



**TESTIMONY IN OPPOSITION: HOUSE BILL 481**

**Criminal Law - Wearing, Carrying, or Transporting a Handgun**

TO: Members of House Judiciary and Senate Judicial Proceedings Committees

FROM: **Heather Warnken, Center for Criminal Justice Reform, University of Baltimore School of Law**

DATE: February 13, 2023

My name is Heather Warnken and I am the Executive Director of the University of Baltimore School of Law's Center for Criminal Justice Reform. The Center is dedicated to supporting community driven efforts to improve public safety and address the harm and inequity caused by the criminal legal system.

In direct alignment with both pillars of this mission, we are strongly opposed to HB 481. On behalf of our center and the undersigned parties, a coalition of public safety advocates, attorneys, civil liberties organizations, law professors, and others, we are grateful for the opportunity to share the reasons why.

HB 481 would enhance penalties for illegal gun possession, increasing the maximum prison term for wearing, carrying, or knowingly transporting a handgun from 3 to 5 years. Supporters of this bill have been arguing throughout public safety forums in Baltimore and Annapolis that this change is necessary to ensure consistency and fairness across age groups, aligning the penalty for persons 21 and older with laws on the books for 18-21 year olds; as well as arguing that this increase in penalties is needed to deter crime. To the contrary, this bill will exacerbate existing sentencing disparities, undermine public safety, and, counter to what the bill's advocates have suggested, do nothing to increase the "certainty" of punishment.

To be clear: addressing the scourge of gun violence, and the immeasurable pain resulting from the growing number of illegal guns in our communities specifically, must be of utmost priority. Residents throughout the state, especially in low income communities bearing the brunt of this violence, are rightfully very concerned. It is because we care so deeply about this crisis and the safety of our communities, not in spite of it, that we are opposed to this misguided bill.

**Increasing prison sentences is based on a false premise and is not going to make the public safer**

The evidence is simply not there to support HB 481. And in fact, there is a great deal of evidence to suggest this bill will be harmful to public safety. Here's why.

Much like the United States has established itself as an outlier with gun violence, with 5% of the world's population and more than 20% of the world's prison population, the U.S. stands out by incarcerating more

of its residents than any nation on earth.<sup>1</sup> Within this context of punitive excess nationwide, Maryland holds the shameful distinction of ranking first in the nation in racial disparities through its over-incarceration of Black men and youth.<sup>2</sup>

HB 481 supporters have consistently emphasized, “this bill is not a mandatory minimum” in an attempt to downplay its potential impact on mass incarceration. However, while not a “mandatory” sentence, longer sentencing ranges that rely on prosecutorial and judicial discretion to identify who deserves greater punishment have been demonstrated to lead to harsher sentences for Black, brown and poor defendants than their white and wealthier counterparts.<sup>3</sup> Thus, though not creating a mandatory minimum, the explicit goal of this bill to increase sentences represents a return to the failed policies that led to our current mass incarceration problem.

This can be true for first time defendants, but also fueled by seemingly “objective” criteria utilized to drive decision-making; for example, an individual’s prior arrest and conviction record. Factors used when applying that discretion are often more heavily influenced by whether or not that person’s poor, Black neighborhood is hyper-surveilled than it is illegal behavior. And can be influenced by defendant characteristics such as race, gender identity, socioeconomics, and disability status, leading directly to the disparities documented across the continuum of arrests, prosecutions, convictions, and sentencing.<sup>4</sup> Also relevant to predictable outcomes in sentencing if HB 481 were to raise the ceiling is the concept of “anchoring,” which research has found judges to be as susceptible to as the general population.<sup>5</sup>

### **Downplaying the impact of incarceration and a criminal record**

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<sup>1</sup> <https://www.aclu.org/issues/smart-justice/mass-incarceration>.

<sup>2</sup> The Sentencing Project, *The Color of Justice: Racial and Ethnic Disparities in State Prisons* at 20 (2021).

