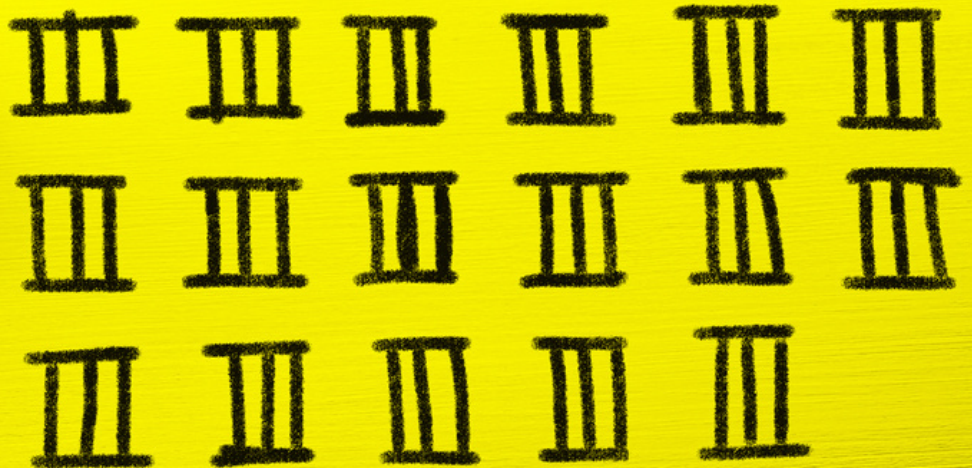



A LOOK BACK 2021-2022


BALTIMORE CITY CIRCUIT COURT -
BAIL REVIEWS


A QUANTITATIVE REPORT BY BALTIMORE COURTWATCH



**BALTIMORE
COURTWATCH**

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**BALTIMORE
COURTWATCH**

A LOOK BACK 2021-2022

A QUANTITATIVE REPORT

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I - INTRODUCTION

We started Baltimore Courtwatch because the courtrooms that exist in the popular imagination as sacred spaces dedicated to upholding and protecting the rights of average citizens, do not, in any meaningful way, exist in real life.

Baltimore Courtwatch began observing Baltimore City Circuit Court bail review hearings in April 2020, at the start of the COVID pandemic, and our work continues today.

As described by the Honorable Audrey J. S. Carrión, Administrative Judge and Chief Judge, "The Circuit Court is the only court in Baltimore City that conducts jury trials...Criminal Division cases [the ones observed by Baltimore Courtwatch] include all felonies, misdemeanor cases where a jury trial has been requested, and appeals from District Court."

At a bail review hearing, the pretrial detention status of the defendant is re-examined by their defense counsel, the prosecution, pretrial services, and a Circuit Court judge; after hearing arguments from all sides, the judge decides whether the detention status should change or stay the same. For example, the judge may decide that the defendant is to remain in jail until trial or they may order their release to home detention, in which an ankle monitor surveils their location 24/7.

While we would argue that no human being should be caged or subjected to the dehumanizing conditions and treatment described in this report, the individuals subject to bail review hearings have not been convicted of the crimes of which they are accused. Even in the eyes of this horrific system, they are innocent and have not been proven guilty.

In fact, often the only "evidence" used to justify pretrial detention and/or e-carceration is a police report, written by cops from one of the most notoriously dishonest and corrupt police departments in the entire country.



SHINING A LIGHT IN THE
DARK CORNERS OF
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**BECAUSE BAIL REVIEWS HAPPEN BEFORE THE TRIAL HAS EVEN STARTED,
ALL DEFENDANTS ARE LEGALLY INNOCENT.**



2 - DATA BACKGROUND

Data paints a picture of patterns and trends, a way to visualize what is happening around us. The data we collect through our direct observations of Baltimore City Circuit Court bail hearings has typically not been collected by any agency.

This quantitative report (meaning it is numerical in nature) addresses the “what” and “how many” aspects of what we observed from January 1, 2021 through December 31, 2022. We hope this data paint a clearer picture for you of the realities of what happens in the courtroom.

HOW DO WE COLLECT THE DATA?

