

PRISON POLICY INITIATIVE

Written Testimony in Support (FAV) of House Bill 565

Maryland Deaths in Custody Oversight Board

Sarah Staudt, Policy and Advocacy Manager

Prison Policy Initiative

69 Garfield Ave, Fl 1, Easthampton, MA 01027

Judiciary Committee

March 7, 2024

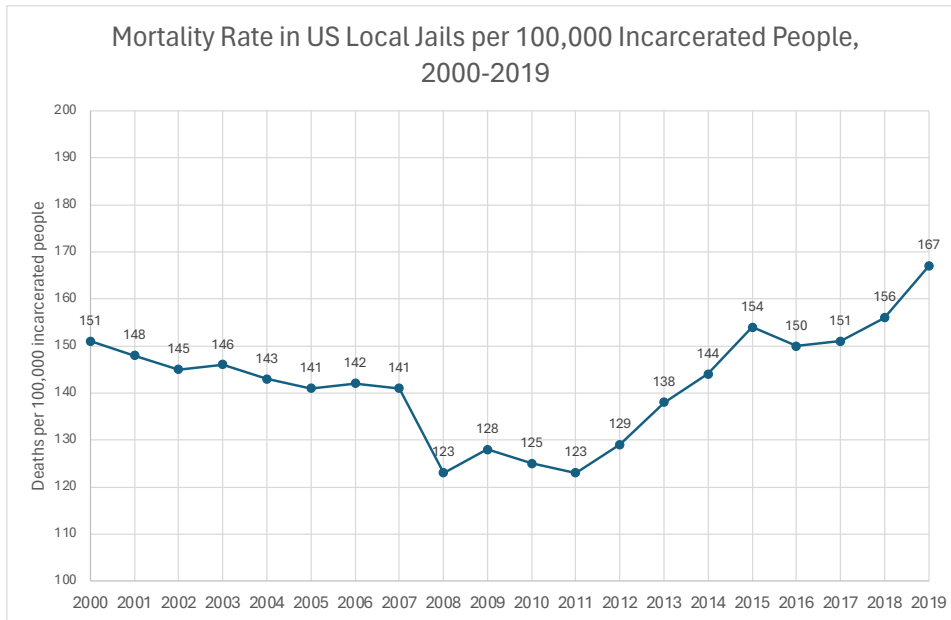
The Prison Policy Initiative is a nonprofit, nonpartisan organization that produces cutting-edge research to expose the broader harms of mass criminalization, and sparks advocacy campaigns to create a more just society. We strongly support House Bill 565, establishing the Maryland Deaths in Custody Oversight Board. The bill would create a board with strong community representation to conduct a review after someone dies in jail custody in Maryland. This kind of oversight board is essential to bring down unacceptably high numbers of deaths in custody, and ensure greater transparency and accountability for correctional institutions.

Every death in custody is a tragedy that the state must take full ownership and responsibility for. People in jails are completely at the mercy of state actors – they do not have the ability to access independent health care, including ongoing healthcare for substance use and mental health issues, and the state is fully responsible for their safety and wellbeing. Below, we present some facts about jail deaths both nationwide and in Maryland to provide context for why an oversight board could save lives in Maryland as jail deaths rise.

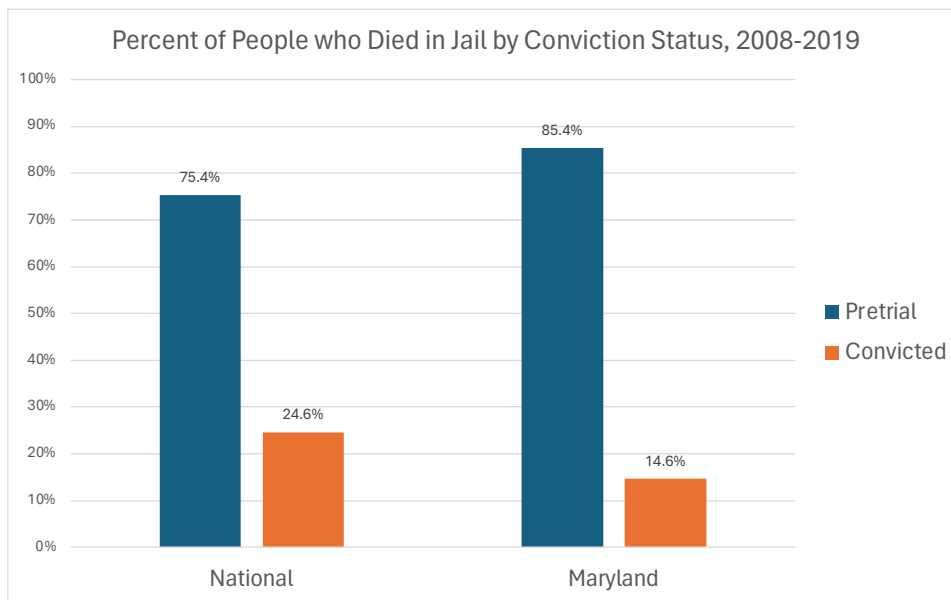
Jail Deaths are on the rise nationwide – especially among Black people and those not convicted of crimes

