Testimony before the Senate Judicial Proceedings Committee

SB 249 Inmates – Life Imprisonment — Parole Reform

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Thank you for the opportunity to provide testimony on this bill. Please accept this statement in support of SB 249 Inmates –Life Imprisonment—Parole Reform.

My name is Marc Schindler and I serve as the Executive Director of the Justice Policy Institute (JPI), a national research and policy organization with expertise on criminal and juvenile justice issues, which is dedicated to reducing the use of incarceration in the justice system. By way of background, I have been fortunate in my career that I have had the opportunity to view the justice system from several different angles, and therefore I come to this issue today from a number of different perspectives.

Previously I held several leadership roles within the DC Department of Youth Rehabilitation Services (DYRS), Washington, DC’s juvenile corrections agency, including serving as General Counsel, Chief of Staff and Interim Director between 2005 and 2010. Prior to working at DYRS, I spent eight years as a staff attorney with the Youth Law Center, a national civil rights law firm, where I advocated at the national and state level on issues related to conditions of confinement, racial disparities, indigent defense and other juvenile justice issues. Prior to joining JPI, for three years I was a partner with Venture Philanthropy Partners (VPP), a Washington-based philanthropic organization. While there I led VPP’s Social Innovation Fund youthCONNECT initiative – a five year $40 million dollar innovative philanthropic effort aligning public-private capital, evaluation, and high performing non-profit organizations to improve the education, employment and health outcomes of 14-24 year old disconnected youth in the Washington metro region. And finally, after graduating from the University of Maryland School of Law I began my legal career over twenty years ago with the Maryland Office of the Public Defender. During that time I served on the Governor’s Commission on Children and also chaired the Baltimore City Bar Association’s Juvenile Justice Committee.

Related to the issue before you today, currently the Governor’s power to control the fate of a person’s future, through approval or rejection of a parole recommendation made by the
Maryland Parole Commission, is contrary to sound public policy, for a number of reasons, including: (1) it undermines the role of the parole commission; (2) it ignores outcomes from individuals released under *Unger v. State*; (3) it makes taxpayers responsible for the cost of excessively long stays of incarceration; (4) diverts funds away from important services like education and healthcare; and (5), further perpetuates the Maryland justice system’s disproportionate impact on African Americans.

Beginning in 1995 the policy of “absolute life” was politically injected into the parole process for all individuals serving life sentences; including those serving parole-eligible life sentences. By ushering in that new policy, the executive branch began the unfortunate practice of ignoring the spirit and intent of judicial branch decisions. Many individuals, at the advice of their attorneys, accepted life sentences with the possibility of parole instead of a set number of years. They did this under the reasonable assumption that they would have a meaningful chance of release after having served a period of years. Many of those individuals would very likely have been released by now if the intent of the judiciary was being honored.

There is no meaningful reason for warehousing so many people well beyond when research shows they have aged out of crime and, in many cases, are not even physically capable of committing violent acts. And beyond the significant amount of research on this issue, we now have additional evidence of the folly of this policy, right here in Maryland. As you know, the 2012 Maryland Court of appeals decision in *Unger v. State* mandated that 232 individuals convicted under unlawful jury instructions before 1980 to be entitled to new trials. The decision affects well over 200 people and, as of today, close to 180 individuals have been released; 17 of those released had been denied parole in 2012. Of those released, not one person has committed another violent offense following release. To the contrary, most are successfully reintegrating into society and a number of these individuals are making significant contributions in their communities. There was evidence that the Unger releasees would do well upon release: A great majority of the Unger releasees had few infractions in prisons, and before a policy bar was imposed, participated in programming when available in prison—an indicator they would do well upon their return to the community.

At a cost of almost $37k per year – and an estimated $68,000 for older populations due to their medical needs — Maryland taxpayers are paying for extremely long prison stays that serve no public safety benefit. Based on the increasing costs of serving elderly individuals in prison, Maryland taxpayers could potentially save over $200 million if the remaining Unger-aged population was served in the community. This cost comes at the expense of important investments in education, healthcare and infrastructure improvements.

The success of the Unger population was helped tremendously by intensive reentry support provided to the Ungers by a team of people: A team of social workers, lawyers and formerly incarcerated people were involved in helping the Ungers return to the community by providing them with a more intensive level of support. The case management approach included “reaching-in” and working intensively with people before they were released from prison to help them plan their successful reentry, and intensive support after they were released to
ensure they connected to the service they needed. The Unger releasees received specialized assistance in obtaining state identification cards, Social Security cards, birth certificates, SSI benefits, Temporary Disability Assistance, food stamps, Medicare or other medical assistance, transportation assistance, housing assistance, employment assistance, referrals to reentry programs, and case managers were involved in the Ungers everyday navigation life. The Maryland Office of the Public Defender and the Clinical Law Program’s Law and Social Work Services Program at the University of Maryland’s School of Law staffed different phases of the reentry process, and both organizations partnered with groups staffed by Unger releasees so that peers could help each other with the reentry process. The approach was funded by private philanthropy and donors. As of 2016, 8 out of 10 Ungers released received specialized reentry services.

It’s also worth noting that many of those released under the Unger decision and are out doing well were recommend for parole, but Maryland governors would not approve the parole board’s decision thereby extending their stay well beyond necessary at a high cost to tax payers.

Not only have many of those paroled under the Unger decision successfully reintegrated into society, many have also added value back to the community. The Unger releasees have largely gone on to get jobs, get married, and reconnect with families. In addition, many have become mentors. Some of the Unger class members formed the Creating Responsible Youth organization, while others have volunteered with Out for Justice, Living Classroom, Maryland Restorative Justice Initiative, and Mothers of Murdered Sons. They are contributing to the community, helping to discourage others from making the same mistakes they made, and aiding the healing process for families impacted by crime. Under the current parole policy, however, these outcomes could not have occurred. The Unger ruling provided Maryland a unique look at a forgotten population that, in many ways, became political prisoners at a high cost to Maryland taxpayers. The Unger group also addresses any doubt about whether this population can safely be returned to communities.

This is also clearly a civil rights issue. While African Americans make up only 29% of the overall population in Maryland, they account for 72% of the prison population. In addition, about 70% of those serving life sentences in Maryland are African American. Allowing the parole commission to do their job, using risk assessment tools that rigorously and thoroughly assess someone’s readiness to return back to society, is the right approach from a public safety standpoint and can also help mitigate the disproportionate effect of the Maryland justice system on people of color.

Last year the State of Maryland went through a comprehensive justice reinvestment process, which resulted in the passage of the Justice Reinvestment Act, aimed at reducing the prison population and using those savings to reduce recidivism and create safer communities. There is
no better way to honor the spirit and intent of the justice reinvestment process than by applying this same approach to those who have been incarcerated for excessively long periods of time at a huge cost to taxpayers, many of whom we know can safely return to our communities.

We respectfully ask for favorable consideration of SB 249.