Baltimore Courtwatch volunteers attend bail review hearings virtually, via a publicly accessible phone line. Our observers take written notes in real time as it is illegal to record court proceedings in the state of Maryland.

After the notes are collected, further research is conducted by querying within Maryland Judiciary Case Search (MJCS), and all the information gathered is then entered into a form that funnels entries into a main spreadsheet. Quantitative analysis is conducted from there.

TERMS AND DEFINITIONS

TERM	DEFINITION	ICON
HWOB	Held without Bond stays in jail until trial	
EM	Electronic Monitoring/Home detention released on Electronic Monitoring (an ankle monitor, also know as “The Box”)	
ROR S	Released on Supervision free to go home but has to check in with pretrial services or parole/probation	
ROR	Released on Own Recognizance free to go home without any supervision until trial	
Other	Includes: postpone, sub curia, no prosecutor present, low count decisions	

WHAT DATA DO WE COLLECT

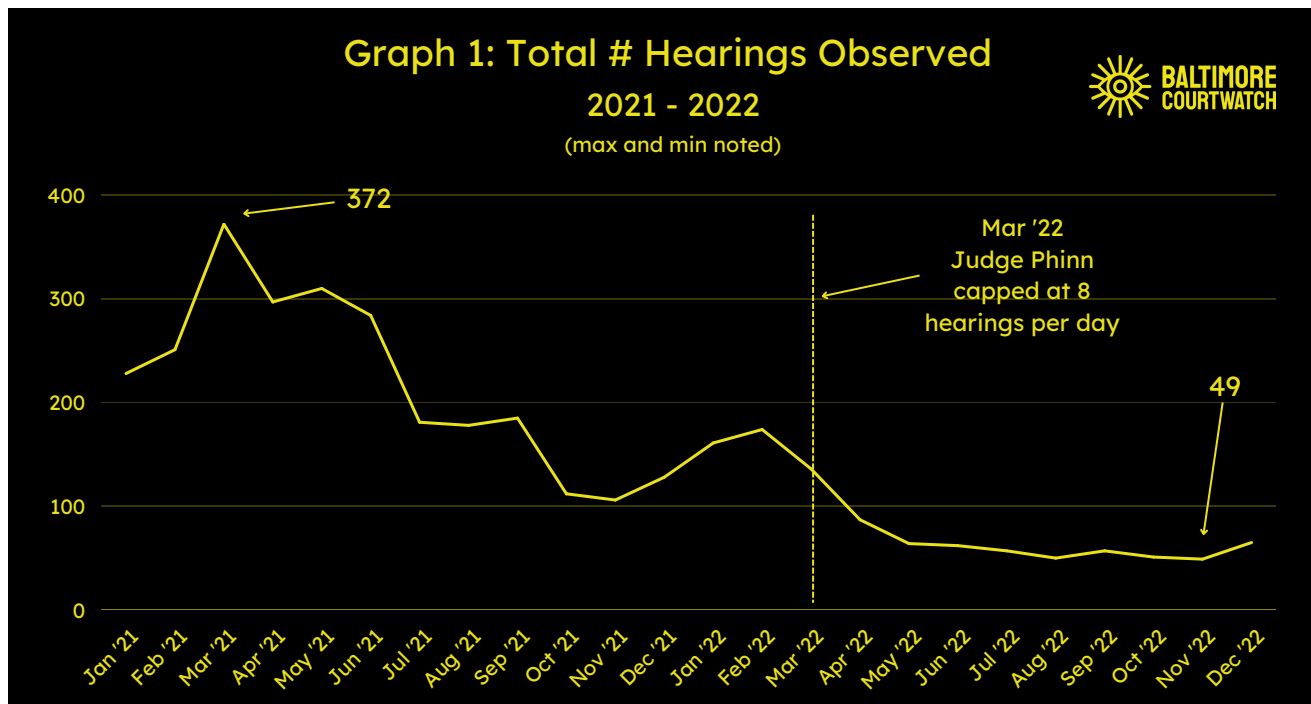
The case number is critical to record, as it can be used to collect more information from MJCS, like the defendant’s date of birth and the list of charges they’re facing. What cannot be found in Case Search, however -- and what can only be learned from observing the hearing itself -- is what the State (“the prosecutors”) requests for pretrial detention. Is the State asking for a person to be held in jail or to be released to the safety of their own home? Further, it is one of the only places where data on Electronic Monitoring can be collected.