Jails are uniquely dangerous and deadly places, particularly for people with substance use disorders and mental health issues – and the problem is getting worse. The mortality rate in local jails rose 11% between 2000 and 2019, the most recent year for which national data was available¹.

¹ Bureau of Justice Statistics, Mortality in Local Jails, 2000-2019, Statistical Tables, published December 2021, available at: <https://bjs.ojp.gov/content/pub/pdf/mlj0019st.pdf>.



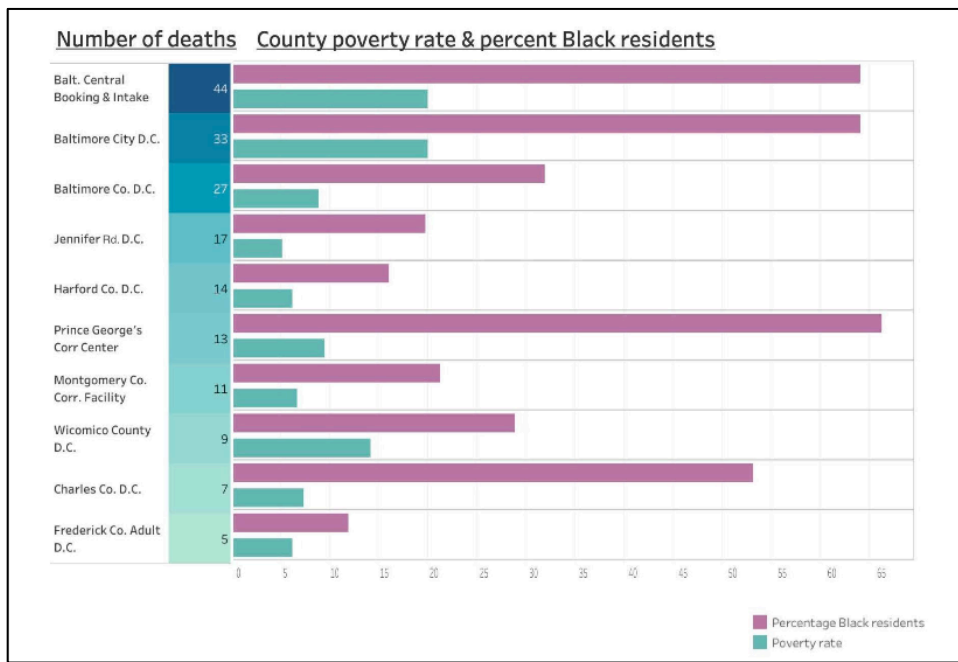
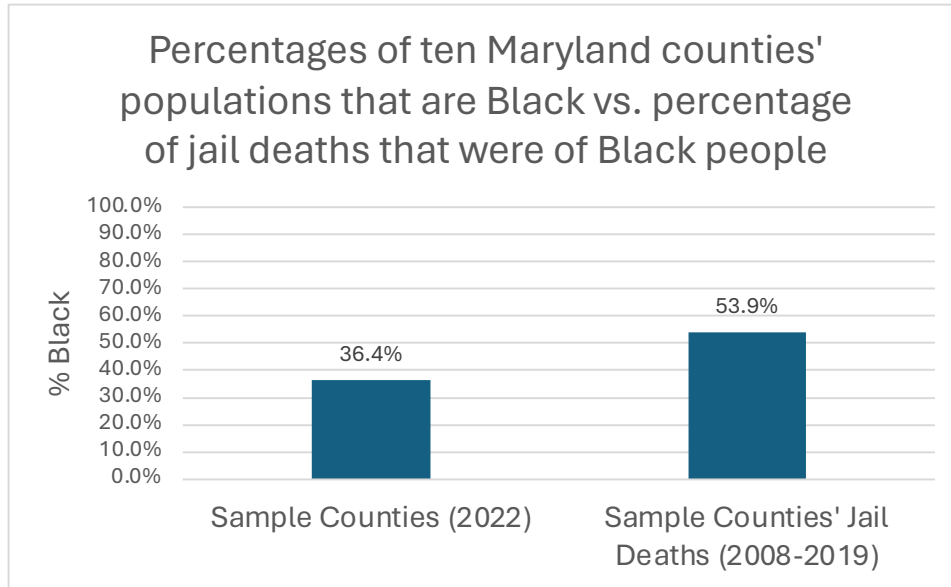
Both nationally and in Maryland, the people who die in jail are generally people not convicted of any crime. Nationwide, 76.7% of people who died in jail are pretrial². An August 2023 study by the BioCritical studies lab of 180 deaths in 10 city and county detention centers in Maryland found that 85.4% of people who died were not convicted³.



