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OPD Endorses Attorney General Advisory Opinion, Urges the End of Jailing Presumptively Innocent People Solely Because They are Too Poor to Pay Bail

For immediate release.

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The Maryland Office of the Public Defender endorses the sound advice of the Maryland Office of the Attorney General that courts may not impose money bail unless they find that the defendant can afford the bail amount.

Although this is a statewide problem, Baltimore City jail records demonstrate the enormous human toll of the money bail system. Jail records indicate that today, October 11, 2016, no fewer than 1,453 people were sitting in jail on an unaffordable money bail. At least 255 of those people were incarcerated on a bail of \$5,000 or less. These defendants have been awaiting trial 111 days, on average.

Multiple studies have demonstrated that the key factor in the incarceration of people awaiting trial is not the risk they pose to society, or their risk of failing to appear in court, but simply whether they have enough money to pay bail. The result is a pretrial detention system that jails the poor, and allows the rich to go free. This system is irrational, unconstitutional, and morally indefensible.

Maryland's wealth-based pretrial detention system also coerces wrongful convictions from poor, innocent people. The Office of the Public Defender has witnessed first-hand how poor defendants remain in jail until their trial date. When their day in court finally arrives, prosecutors commonly offer jailed defendants a plea of "time-served," where defendants will receive credit for time already spent in detention and be released immediately upon pleading guilty. Too many innocent defendants choose to plead guilty to a sentence of time-served, which allows for their immediate release, rather than risk a trial.

We look forward to the day when presumptively innocent people are no longer caged simply because they are too poor to buy their freedom. We applaud the Office of the Attorney General for its advice on this important issue.

The Attorney General's advisory opinion can be viewed at this link: <http://bit.ly/2edl2M6>.