response and medical care capacity to serve those in need.

The Department of Public Safety and Correctional Services (DPSCS) has been working in tandem with the Maryland Department of Health (MDH) and Maryland Emergency Management Agency for weeks to ensure the health and wellbeing of the prison population. The Department has implemented best practices across the agency to prevent and mitigate the spread of COVID-19 by:

- Enhancing hygiene and sanitation practices consistent with the recommendations of Maryland Department of Health and the Centers of Disease Control
- Suspending visitation and volunteer-led programs at all correctional facilities, excluding legal visits
- Conducting temperature checks and completing health questionnaires for staff at every shift change
- Modifying inmate movement and meal service to more closely align with social distancing protocols (implemented "Grab N Go" dining at most correctional facilities)
- Ensuring an adequate supply of cleaning, safety and other operational-critical supplies for all facilities
- Waiving all inmate medical co-pays

- Ensuring those privatized medical doctors and nurses who provide on-site care to the inmate population at infirmaries in each region are prepared
- Implementing video visitation so inmates can better connect with loved ones
- Providing five free, 15-minute phone calls a week for all inmates as a means of keeping incarcerated men and women closely connected to their loved ones during this challenging time
- Extending recreation periods for inmates while suspending contact sports
- Establishing a 24-hour family hotline so that loved ones of incarcerated men and women can receive COVID-19 related information around the clock (see attached)
- Increasing communication to staff; Secretary Robert Green is communicating messages to his thousands of employees multiple times a week; employees are also receiving operational updates daily

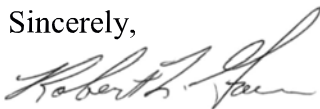
The Department is aware of the importance of ensuring continuity of medical and mental health treatment of its incarcerated population, both in the correctional setting and as offenders are reentering into society.

The coronavirus pandemic has created a challenging situation for many service providers, shelters, employers and other agencies who serve returning citizens. While DPSCS has limited discretion in the commitment and release of the incarcerated population, the Department continues to facilitate expedited release processes through the avenues provided in statute.

DPSCS is taking extra precautions to ensure successful reentry and connection to community resources while also limiting exposure to COVID-19.

Please see attached, responses to the questions submitted by members of the House Judiciary Committee and Senate Judicial Proceedings Committee on April 3, 2020.

Sincerely,



Robert L. Green
Secretary

Attachment: Responses to Committees' COVID-19 Questions

Cc: Senate President Bill Ferguson
House Speaker Adrienne A. Jones
Mr. W.F. "Pete" Landon, Deputy Chief of Staff, Governor's Office
Mr. Keiffer Mitchell, Jr., Chief Legislative Officer, Governor's Office
Ms. Cara Sullivan, Deputy Legislative Officer, Governor's Office

Responses to Committees' COVID-19 Questions

- **What is the process by which inmates are being released upon completion of their sentence? Are inmates who have completed their sentence being tested for COVID-19 before release?**

The release process has not been materially altered as the Department continues striving to ensure inmates have access to birth certificates, social security cards, and are enrolled in Medicaid prior to release. Case Management and the Division of Parole and Probation are still verifying home plans of the incarcerated population prior to release.

Typically, inmates would be transferred to a release hub (i.e. regional designated correctional facility) closest to their home plan from their holding institution prior to release. In an effort to limit inmate movement, inmates are currently being directly released from their holding facilities. The Department is making every best effort to ensure those inmates being released directly from their holding facility have adequate transportation to their home plans. Additionally, in order to provide an extended continuity of care during this public health crisis, chronic care inmates are receiving a 60-day supply of medication, as opposed to the routine 30-day supply, prior to release.

While inmates are being screened to ensure they are healthy, they are not being tested prior to release as it is not clinically indicated.

- **What are the testing protocols for inmates and staff? Does the Department have access to a sufficient amount of COVID-19 tests? What is the process being used for inmates to report symptoms of COVID-19?**

In terms of testing protocols for staff, the Department follows guidelines set by the CDC and the Maryland Department of Health (MDH) to ensure compliance with community standards. All staff are screened at the front-entrance prior to entry into a correctional facility. If a staff member is unwell or has a heightened temperature they are sent home for follow up with their health practitioner.

The Department utilizes a multidisciplinary vendor approach through contractual healthcare providers to treat the incarcerated population. The incarcerated population is continuously provided educational information regarding signs and symptoms of COVID-19 and utilize the sick call system to report illness. Specifically, all inmates are able to submit a sick call slips on their housing tier, which are collected by the medical contractor and immediately triaged by a registered nurse. Clinical services for non-emergency sick call requests are provided by the appropriate provider as designated during the triage process within forty-eight (48) hours of receipt when received Sunday to Thursday and within 72 hours when received on Friday, Saturday and holidays. Clinical services for emergency sick call requests are also provided to assure access to care in a timely fashion.