<sup>3</sup> U.S. SENTENCING COMMISSION REPORT ON THE CONTINUING IMPACT OF UNITED STATES V. BOOKER ON FEDERAL SENTENCING 108 (2012) (finding that prison sentences of black men were nearly 20% longer than those of white men for similar crimes between 2007 and 2011); Blackness as Disability?, Kimani Paul-Emile, in *Georgetown Law Review* 2018; Chris Guthrie et al., *Blinking on the Bench: How Judges Decide Cases*, 93 *CORNELL L. REV.* 1 (2007): In this study, the researchers found the judges rely heavily on intuition in sentencing, which can lead to discriminatory results. *Id.* at 131. MIRKO BAGARIC, GABRIELLE WOLF, DANIEL MCCORD, *Nothing Seemingly Works in Sentencing, Not Mandatory Penalties; Not Discretionary Penalties - But Science Has the Answer*, at 524-26.

<sup>4</sup> Blackness as Disability?, Kimani Paul-Emile, in *Georgetown Law Review* from 2018, <https://www.law.georgetown.edu/georgetown-law-journal/in-print/volume-106/volume-106-issue-2-january-2018/blackness-as-disability/>; Cauley, Erin. *The Cumulative Probability of Arrest by Age 28 Years in the United States by Disability Status, Race/Ethnicity, and Gender*, *Am J Public Health*. 2017 December; 107(12): 1977–1981, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5678390/>.

<sup>5</sup> Chris Guthrie et al., *Inside the Judicial Mind*, 86 *CORNELL L. REV.* 777, 816 (2001); Forensic Science and the Judicial Conformity Problem, 51 *Seton Hall L. Rev.* 589 (2021), 610-611. As explained by University of Baltimore Law Professor Katie Kronick, “with the cognitive bias “anchoring,” if a person is asked to guess how much a pencil costs and is told that the pencil costs less than \$10,000, the person is likely to guess a higher number than a person not told about the \$10,000 limit, even though it is preposterous that a pencil would cost even close to \$10,000. People use that “anchor” of \$10,000 as a shortcut to try to determine the cost of the pencil, and some might, perhaps unconsciously, assume that if \$10,000 is mentioned, the pencil must be worth more than they otherwise would have thought.

Perhaps the most alarming aspect of the talking points espoused by supporters of this bill has been the downplaying of the enormous impact of incarceration on individuals and their families. Supporters of HB 481 have made statements that “short” stints of time in local jail, “where family members can easily visit them and ‘everything’s still a joke’ is insufficient compared to sending that person farther away from home to a state-run facility.<sup>6</sup> And that because current penalties (averaging over seven months of incarceration) are *no big deal* and something that individuals can do standing “on their head,” the current laws on the books do not serve as a sufficient deterrent.<sup>7</sup>

This is out of touch with both the literature on deterrence and the well-documented toll that even a “short” period of incarceration takes on a person and their community.

The impact of incarceration on individuals, families and communities is staggering, including the extensive list of collateral consequences that can follow a justice-involved individual for years, well after a case or period of incarceration concludes.<sup>8</sup> Spending even one night locked up, away from one’s family, peers, employment, or school can have cascading negative consequences, spanning numerous areas central to a person’s ability to survive and thrive. These include job loss, impeding access to stable housing, education and healthcare disruption, voting, occupational licensing, loss of public benefits, parent-child separation and more.

Claims that people need “to get a taste of prison,” where they would be incarcerated farther away from their community, in institutions such as Cumberland, Hagerstown and Jessup, are grossly misguided.<sup>9</sup> Sending a person to a state-run facility farther from home exacerbates these impacts and collateral consequences, especially the disconnection from family members, a direct contributor to risk of recidivism upon release.

Given that this is literally a plan to try to send people farther from home, it is also worth drawing special attention to the profound impact that will have on family members, especially children.<sup>10</sup> For families with lower means, time off of work and transportation to these facilities can be especially burdensome if not impossible; stress borne by mothers, grandparents, and numerous other loved ones. A large percentage of the incarcerated population overall, and undoubtedly individuals who will be impacted by this bill, are parents. A large body of literature on children with incarcerated parents demonstrates the trauma and severe disruption parental incarceration can cause to a child’s life.<sup>11</sup> In addition to the health and

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<sup>6</sup>[www.thebaltimorebanner.com/community/criminal-justice/ivan-bates-handgun-bill-OJA4HPUIA5HADOEU7VYCC6OPM/](http://www.thebaltimorebanner.com/community/criminal-justice/ivan-bates-handgun-bill-OJA4HPUIA5HADOEU7VYCC6OPM/)

<sup>7</sup>[www.thebaltimorebanner.com/community/criminal-justice/ivan-bates-handgun-bill-OJA4HPUIA5HADOEU7VYCC6OPM/](http://www.thebaltimorebanner.com/community/criminal-justice/ivan-bates-handgun-bill-OJA4HPUIA5HADOEU7VYCC6OPM/)

<sup>8</sup> <https://qoc.maryland.gov/incarceration/>.