3 - FINDINGS - OVERVIEW

Baltimore Courtwatch observers did not miss a single Circuit Court bail hearing docket in 2021 and 2022.*

8 volunteers observed and documented **3,645** bail hearings

10 volunteers entered data into our system



The decline in total # hearings resulted from:

- the Court completing the backlog of bail hearings resulting from the Covid shutdowns in 2020;
- a March 2022 decision by Administrative Judge Phinn limiting dockets to eight hearings a day.

*A handful of hearings in that timeframe may have been excluded from the data due to incomplete observations stemming from technological difficulties, etc.

4 - FINDINGS - PROSECUTORS

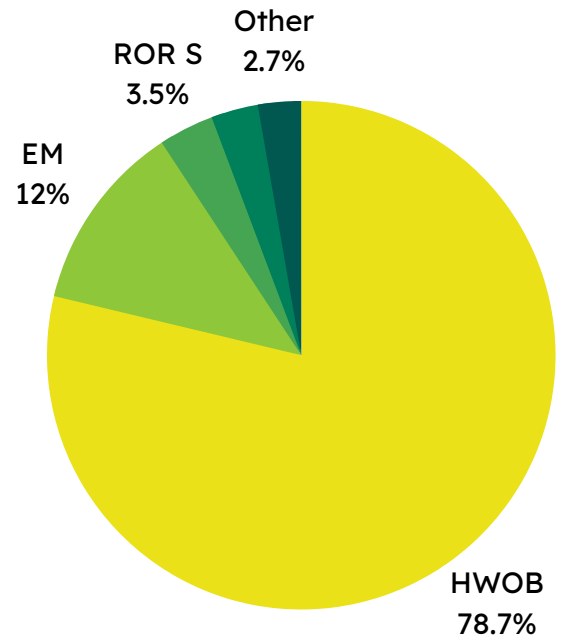
The State's Attorney's Office (SAO) prosecutes all cases charged in Baltimore City. They decide whether to pursue charges and also recommend where defendants should live until trial.

At each bail review hearing, the prosecutor (an Assistant State's Attorney or "ASA") requests a specific setting for the defendant to reside until the adjudication of their case. This setting, or "pretrial detention status," includes being held in jail, re-released without supervision, and home detention.

OVERALL, WE HEARD AN ASA REQUEST THAT THE DEFENDANT REMAIN IN PRETRIAL DETENTION ("JAIL") IN 78.7% OF THE HEARINGS IN 2021 AND 2022.

During a global pandemic in which an airborne virus has killed over 1 million people in the US alone, the State's Attorney's Office demanded the continued incarceration in overcrowded, unventilated facilities in at least 3 out of every 4 hearings.

