

February 29, 2008

Del. Curt Anderson  
Baltimore City Delegation  
Maryland House of Delegates  
Lowe House Office Building, Room 314  
6 Governor Bladen Street  
Annapolis, MD 21401

Dear Delegate Anderson,

Allow me to offer the following support for your "Smart on Crime Act" currently under consideration by the Maryland General Assembly. Please feel free to offer it as testimony before any relevant committees as they consider the legislation:

I am a former journalist, current author and television producer and Baltimore resident who has spent much of his professional life chronicling the nature of the illegal drug trade -- and the governmental response to that trade. I have researched these subjects in the non-fiction narratives "Homicide" and "The Corner," as well as the HBO miniseries based on the "The Corner" and the continuing series, "The Wire."

That work is the result of more than 25 years spent detailing the criminal, drug and law enforcement culture in Baltimore city and the surrounding jurisdictions.

I am convinced, as a result of that lengthy research, that zero-tolerance drug prohibition policies and efforts, while achieving nothing in terms of making Baltimore a safer city, have proven incredibly destructive to law enforcement itself, so much so that I do not think it hyperbolic to suggest that the drug war, as it is currently being pursued, is slowly eviscerating urban police work.

How? To those who believe that locking up any and all drug users and low-level traffickers can only help make a jurisdiction safer -- by preventing all the attendant crimes associated with drug abuse -- such a conclusion seems absurd. Yet, though counter-intuitive, this conclusion is accurate.

Consider first of all the fact that Baltimore has a limited amount of jail space and Maryland, a limited amount of prison space, for offenders -- well under 30,000 beds. And consider the estimates of drug users in Baltimore city and its surrounding counties alone to be more than twice that amount. And consider further that much of the state prison capacity is required for violent offenders from all 24 counties. The mathematics alone make clear that we cannot arrest our way out of Baltimore's drug problem even if we thought the incarceration of all drug users and street-level offenders was a meaningful societal response.

And yet, incredibly, we have tried for thirty years now to arrest our way out of the problem.

The revolving-door system that inevitably results from government's inability to distinguish between meaningful arrest and mass arrest is wasteful and senseless enough. But here are the hidden costs that result from the relentless pursuit of this failed policy:

\* We have created a policing culture in which city police officers and detectives often pursue meaningless arrests for minor drug offenses, utilizing scarce resources such as overtime, court pay, jail space and courtroom time on arrests that achieve remarkably little in terms of protecting beleaguered inner-city neighbors from violent offenders.

\* We have trained generation of Baltimore police officers in an environment in which a street-level drug arrest -- often undertaken as a stop-and-frisk on a loitering charge or under the city's Constitutionally dubious "drug-free zone" statutes -- is the easiest action that can be undertaken to achieve an arrest statistic. Such "fish-in-a-barrel" tactics have resulted in massive numbers of street-level drug arrests and little more. Tellingly, arrest and conviction rates for serious felonies -- murder, rape, robbery, burglary, auto theft -- have fallen dramatically over the past two decades as more and more city police resources have been squandered on street-level drug enforcement. The correlation is direct and apparent to every veteran criminal investigator in the department.

\* By focusing their efforts on minor drug arrests to the exclusion of more meaningful policing, too many Baltimore city officers are far less versed than they need to be in the fundamentals required for more substantive criminal investigation. How to interview witnesses, how to work informants, how to write a proper search warrant or testify in court properly, and how to build a comprehensive criminal prosecution -- these are skills that are entirely irrelevant to street-level jump outs and stop-and-frisks. In short, the drug war has demeaned and destroyed much of the city's crime deterrent.

\* The emphasis on mass arrests -- while eroding the quality of police work itself and achieving little in terms of making communities safer -- has also destroyed the credibility of law enforcement among Baltimore's jury pool -- specifically, its citizens, particularly those in African-American communities. In such communities, the police emphasis on street-level searches, often of dubious constitutionality, and the high number of arrests resulting thin or non-existent probable cause has alienated many law-abiding citizens and made police testimony suspect among too many jurors. By pursuing a full-throttle drug prohibition that fails to distinguish between the most minor violators and more serious offenders, law enforcement in Baltimore has come to be regarded by many city residents as an occupying force rather than an institution committed to the genuine defense of communities. The ever-more-problematic struggle by Baltimore prosecutors to obtain convictions in jury trials is dramatic testimony to this dynamic.

For all these reasons -- and on behalf of quality law enforcement and its essential mission to protect Baltimore from serious crime -- I ask that you enact this bill. The zero-tolerance approach has, in Baltimore, achieved little other than to make certain political interests more attractive to voters. Indeed, it is because of this political dynamic -- the willingness of political leaders to gain favor by asserting their rigorous support of the drug war -- that such a failed policy has been pursued for so long, while doing so much damage and achieving so very little.

I confess I do not expect this bill to pass the legislature and be signed by the executive. I am of the opinion that the courage required of political leaders to speak openly, honestly and pragmatically about the dead-end logic of zero-tolerance drug enforcement to be entirely non-existent at this time. It is that absence of such courageous and honest leadership that has led this nation to a moment -- achieved this very year -- in which one out of every 100 Americans is behind bars, a rate of arrest and incarceration that dramatically exceeds every other country on the globe, civilized or otherwise.

Nonetheless, the bill deserves attention and support from those with even a basic awareness of the realities, and so I write, with sincere regards,

David Simon  
Baltimore, Md.  
(410)-986-0002