Licensed clinical providers are also monitoring inmates considered to be “high-risk” pursuant to guidance from the Centers for Disease Control, around the clock. Inmates who present with symptoms suspicious for COVID-19 are transported to an offsite care facility where testing is completed. The Department has strict COVID-19 transportation policies and protocols regarding the donning of personal protective equipment and cleaning to protect those transporting the inmate and the inmate.

- **What is the process for handling inmates that display symptoms of COVID-19? What is the process for housing inmates that have tested positive for COVID-19?**

Inmates who present with COVID-19 symptoms (i.e. fever, coughing, sneezing, shortness of breath) are equipped with a surgical mask and brought for evaluation to the infirmary area of the correctional facility where they are assessed so that other causes of the symptoms are ruled out (i.e. Influenza A or B, Pneumonia, Asthma), consistent with CDC recommendations.

Based on the assessment, a licensed clinical professional determines whether the inmate needs to be transported to an off-site care facility as discussed above. If the inmate is not admitted to the off-site care facility, upon return to the correctional facility the medical treatment provider determines if/where the symptomatic inmate needs to be isolated. The Department has respiratory negative airflow rooms throughout designated correctional facilities as well as other isolation and quarantine housing. An immediate contact tracing occurs to determine potential close contact. Inmates who display symptoms for COVID-19 or had close contact with suspected COVID-19 cases are either isolated or quarantined, equipped with personal protective equipment, and monitored for 14 days pending the outcome of the COVID-19 test.

Through an ongoing collaboration with the Army Corps of Engineers, the Department has also initiated construction of medical tent facilities at Maryland Correctional Institution-Hagerstown (MCIH) and Jessup Correctional Institution (JCI). These onsite medical tent facilities are being erected in the event emergent treatment is needed for the incarcerated population.

- **How are visitors to a DPSCS facility being screened for COVID-19? Is the Department providing any protective equipment to visitors?**

All visitations and volunteer-led programs were suspended on March 12, 2020.

- **How is the Department maintaining adequate staffing levels during the pandemic?**

During the week of March 30, 2020, the Department began providing every staff member at its correctional facility with personal protective equipment and gear to include cloth face masks, plastic face shields, and gloves. To date, every staff member has received all

three pieces of equipment and are expected to utilize it in order to reduce the frequency of close contacts with anyone who may be infected, but asymptomatic.

As of April 8, 2020, 22 correctional officers have tested positive for COVID-19. By taking swift and early action, and maintaining constant communication, the Department has been able to maintain adequate staffing levels during the pandemic. The Department will continue monitoring the staffing level of each shift.

The Department is extremely proud of the dedicated men and women who continue fulfilling their duties despite the unprecedented circumstances. However, fear does not discriminate. The Department is relying on every leader across the State to provide accurate information and encourage the continued hard work of essential public safety employees.

- **Is the Department continuing to provide chronic care to inmates?**

Of course.

The Department has also been included in Maryland Department of Health's daily surge capacity conferences to ensure collaboration for any potential future needs regarding acute hospital care and chronic medical needs.

- **What is the policy for cleaning and sanitization of DPSCS facilities?**

The Department has tripled its cleaning and sanitization protocols; has deployed industrial disinfectant foggers to high-touch areas of certain facilities; has provided an abundance of free soap to the incarcerated population; and, Maryland Correctional Enterprises has begun production of hand sanitizer.

- **Are inmates being given access to cleaning and sanitizing products?**

Yes, the Department has inmate sanitation crews that have access to these products. Additionally, inmates have access to cleaning supplies in their housing areas. The Department is also in the process of rolling out face masks to the entire incarcerated population.

- **How is the Department attempting to maintain social distancing throughout activities like mealtime or medication call?**

The Department eliminated all contact sports, is deploying video visitation (see video posted to Facebook), and has implemented a Grab-N-Go meal process at its correctional facilities.

The Division of Correction has also implemented modified movement to further reduce the number of inmates in any given area at a time to allow for social distancing. Recreation has been modified to ensure that only inmates from the same housing are in

the recreation yard at any given time while ensuring the number of inmates in the recreation yard are small enough to allow for social distancing.

- **What is the process for inmates to access video visitation? Is this service operational and accessible to all inmates?**

It is in the process of being deployed statewide and is currently available at five correctional facilities. The Department anticipates video visitation will be available at every correctional facility by April 17, 2020. The rollout thus far and anticipated completion date is remarkably aggressive considering most facilities lacked/lack the circuitry, infrastructure, and equipment, requiring significant modification and network installation.