² BJS, Mortality in Local Jails

³ Carmen Johnson, Terence Keel, Alexander Li, Anna Robinson-Sweet, Elizabeth Rossi, Grace Sosa, Jonah Walters; BioCritical Studies Lab, “In Custody Deaths in Ten Maryland Detention Centers, 2008-2019”, August 2023, available at https://civilrightscorps.org/wp-content/uploads/2023/09/InCustodyDeathinTenMarylandDetentionCenters_August2023.pdf.

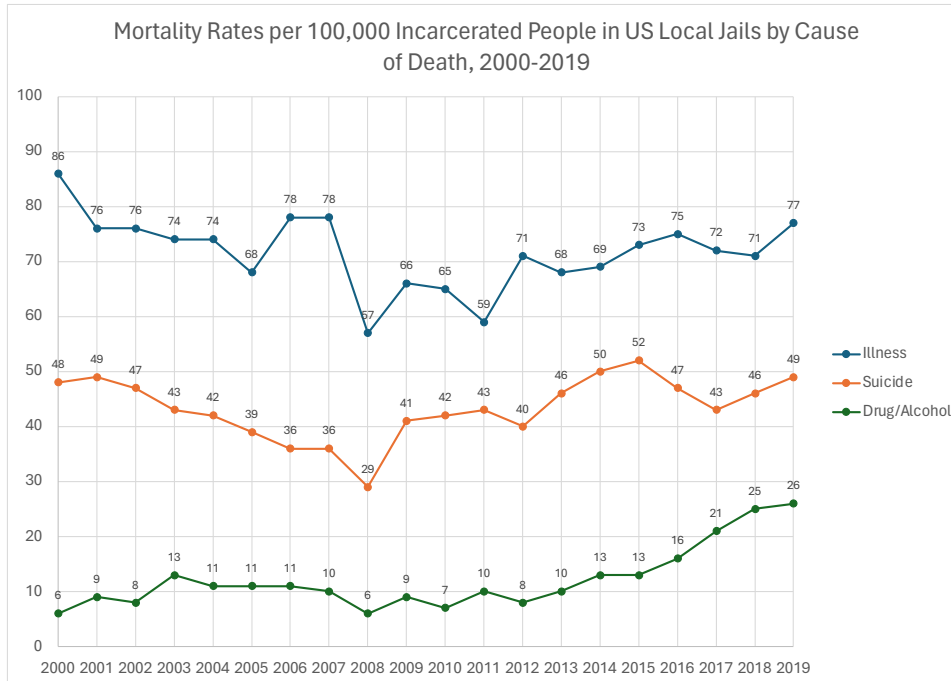
A disproportionate number of the people who die in jails are Black. The BioCritical Studies lab report found that 54% of the people in their jail death sample were Black; the populations of the counties in the sample were only 36% Black⁴. Furthermore, they found that the detention centers with the most instances of in-custody deaths were situated in jurisdictions with both high rates of poverty and high concentrations of Black residents.



⁴ Calculated from census.gov data on Anne Arundel County, Baltimore City, Baltimore County, Charles County, Frederick County, Harford County, Montgomery County, Prince George's County, and Wicomico County.

Suicide, drug and alcohol use are leading causes of jail deaths

Although illness remains the leading cause of death for people in jails, suicide and drug and alcohol intoxication are also major causes – and cause a disproportionate number of deaths than they do in the general population. The mortality rate from drug and alcohol intoxication, in particular, rose astronomically – more than quadrupling – between 2000 and 2019⁵.