<sup>9</sup> <https://www.facebook.com/citydelegation/videos/1632204523905062/>

<sup>10</sup> Eric Martin, Hidden Consequences: The Impact of Incarceration on Dependent Children, National Institute of Justice (2017).

<sup>11</sup> Nat’l Research Council, The Growth of Incarceration in the United States: Exploring Causes and Consequences 270-73 (Jeremy Travis et al. eds., 2014), 270-273.

wellbeing of all involved, visitation with children is also key to preserving parental rights. This bill will increase the number of children whose relationships with their parents will be legally severed forever.<sup>12</sup>

Scores of reputable studies demonstrate that 1) remaining in close touch with loved ones reduces recidivism,<sup>13</sup> and 2) prisons too often do the opposite of rehabilitate; they cause trauma.<sup>14</sup>

The alarming recent revelations surrounding the conditions of confinement in Maryland facilities, including the violence, overdoses, and other unexplained deaths in Baltimore’s jails should also call these statements into question. As reported by the Baltimore Banner (not the State of Maryland), at least four deaths have occurred in Central Booking in the past four months.<sup>15</sup> Relatedly, in August 2022, the ACLU National Prison Project published a letter following a visit to the Baltimore Central Booking and Intake Center, stating, “people in [Baltimore Central Booking and Intake Center] IMHU are held in the harshest and most depraved conditions we have ever encountered in any prison or jail in the United States, including in death row and ‘supermax’ units.”<sup>16</sup>

The claim that jail time is a “joke” discounts the trauma of incarceration experienced by poor people of color, and would never be stated if our jails were filled with wealthy white residents. This framing of the need for this bill relies in particular on a racist trope and deeply problematic narrative in American society, discounting and erasing the oppression of Black men and youth. It is emblematic of the systemic racism our state must work to eradicate, not further, and a direct contributor to how Maryland gained the status of first in the nation in racial disparities in incarceration in the first place.

### **The truth about deterrence**

The evidence suggests that deterrent effects from longer prison sentences are minimal to nonexistent, and any minimal effect is severely costly - financially to the state, and to the stability of that person’s life.<sup>17</sup> This is often bad for public safety, with studies demonstrating that unnecessary incarceration, especially

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<sup>12</sup> <https://www.themarshallproject.org/2018/12/03/how-incarcerated-parents-are-losing-their-children-forever>;  
<https://law.yale.edu/yls-today/news/clinic-releases-report-preserving-parental-rights-incarcerated-parents>.

<sup>13</sup> Karen De Claire and Louise Dixon, *The Effects of Prison Visits From Family Members on Prisoners’ Well-Being, Prison Rule Breaking, and Recidivism: A Review of Research Since 1991*, Trauma, Violence and Abuse (2017).

<sup>14</sup> Benjamin Hattem, *Carceral Trauma and Disability Law*, Stanford Law Review (2020) (summarizing studies on experiences of trauma during incarceration).

<sup>15</sup> [www.thebaltimorebanner.com/community/criminal-justice/deandre-whitehead-jail-death-W2UHGKYAJJGEJO4SMUJ7QR4SIU/](http://www.thebaltimorebanner.com/community/criminal-justice/deandre-whitehead-jail-death-W2UHGKYAJJGEJO4SMUJ7QR4SIU/);

<https://www.thebaltimorebanner.com/community/criminal-justice/death-baltimore-central-booking-3GSA2X7OWREJJJA6TZVNZMWAF4/>;

<https://www.thebaltimorebanner.com/community/criminal-justice/he-didnt-have-a-fighting-chance-questions-surround-killing-of-deaf-man-in-baltimore-jail-WHUNVECKTNEBNMYNKWY7H3L6OA/>.

<sup>16</sup> [www.aclu.org/cases/duvall-v-hogan?document=duvall-v-hogan-report-plaintiffs-counsel-august-2-3-2022-jail-visit](http://www.aclu.org/cases/duvall-v-hogan?document=duvall-v-hogan-report-plaintiffs-counsel-august-2-3-2022-jail-visit).