- **Has the procedure for attorney's visits changed?**

At the Baltimore City Booking and Intake Center, the Courts have transitioned to a remote hearing process, but detainees still have access to their Public Defenders or attorneys over the phone. Within the Division of Correction, attorneys can still access their clients once being cleared during the front-entrance health screening, but are separated by plexiglass.

- **Has the Department considered releasing medically vulnerable or elderly prisoners?**

The population under the Department's custody is first filtered by the direction of law enforcement and sentencing decisions beyond the Department's control. The Department's ability to release the incarcerated population is limited and stipulated in statute. The two primary, limited, discretionary release mechanisms afforded to the Department are placement on Home Detention and placement on Pretrial Release Supervision. The Department continuously utilizes both of these mechanisms, even during these times.

- **Is there any statewide guidance to counties to avoid detaining additional non-criminal residents during the pandemic?**

The Department is unable to comment on this.

- **Have there been incidents of violence in the DPSCS system in the last 3 weeks due to rising tension?**

The Department cannot generally attribute motive to inmate assaults, and can only speak to operational changes that impact facility movement. As noted above, the Department took preemptive steps to limit entrance to outside partners and limit inmate movement to attempt to mitigate and slow viral spread within facilities and achieve social distance where operationally possible. These operational changes limited staff and inmate proximity and large inmate gatherings. This has limited the opportunities for contact, which has prevented significant increases in assaults.

In examining the assault rates from March 16, 2020 – April 7, 2020, in comparison to the same time frame last year, inmate on staff assault rates have remained fairly consistent. Bodily fluid assaults on staff have increased by four instances and there has been a slight (7%) increase in inmate assaults, which is largely accounted for by an increase in less serious weapon assaults. There have been four more serious inmate assaults during this period, but a 13% drop in less serious physical assaults.

The absence of large departures from trends suggests that the current situation is not driving an increase in violence within facilities. The Department will continue to closely track the assault rates as a component of COVID-19 preparation and response.

- **Have inmates' access to news and/or other information sources been limited in any way as a result of the pandemic?**

It has not been limited.

Appendix 5
Department of Public Safety and Correctional Services COVID-19 Testing
Data as of July 17, 2020

Department of Public Safety and Correctional Services COVID-19 Cases									
Region	Facility	Staff Tests	Staff Positive	Staff Recovered	Staff Deaths	Inmates Tested	Inmates Positive	Inmates Recovered	Inmate Deaths
Baltimore	BCBIC	609	52	44	1	975	101	79	
	BCCC	85	3	2		276	0	0	
	CDF	203	31	20		330	5	4	
	MRDCC	234	34	30		527	16	9	
	MTC	384	47	43		690	30	23	
	YDC	101	3	2		52	1	1	
Eastern	ECI	736	5	5		3,054	5	2	
	EPRU	41	0	0		78	0	0	
Hagerstown	MCI-H	350	2	2		733	6	6	
	MCTC	432	8	5		2,768	15	15	
	RCI	373	59	42		1,740	39	32	1
Jessup	CMCF	107	20	14		375	60	51	2
	DRCF	175	33	31		758	58	51	1
	JCI	569	56	48		1,695	94	80	2
	MCI-J	260	34	31		840	147	127	
	MCI-W	321	53	50		610	26	25	
	PATX	387	10	10		769	2	2	1
	SMPRU	37	1	1		82	19	18	
Western	NBCI	380	2	1		1,269	11	11	
	WCI	478	2	2		1,634	0	0	
Other	Non-residential location	413	3	2					1
Current Total		6,769	458	385	1	18,883	637	538	8

BCBIC—Baltimore Central Booking & Intake Center	JCI—Jessup Correctional Institution	PATX—Patuxent Institution
BCCC—Baltimore City Correctional Center	MCIH—Maryland Correctional Institution—Hagerstown	RCI—Roxbury Correctional Institution
BPFJ—Baltimore Pre-Release Facility—Jessup	MCIJ—Maryland Correctional Institution—Jessup	SMPRU—Southern Maryland Pre-Release Unit
CDF—Chesapeake Detention Center	MCIW—Maryland Correctional Institution for Women	YDC—Youth Detention Center
CMCF—Central Maryland Correctional Facility	MCTC—Maryland Correctional Training Center	WCI—Western Correctional Institution
DRCF—Dorsey Run Correctional Facility	MRDCC—Maryland Reception, Diagnostics and Classification Center	
ECI—Eastern Correctional Institution	MTC—Metropolitan Transition Center	
EPRU—Eastern Pre-Release Unit	NBCI—North Branch Correctional Institution	