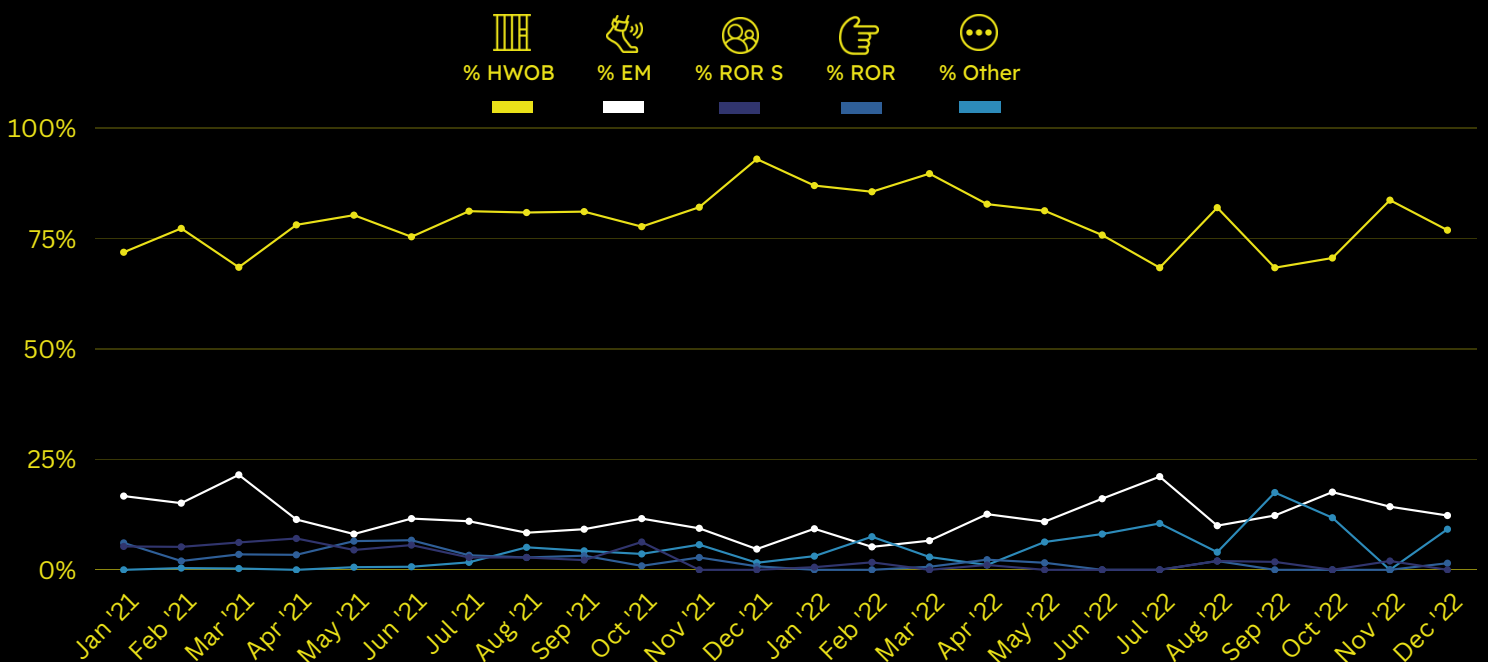
Graph 2: State Requests Overall



NOTE: "Other" includes: Defer to the court, No Prosecutor present, etc.

Graph 3: State Requests over Time

(as % of total # hearings within that month)





4 - FINDINGS - PROSECUTORS (CONT'D)

"EVIDENCE"

Did a prosecutor use a defendant's previously dropped charges, charges that did not end in a conviction, or charges from when they were a child in their arguments?

YES - AT LEAST 509 TIMES

In 509 hearings, prosecutors mentioned charges that had been previously dropped by their own office or had ended with no conviction or occurred when the defendant was under 18.

IN 430 OF THOSE 509 HEARINGS, THE STATE WAS ASKING FOR THE DEFENDANT TO BE HELD WITHOUT BOND.

To be clear, Mosby's staff used charges that their own office had dropped or charges that did not end in conviction or charges that were given when the defendant was a child as supporting evidence to keep someone in a cage. And they did this over 400 times, at the very least.

That prosecutorial truancy is more than a fluke occurrence is a problem on its face. Baltimore Courtwatch began collecting data on these questions after numerous hearings in which the assigned prosecutor did not show up and a different ASA, unfamiliar with the case, had to step in and complete the bail hearing. Since June 2022, an ASA, unfamiliar to the case, had to fill in at the last minute 26 times.

IN 16 OF THOSE 26 INSTANCES, THE PROSECUTOR, WHO HAD NO PREVIOUS KNOWLEDGE OF THE CASE UNTIL MINUTES BEFORE SPEAKING, ASKED THAT THE DEFENDANT BE KEPT IN JAIL UNTIL TRIAL.

In 23 other hearings, no prosecutor bothered to show up at all.

ATTENDANCE

Did an ASA have to fill in last minute at a bail hearing?

YES - AT LEAST 26 TIMES

Did prosecutors fail to show up for a hearing at all?