A key driver of this trend is a rise in the incarceration of women. Nationwide, jails are becoming increasingly female; Maryland’s jails have followed this trend⁶. Between 1970 and 2015, the number of women in Maryland jails increased eightfold. This is relevant in the conversation about preventing jail deaths because women in jail died of drug and alcohol intoxication at nearly twice the rate of men in 2018⁷. The upward trend in jail incarceration of women has been driven largely by arrests and incarcerations for drug charges. Between 1985 and 2019, arrests of women for drug charges grew 216%, while arrests for men grew 48%⁸. Women are more likely

⁵ BJS Mortality in Local Jails.

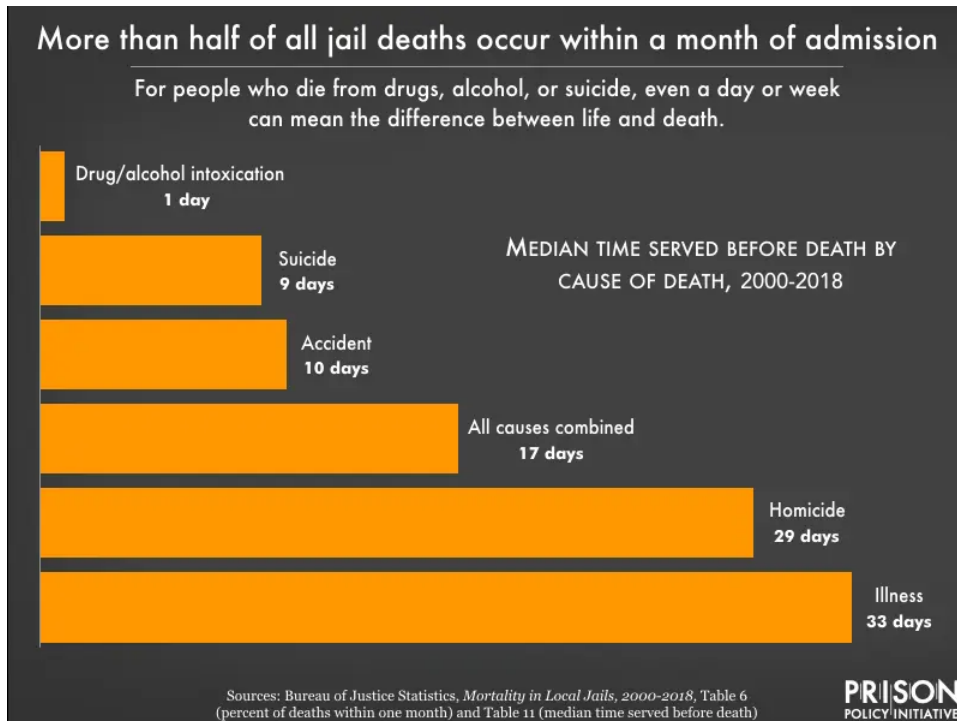
⁶ Vera Institute of Justice, Incarceration Trends in Maryland, 2019, available at <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-maryland.pdf>.

⁷ Leah Wang, Prison Policy Initiative, “Rise in jail deaths is especially troubling as jail populations become more rural and more female” June 23, 2021, available at https://www.prisonpolicy.org/blog/2021/06/23/jail_mortality/.

⁸ Tiana Herring, Prison Policy Initiative, “Since you asked: What role does drug enforcement play in the rising incarceration of women?”, November 10, 2020, available at: <https://www.prisonpolicy.org/blog/2020/11/10/women-drug-enforcement/>.

than men to enter jail with drugs in their system, with a medical problem or chronic condition, or with a serious mental illness⁹.

Deaths from drug and alcohol intoxication are most common in the very early stages of people's incarceration. The median time served before a drug or alcohol intoxication death was just one day¹⁰. This means that in order to decrease jail deaths, efforts must be made to stop people from entering jail in the first place – treatment and programs once people arrive are not sufficient, since so many people are dying before they would have the chance to access those programs.

