

THE SENATE'S OMNIBUS CRIMINAL JUSTICE BILL WILL ONLY MAKE MARYLAND LESS SAFE

This bill ignores effective, "smart-on-crime," strategies in favor of failed policies of the past. They may work in a campaign ad, but won't make us safer.

Baltimore City is facing significant public safety challenges that need to be addressed, from all too high murder rates to massive police corruption. However, Governor Hogan's criminal justice proposals, and the massive omnibus bill they've largely been rolled into under the leadership of Judicial Proceedings Chair Bobby Zirkin, will fail to reduce crime. These proposals echo President Trump's and Attorney General Jeff Sessions' misguided approach to public safety, rely on mandatory minimums and sentence enhancements that do not make communities safer, increase corrections costs and make minimal tax dollars available for other public safety investments while requiring an expenditure of \$202 million for construction of a new prison.

A deeply flawed process.

With little more than a day for consideration or research, the Senate Judicial Proceedings committee voted on a 50-page bill. Common Cause has filed a complaint for the committee's failure to comply with the requirements of the Open Meetings Act.

And, unlike the extensive process considering the Justice Reinvestment Act providing lawmakers with data driven evidence for sentencing reform proposals, these proposals have no evidence demonstrating they will make Maryland any safer. In fact, longer sentences have been shown to increase recidivism rates.

These ineffective crime proposals:

[Rely on longer sentences, which research shows fail to make communities safer.](#)

Supporters say this bill gets rid of the governor's proposed mandatory minimums, substituting just enhanced sentences; but that's simply a functional cover for the failed policies of mandatory minimums. Senate President Thomas V. Mike Miller recently said regarding the crime package, "if you've been here long enough, things repeat themselves. Mandatory sentences don't work." Along with the Senate President, Law Enforcement Leaders to Reduce Crime and Incarceration, a national organization made up of former police chiefs,



federal and state chief prosecutors, and attorneys general from all 50 states, said, "research has shown that increasing time served does not help keep the public safe. Studies show that longer sentences have minimal or no benefit on future crime. Even worse, research shows a strong correlation between increased prison time and repeat offenses, meaning prison may create more serious and violent offenses when overused."² The Justice Reinvestment Coordinating Council (JRCC) "discussed several options for dramatically reforming mandatory minimums for drug offenders, including eliminating them entirely."³ While they fail to improve safety, longer sentences do harm the social fabric of the communities struggling most with violence.

Will exacerbate racial and ethnic disparities in the use of prison.

The brunt of these policy choices will disproportionately impact communities of color. Studies have repeatedly shown that people of color are impacted more significantly at every level of the justice system for similar offenses. Data reviewed by the JRCC showed that while African Americans are 30 percent of Maryland's overall population, they are 70 percent of the prison population, and 8 out of 10 people in the state sentenced to prison under the mandatory minimum drug laws prior to passage of the Justice Reinvestment Act (JRA) were African American.⁴

WHAT COULD MARYLAND BUY INSTEAD OF INCARCERATION? COST OF INCARCERATION: \$37,000 PER PERSON PER YEAR, WHICH COULD BE SPENT ON:

- DRUG TREATMENT FOR 8 ADULTS
- EMPLOYMENT TRAINING FOR 7 PEOPLE
- HOUSING FOR 30 FAMILIES
- GED COURSES FOR 37 PEOPLE

Will increase corrections costs while providing negligible funding to programs that actually advance public safety. At a cost of more than \$37,000/year to incarcerate one person in Maryland (and even higher costs to cover the medical needs of older populations⁵), if the Hogan-Zirkin crime package were enacted Maryland taxpayers would be paying for extremely long prison stays that serve no public safety benefit. Maryland's Department of Legislative Services fiscal note estimated that the proposal could result in an increase in the prison population requiring building a new prison at a cost of \$202 million to Maryland taxpayers.⁶ In contrast, the proposal includes a mere \$12 million in funding for proven violence prevention programming.