YES - AT LEAST 23 TIMES

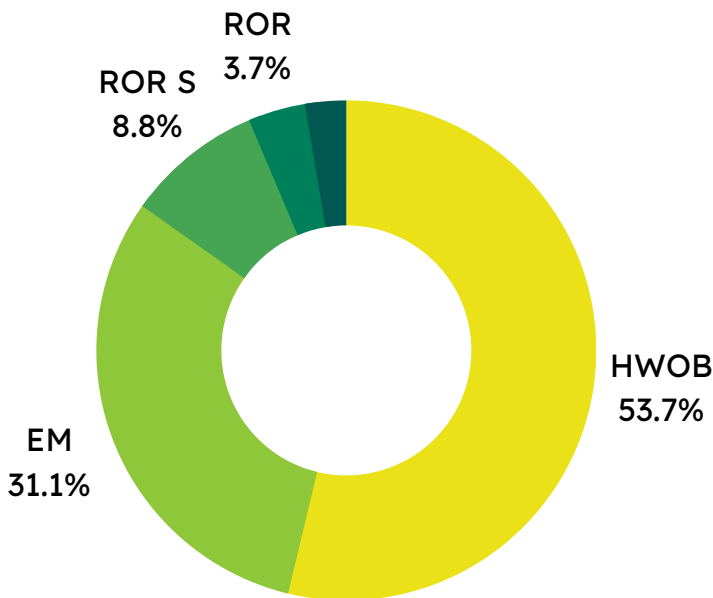


5 - FINDINGS - THE JUDGES

In Baltimore City Circuit Court, judges are rotated through the bail hearings. In other words, while only 4-5 judges preside over hearings in a given time period (e.g. two months), there were 22 total judges that presided over at least one hearing during 2021-2022.

After hearing from defense counsel, pretrial services, and the State, the judge makes a decision that immediately changes the trajectory of someone's life.

Graph 4: Overall Judge decisions



IN 54% OF THE HEARINGS, THE JUDGE DECIDED THAT SOMEONE SHOULD BE FORCED TO REMAIN IN JAIL, EVEN THOUGH THEY ARE PRESUMED INNOCENT AND EVEN THOUGH THERE IS A GLOBAL PANDEMIC CAUSED BY AN AIRBORNE VIRUS.

Judges are allowed to use their own judgment when making decisions in court. This practice, known as "judicial discretion," creates a reality in which inconsistent results occur despite similar circumstances. When the judge decisions were broken down to the individual judges, judicial discretion is evidenced and an inconsistent use of HWOB was revealed.

The next page illustrates the decisions on the 8 most frequent judges. All judge data can be found in the Appendix.