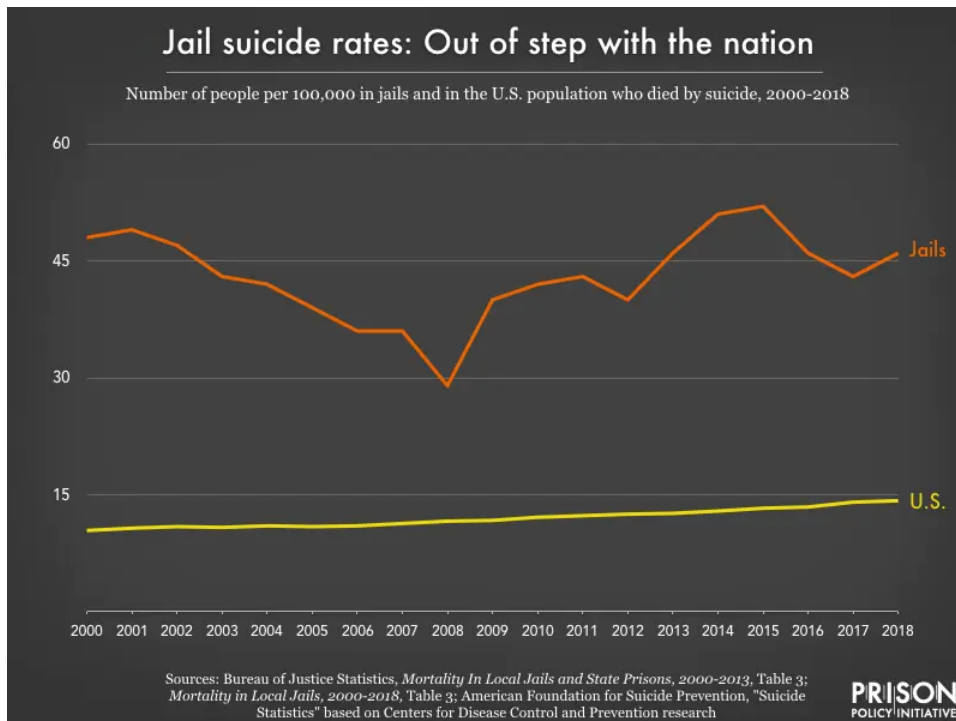


Suicide accounts for almost 30% of all deaths. Someone in jail is more than three times as likely to die from suicide as someone in the general population, and still twice as likely when the population is adjusted for age, sex, and race/ethnicity to match jail populations¹¹.

⁹ Elizabeth Swavola, Kristen Riley, and Ram Subramanian, Vera Institute of Justice, “Overlooked: Women and Jails in an Era of Reform”, 2016, available at <https://www.vera.org/downloads/publications/overlooked-women-and-jails-report-updated.pdf>.

¹⁰ Leah Wang, Prison Policy Initiative, “Rise in jail deaths is especially troubling as jail populations become more rural and more female” June 23, 2021, available at https://www.prisonpolicy.org/blog/2021/06/23/jail_mortality/.

¹¹ Wang



How House Bill 565 would address these problems

Addressing the root causes of jail deaths and decreasing requires concerted effort from jail stakeholders, but also requires independent oversight to hold jails accountable for the deaths that occur on their watch and ensure that best practices in prevention and response are being followed.

Leading researchers recommend extensive reviews of both suicide deaths and self-harm incidents after they occur to learn lessons about how jails could have improved emergency response, supervision, medical response, and prevention efforts¹². This is exactly the kind of review proposed by House Bill 565, and could have major impacts on the number of people who die by suicide in jails.

The Maryland Deaths in Custody Oversight Board would also increase transparency in the jail system around deaths. There are serious concerns about the accuracy and completeness of information currently released about in-custody deaths; for example, the BioCritical Studies lab report noted that the average age of people who died of “natural causes” in jails was substantially lower than the average life expectancy in Maryland, which raises concerns that deaths are being misclassified as “natural” when they in fact have another cause¹³. It is vitally important that any

¹² Jason Tan de Bibiana, Therese Todd, Leah Pope. Preventing Suicide and Self-Harm in Jail: A Sentinel Events Approach, Vera Institute of Justice, July 2019, <https://www.vera.org/downloads/publications/preventing-suicide-and-self-harm-in-jail.pdf>.

¹³ BioCritical Studies Lab Report, pg 1.

oversight of jail deaths examine *all* deaths that occur behind bars, including suicides, homicides, drug and alcohol overdoses, and deaths from “natural causes”.

In recent years, other states have moved to mandate disclosure of information about in-custody deaths; for example, California passed a law in 2022 requiring agencies to publicly report information about deaths in custody on their websites¹⁴. By creating a Jail Death’s Oversight board, Maryland would be joining a national trend towards greater transparency about in custody deaths. Sunshine is the best disinfectant; a civilian-led board focused on the wellbeing of incarcerated people is an important step in reversing the disturbing trend of increased jail deaths.

We hope that the legislature will support House Bill 565, so that the lives of people in Maryland’s jails can be treated with more dignity and care.

¹⁴ CA AB 2761, available at <https://legiscan.com/CA/text/AB2761/id/2609263/California-2021-AB2761-Chaptered.html>.