<sup>17</sup> Webster et al, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research. Nagin, *Deterrence in the Twenty-First Century*, Crime and Justice Vol. 42 No. 1, August 2013

when compared to more cost effective non-custodial responses such as programming or probation, “does not prevent reoffending and has a criminogenic effect on those who are imprisoned.”<sup>18</sup>

As part of its unsound reliance on deterrence theory, HB 481 also relies on a troubling conflation of the difference between “certainty” versus “severity” of consequences. The research is clear that certainty of apprehension and response for committing gun offenses is more important and cost-effective in reducing crime than increasing the length of sentences.<sup>19</sup> Furthermore, incarceration for unlicensed gun carrying is described in the research as both unjust and counter to public safety, due to the ways unnecessary incarceration infringe on residents’ liberty and make individuals more - not less - likely to commit crimes.

Although our center posits that by far the greatest return on investment in reducing gun violence will come in the form of a long list of currently under-invested health and healing oriented strategies in disinvested communities, currently the criminal legal consequences for illegal gun possession are not certain at all, due to many systemic deficiencies surrounding how illegal gun possession is policed and prosecuted.<sup>20</sup> A 2020 report from the Johns Hopkins University Center for Gun Violence Policy and Research cites a long list of factors impacting case outcomes that are in the purview of the State’s Attorney’s Office, including the need for better data sharing and transparency with government partners, improved quality and maintenance of evidence, improving relationships needed to work with community in the course of prosecution, and working to curb illegal police stops and searches that create evidentiary issues in court.<sup>21</sup>

Contrary to the claims of HB 481 supporters, studies around the use of swift and certain consequences in the criminal legal system do not support increasing jail or prison time. Quite the contrary, those studies suggest that increasing penalties is not an effective way to increase public safety. It is a complete waste of resources to prioritize making consequences for illegal gun possession more severe than the ones we already have.

### **This bill is not an effective answer to the underlying problem of illegal gun possession**

The prevalence of illegal guns in our communities is indeed a serious problem, and directly contributes to the high rates of homicide and nonfatal shootings in Baltimore City and too many other parts of the state. However, this bill does not address the real problems we are trying to solve, including the factors that lead too many residents to carry and use those guns to commit violence in the first place. As discussed above, the destabilizing impacts of incarceration, collateral consequences and disenfranchisement that follow a conviction, combined with lack of sufficient rehabilitative and reentry programming,<sup>22</sup> lead the

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<sup>18</sup> Webster et al, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pp. 24. Nagin, *Deterrence in the Twenty-First Century*, Crime and Justice Vol. 42 No. 1, August 2013

<sup>19</sup> Id.

<sup>20</sup> Id. pg. 4

<sup>21</sup> Id. pg. 21-22.

<sup>22</sup> Maryland Reentry Resource Center, 2022 Reentry Impact Report, <https://mdrrc.org/>.

overwhelming percentage of incarcerated people to return home to their communities more vulnerable than they were before.

In other words, HB 481 will make these problems worse. For individuals with a history of experiencing violence in their community or in prison, fear of being victimized is a powerful motivator for carrying a firearm.<sup>23</sup> For far too many people who have not accessed meaningful support services, this runs deep.<sup>24</sup>

A poignant illustration comes from research in a Baltimore neighborhood where 9 in 10 residents are Black, and half the families live below the federal poverty line, which found that among 40 young men age 18–24 in a homicide support program, they had collectively experienced the deaths of 267 peers, family members, and other important adults in their lives. Nearly half were homicides. Only three of the youth had not suffered the loss of a biological family member or close peer to homicide.<sup>25</sup>

The reality is that most people are not aware of nor weighing criminal penalties when making the decision about whether to possess a gun, especially when motivated by their own survival. This is especially true for those carrying the physiological and emotional weight of untreated trauma.

An ever-growing body of research on trauma is critical for informing more effective policy solutions to the gun violence epidemic we are trying to address. It promotes opportunities to ask better questions about what people actually need to heal and feel safe, guided by a more evidence-based incorporation of the historical, systemic, and individual trauma the highest risk population using and disproportionately dying by these firearms face. Trauma reactions vary across individuals, cultures and experiences, but there is often an underlying element of fear which motivates behavior, especially when untreated.<sup>26</sup> A survivor's nightmares after victimization represent a trauma reaction, just as another survivor deciding to carry a weapon also may represent a trauma reaction. Fight, flight, freeze, and fawn responses are occurring in the body. Those internal body responses to threats not only impact decision making, but can have long-term health outcomes for survivors (e.g., sleep disturbance, hypertension, early death).<sup>27</sup> In fact, there are striking differences in average life expectancy across certain Baltimore zip codes with the highest rates of gun violence, concentrated poverty, and other stressors compared to more affluent communities well-documented in the data, i.e., 84 years in Homeland compared to within the 60s in Clifton-Berea, Greenmount East, Upton/Druid Heights and more, despite their close geographic proximity within the same city.<sup>28</sup>

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<sup>23</sup> Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, 2022

<sup>24</sup> Warnken et al, *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021.