JUDICIAL DISCRETION

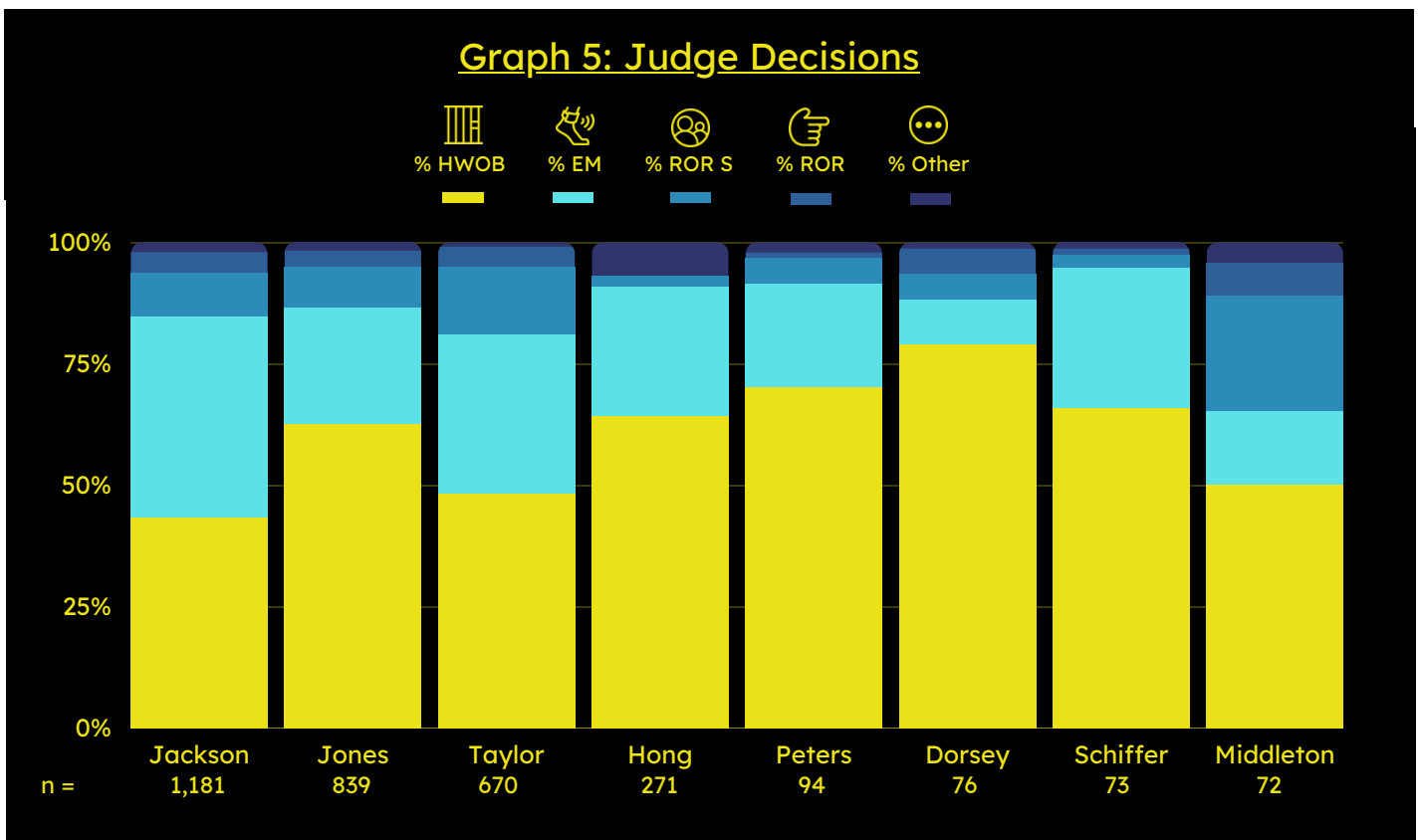
"Judicial discretion refers to a judge's power to make a decision based on their individualized evaluation, guided by the principles of law."

FINDINGS - JUDGES - OVERVIEW

8 JUDGES OVERSAW 89.9% OF THE HEARINGS IN 2021 AND 2022.

The remaining 10.1% of hearings (n = 369) were presided over by 14 other judges.*

Judicial discretion is best illustrated in Graph 5, where the % of different detention status decisions can be seen across the 8 judges. The yellow sections show how often they ruled for HWOB, the lightest blue shows how often they rule for Electronic Monitoring, etc. The numbers under each name show how many hearings each judge presided over.



Math shows us that the smaller the denominator, the greater the change in % occurs when raw numbers change. With that in mind, simply looking at the two most frequent judges - those with large denominators - an almost 20 point difference stands between them when they order someone to live in a cage.

*All individual judges will be detailed in the appendix.

These choices were all made during a global pandemic.



6 - FINDINGS - CHILDREN CHARGED AS ADULTS

PROSECUTORS

volunteers observed **570** hearings for children charged as adults

We observed 570 hearings where prosecutors choose to pursue children as adults. Of those 570, the State’s Attorney’s Office requested the child be held without bond 86.3% of the time. That is 9 pct. pts. higher than adult defendants. In other words, the SAO asked a judge to cage a child, in a facility that cages adults, at a higher rate than they requested that same detention status for adults.

Table 1: State requests - child vs. adult defendant

Defendant Age	EM	HWOB	Other	ROR	ROR S	Grand Total	% EM	% HWOB
Adult	392	2,374	75	104	125	3,070	12.8%	77.3%
Unknown	-	4	1	-	-	5	0.0%	80.0%
Child	46	492	24	5	3	570	8.1%	86.3%
Grand Total	438	2,870	100	109	128	3,645	12.0%	78.7%

Under current law, certain charges against minors automatically require that they be charged as adults.

However, nothing binds any State’s Attorney to pursue those charges or oppose transferring children to the juvenile system.