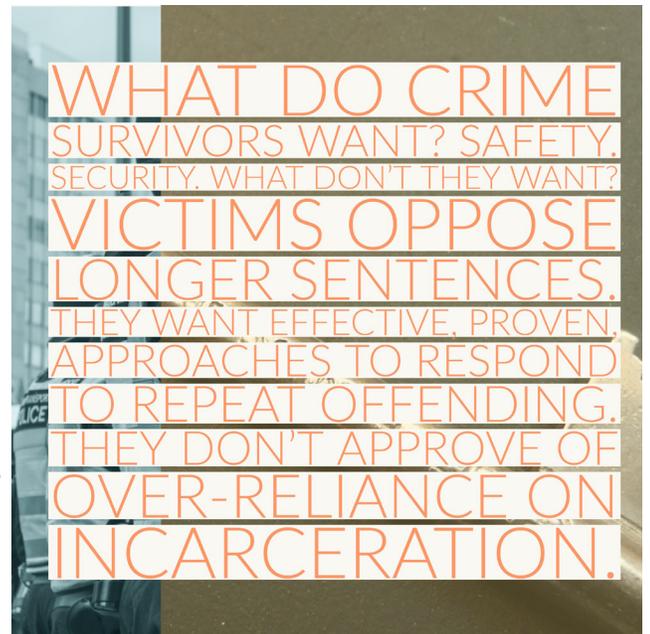
Fail to present evidence demonstrating they will make Maryland safer. These proposals were not developed with one iota of the same data-driven rigor that lead to consideration and passage of the (JRA). Before the legislature considers the omnibus bill, it should require presentation of the type of data and research that was considered as part of the Justice Reinvestment process.

In other words, there should be a demand for evidence that longer sentences and mandatory minimums; expanded wire tapping and inclusion of evidence obtained unconstitutionally; and delay in access to drug and alcohol treatment will reduce crime. The best available evidence demonstrates that these policies will do nothing to make communities safer.

Echo the approach being advocated by President Trump and Attorney General Jeff Sessions, which has been tried and failed in the past. While governors from conservative states (Louisiana) and progressive states (California) are calling for shorter sentences and stepped up support for reentry⁷, the omnibus crime bill parrots the failed Trump/Sessions "tough-on-crime" policies of the past,⁸ relying on longer sentences rather than supporting programs that have been proven to reduce crime and violence.

Lawmakers should instead support proven, effective, "smart-on-crime" strategies to help improve community safety

A recent national survey showed fifty-four percent of crime survivors prefer spending on prevention and rehabilitation programs and only 6% prefer spending on prisons and jails. More than sixty-one percent of victims prefer shorter prison sentences and spending on prevention and rehabilitation, whereas only 25 percent prefer long prison sentences as a response to crime. Seventy percent of victims prefer holding people who commit crimes accountable through other mechanisms beyond just prison. Victims overwhelmingly prefer investments in new safety priorities, such as education, job creation, mental health treatment, at-risk youth programs, drug treatment, and community supervision, over spending on prisons and jails.⁹ More effective approaches lawmakers can embrace to respond to repeat offending that do not rely on prison and jail, and fit with what crime survivors say they want include:



Responding to repeat offending in an effective way, largely in the community.

As the Justice Reinvestment Council concluded, a more effective approach to reduce repeat offending would be targeting resources to serve people better when they are in the community, on probation or parole. Rather than simply send someone to prison and jail, the responses to behavior need to be swift, certain, and fair—people need to be held accountable for their actions in a timely way, but the response does not necessarily have to involve confinement.¹⁰ Graduated responses (proportionate steps to respond to someone's behavior with something other than a prison term), when matched with the right services, are a more effective response to addressing someone's behavior than a prison sentence.¹¹

Focusing on approaches that would improve public safety by investing in Baltimore.

Business and city leaders have called for a very different kind of investment in public safety than proposals in the omnibus bill. The business community is investing money in youth intervention approaches focused on holding young adults accountable and making it less likely they will engage in criminal and dangerous behavior. For example, CareFirst BlueCross/Blue Shield deploying an additional \$1.5 million to ongoing efforts to treat those afflicted with opioid dependency.¹² Efforts to help Baltimore improve police-community relations will also help law enforcement improve community/police cooperation to solve crime.¹³