A CHILD IS NOT AN ADULT. THEY NEVER CAN BE.

THAT IS WHY THERE ARE TWO DIFFERENT WORDS THAT MEAN OPPOSITE THINGS.



6 - FINDINGS - CHILDREN CHARGED AS ADULTS

JUDGES

The law concerning bail reviews tasks judges with imposing the “least restrictive condition” to address potential flight risk and public safety concerns. The possible conditions range from ROR (releasing a person without conditions beyond instructions to appear for court) to HWOB (keeping the person in a cage until their trial).

In the 570 hearings where Baltimore City Circuit Court judges reviewed cases involving charges against a child in adult court, they choose the most restrictive possible condition - forcing a child to live in a cage until trial - 64.7% of the time. In fact, when dealing with children Judges used the most restrictive option available to them 13 pct. pts. more often than with adult defendants.

Table 2: Judge decisions - child vs. adult defendant

Defendant Age	EM	HWOB	Other	ROR	ROR S	Grand Total	% EM	% HWOB
Adult	974	1,588	72	127	309	3,070	31.7%	51.7%
Unknown	1	2	-	1	1	5	20.0%	40.0%
Child	157	369	25	7	12	570	27.5%	64.7%
Grand Total	1,132	1,959	97	135	322	3,645	31.1%	53.7%

Children were punished by Baltimore City Circuit Court judges as severely as possible more often than adults.

Not only that, judges ordered the least restrictive possible option for children only 1.2% of the time. Adults received the least restrictive possible option in 4.1% of hearings.

NOTE: Some months have zero or 1 bail review for a child so any longitudinal analysis for children charged as adults would be misleading.

JUDGES IMPOSE THE LEGALLY MANDATED LEAST RESTRICTIVE CONDITION LESS OFTEN FOR CHILDREN THAN THEY DO FOR ADULTS.



8 - CONCLUSION

This report is about choices. Specifically, the choices of prosecutors and judges made in the name of “public safety”. These are choices by public officials in the name of the public, which means ultimately they are our society’s choices. Our task has been to observe and report to you on these choices. We approach this task with an explicitly abolitionist lens.

Prosecutors with the Baltimore City State’s Attorney’s Office made their choices and the numbers are staggering. At 78.7%, SAO requested HWOB over 3 times as often as all other options combined. They also requested “e-carceration” or electronic home monitoring 12% of the time. Meaning, in 90.7% of hearings the State argued for severe restrictions.

We have also been able to observe the choices of 21 judges over this period. We encourage readers to understand that, while rates may vary, every one of these judges choose to cage human beings, disrupt families, and cause communities more harm.

Both prosecutors and judges chose to incarcerate legally innocent children at alarming rates. The numbers speak to the perceived dangerousness of children, specifically Black children, in our city. We reject that perception and insist that children be treated as children.

We want to emphasize that the people behind every single hearing are human beings. Human beings that are held by the State on accusations of committing crimes and are simply asking to not be locked in a cage. They are our neighbors and are loved by someone. They deserve to be treated as such.

Our methods of observation described are simple and straightforward. We encourage any and all who are interested to reach out to us if they’d like to volunteer or even to start their own program of observation.

Finally, we wish to thank our wonderful volunteers who spent hundred of hours of their time doing the work that made this report possible.



SHINING A LIGHT IN THE
DARK CORNERS OF
BALTIMORE CITY’S
COURTS.

Thank you to everyone who’s following along. We hope we’re doing what we set out to do. The best way to support this project is to re-amplify the sound we are amplifying. And please support public defenders however you can. We are fans, not affiliates, and they’re on the front lines.

9 - APPENDIX

A LOOK BACK

2021-2022

A QUANTITATIVE REPORT



**BALTIMORE
COURTWATCH**

9 - APPENDIX

OVERVIEW

Table 3: Total # hearings observed, by month and year

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
2021	228	251	372	297	310	284	181	178	185	112	106	128	2,632
2022	161	174	136	87	64	62	57	50	57	51	49	65	1,013
Grand Total	389	425	508	384	374	346	238	228	242	163	155	193	3,645

The decline in total # hearings resulted from:

- the Court completing the backlog of bail hearings resulting from the Covid shutdowns in 2020;
- a March 2022 decision by Administrative Judge Phinn limiting dockets to eight hearings a day.

PROSECUTORS - "THE STATE"

Table 4: State Requests - Overall

	# Requests	% of total
HWOB	2,870	78.7%
EM	438	12.0%
ROR S	128	3.5%
ROR	109	3.0%
Other*	100	2.7%
Grand Total	3,645	100.0%

* "Other" includes: Defer to the court, No Prosecutor present, etc.

PROSECUTORS - "THE STATE"

Table 5: State Requests - 2021

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
HWOB	164	194	255	232	249	214	147	144	150	87	87	119	2,042
EM	38	38	80	34	25	33	20	15	17	13	10	6	329
ROR S	12	13	23	21	14	16	5	5	4	7	-	-	120
ROR	14	5	13	10	20	19	6	5	6	1	3	1	103
Other	-	1	1	-	2	2	3	9	8	4	6	2	38
Grand Total	228	251	372	297	310	284	181	178	185	112	106	128	2,632

PROSECUTORS - "THE STATE"

Table 6: State Requests - 2022

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
HWOB	140	149	122	72	52	47	39	41	39	36	41	50	828
EM	15	9	9	11	7	10	12	5	7	9	7	8	109
Other	5	13	4	1	4	5	6	2	10	6	-	6	62
ROR S	1	3	-	1	-	-	-	1	1	-	1	-	8
ROR	-	-	1	2	1	-	-	1	-	-	-	1	6
Grand Total	161	174	136	87	64	62	57	50	57	51	49	65	1,013

JUDGES

Table 7: Judge Decisions - Overall

Judge Name	HWOB	EM	ROR S	ROR	Other	Grand Total	% HWOB
Jackson	512	488	106	51	24	1,181	43.4%
Jones	524	201	70	29	15	839	62.5%
Taylor	323	219	93	29	6	670	48.2%
Hong	174	72	6	-	19	271	64.2%
Peters	66	20	5	1	2	94	70.2%
Dorsey	60	7	4	4	1	76	78.9%
Schiffer	48	21	2	1	1	73	65.8%
Middleton	36	11	17	5	3	72	50.0%
Atas	30	14	8	6	6	64	46.9%
Williams	45	7	1	2	-	55	81.8%
Copeland	34	2	-	-	12	48	70.8%
Vittoria	18	16	1	2	3	40	45.0%
Nugent	20	11	1	2	1	35	57.1%
Handy	19	5	-	1	2	27	70.4%
Bryant	9	10	1	-	-	20	45.0%
Unknown	8	8	1	-	-	17	47.1%
Panos	11	2	2	-	1	16	68.8%
Murdock	9	3	3	1	-	16	56.3%
Friedman	5	4	-	-	-	9	55.6%
Sampson	1	4	1	1	1	8	12.5%
Phinn	4	3	-	-	-	7	57.1%
Lundquist	3	4	-	-	-	7	42.9%
Grand Total	1,959	1,132	322	135	97	3,645	53.7%

JUDGES

Table 8: Judge Decisions - 2021

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
HWOB	116	126	169	158	191	172	91	101	107	51	46	78	1,406
EM	69	72	121	85	64	63	66	55	50	39	48	38	770
ROR S	26	35	58	40	32	28	14	13	13	13	4	5	281
ROR	17	12	19	12	15	13	9	4	11	6	5	1	124
Other		6	5	2	8	8	1	5	4	3	3	6	51
Grand Total	228	251	372	297	310	284	181	178	185	112	106	128	2,632

JUDGES

Table 9: Judge Decisions - 2022

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
HWOB	98	113	76	47	39	25	20	32	21	23	33	26	553
EM	43	52	48	31	18	29	33	13	27	24	11	33	362
Other	13	3	4	3	5	2	-	2	8	3	1	2	46
ROR S	6	6	6	4	2	6	3	2	1	-	3	2	41
ROR	1	-	2	2	-	-	1	1	-	1	1	2	11
Grand Total	161	174	136	87	64	62	57	50	57	51	49	65	1,013