Endnotes

- 1 Michael Dresser, "ACLU, allies vow to fight Maryland Gov. Hogan's proposals to get tough on crime," *The Baltimore Sun*, January 30th, 2018. <http://www.baltimoresun.com/news/maryland/politics/bs-md-hogan-crime-opponents-20180130-story.html>
- 2 "Reforming Mandatory Minimums," *Law Enforcement Leaders to Reduce Crime and Incarceration*, last modified, January, 2018, <http://lawenforcementleaders.org/issues/reforming-mandatory-minimums/>
- 3 Justice Reinvestment Coordinating Council: Final Report (Baltimore, Maryland: Governor's Office of Crime Control and Prevention, 2015)
- 4 N.A. Maryland Data Analysis Part 1: Prison Drivers Justice Reinvestment Coordinating Council July 29, 2015 (Baltimore, Maryland: Governors Office of Crime Control and Prevention, 2015)
- 5 N.A., *At America's Expense: The Mass Incarceration of the Elderly* (New York: American Civil Liberties Union, June 2012). https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf.
- 6 Department of Legislative Services, Maryland General Assembly, Fiscal and Policy Note, Senate Bill 197. http://mgaleg.maryland.gov/2018RS/fnotes/bil_0007/sb0197.pdf
- 7 In New York State, Governor Cuomo is seeking to improve the reentry process, by proposing expanding pathways so that more people could be paroled through various kinds of reforms. "Governor Cuomo Unveils 22nd Proposal of 2018 State of the State: Restoring Fairness in New York's Criminal Justice System," *New York State Governor Andrew Cuomo*, accessed January 19, 2018, <https://www.governor.ny.gov/news/governor-cuomo-unveils-22nd-proposal-2018-state-state-restoring-fairness-new-yorks-criminal>
- California's Governor and its Attorney General are proposing changing to how the state's "lifetime" sex offender registry works so that it will reduce the conditions facing some individuals with offenses decades in the past. The Governors of California and Massachusetts have offered proposals to afford young adults more of the benefits offered to young people in the juvenile justice system, and lessen adult justice system involvement for adolescents. <http://www.ebudget.ca.gov/2018-19/pdf/BudgetSummary/PublicSafety.pdf>
- In Louisiana, the state is implementing an aggressive justice reinvestment strategy that is projected to reduce its prison population by 10% and avert over \$250 million in prison spending over the next 10 years. The approach includes reductions in probation and prison terms for non-violent offenders, elimination of mandatory minimum prison terms, and expansion of parole opportunities, including for violent offenders serving long sentences. See, <http://www.pewtrusts.org/en/research-and-analysis/analysis/2017/06/22/louisiana-adopts-landmark-criminal-justice-reforms>
- 8 On May 12, 2017, Attorney General Jeff Sessions issued a memorandum ordering US Department of Justice prosecutors to file the harshest possible "readily provable" charges and to refrain from any efforts to avoid the imposition of the harshest possible sentences. This order reversed course for a Justice Department that, in recent years, had moved away from seeking the longest possible sentence available. "By definition," Attorney General Sessions directed in the memorandum, the most serious offenses are those that carry the most substantial guidelines sentence, including mandatory minimum sentences." "Department Charging and Sentencing Policy", Memorandum, (Washington, DC: Office of the Attorney General), May 10, 2017, <https://www.justice.gov/opa/press-release/file/965896/download>
- 9 N.A. "Crime Survivors Speak: The First Ever National Survey of Victims Views on Safety and Justice" (Oakland, California: Alliance for Safety and Justice, 2017).
- 10 Zachary Hamilton, Christopher M. Campbell, Jacqueline van Wormer, Alex Kigerl. (2016). *Impact of Swift and Certain Sanctions: Evaluation of Washington State's Policy for Offenders on Community Supervision*. *Criminology and Public Policy*, Volume 15, Issue 4.
- 11 Justice Reinvestment Coordinating Council: Final Report (Baltimore, Maryland: Governors Office of Crime Control and Prevention, 2015)
- 12 Baltimore Mayor Catherine Pugh, Baltimore can do better. Here's how. *The Washington Post*, January 12, 2018.
- 13 Dr. Peter Beilenson, "A public health prescription to reduce Baltimore violence," *The Baltimore Sun*, January 10, 2018. <http://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0110-violence-prescription-20180109-story.html>