<sup>25</sup> Smith, J. R. "Unequal Burdens of Loss: Examining the Frequency and Timing of Homicide Deaths Experienced by Young Black Men Across the Life Course." *American Journal of Public Health*, 105(S3), (2015): 483–490.

<sup>26</sup> Warnken et al, *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021

<sup>27</sup> Id.

<sup>28</sup> "Neighborhood Health Profile Reports.", *Baltimore City Health Department*, 9 Jun. 2017, [health.Baltimorecity.gov/neighborhood-health-profile-reports](http://health.Baltimorecity.gov/neighborhood-health-profile-reports).



Many in Maryland and across the country are unifying around the need to understand violence as a public health epidemic. Yet contrary to this approach, the trauma reactions in plain sight are still often evaluated solely through a lens of sufficiency of punitive response. Rather than apply the data to create community safety through healing, we continue to exile many of those who need that healing most from eligibility for support, and, through unnecessary incarceration, from their community. When the underlying trauma reactions are not recognized and/or overcriminalized, we undermine numerous opportunities for prevention of future victimization or perpetration of harm.

Uplifting this data is in no way intended to absolve harmful behavior, or discount the need for real accountability. Rather, the knowledge that the source of harmful behavior is often trauma-reactive rather than bad or irredeemable character flaws is critical to effective public safety measures. While it is often stated that “today’s victims are often tomorrow’s perpetrators” and vice versa, this well-documented reality has often not translated effectively into policy and practice in the criminal legal system - even when that system purports to not be exclusively about punishment.

### **This bill ignores the lack of trust between police and communities hardest hit by gun violence**

More effectively addressing the reasons residents carry illegal guns also requires acknowledging another elephant in the room: the lack of trust between those living in neighborhoods hardest hit by gun violence and the police. This bill seeks to threaten and punish individuals into putting down illegal firearms, while at the same time ignoring that many of those same individuals have little to no faith in the party the government claims will protect them from other people’s guns - for good reason.

Beyond questioning the responsiveness of law enforcement in the aftermath of victimization, many downright fear or resent the police. Police violence and mistreatment is exponentially more prevalent for Black, brown, and low income residents,<sup>29</sup> and when combined with other forms of low confidence in government systems, leads too many residents to view gun carrying as a necessary means of self defense.<sup>30</sup> The recent horrific killing of Tyre Nichols and recurring incidents throughout the country create a steady pace of tragic reminders that we have not fully reckoned with prevalent abuse of power and violence at the hands of police. Until we improve trust and legitimacy of the legal system in the eyes of those making decisions about how to keep themselves safe, we can continue to expect high rates of illegal gun possession.

Even the nightmare of Baltimore’s Gun Trace Task Force (whose purported focus at one point was arresting individuals illegally possessing guns) is not past but present, still playing out in Maryland’s courts. Hundreds of cases involving those officers have since been dropped or vacated, and if the latest settlement payment to those victimized by the unit is approved, it will bring the total payouts by the city

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<sup>29</sup> <https://mappingpoliceviolence.us/>.

<sup>30</sup> Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 28-29, 2022.

connected to GTTF to \$22 million.<sup>31</sup> Given the tremendous amount of work still needed to improve trust and legitimacy of police and other actors in the system, there are many policy solutions that would better convince those most fearful of calling the police that they should put down their guns.

Since the death of Freddie Gray in 2015, homicides in Baltimore have exceeded 300 per year. Many residents of color living in the hardest hit communities across the city have experienced a sense of both over and under-policing, i.e., high rates of arrest for minor offenses their white, wealthy counterparts engage in routinely with impunity (e.g., drug use), and abysmally low arrest and clearance rates for serious violent crime,<sup>32</sup> which has further exacerbated their sense of vulnerability and lack of trust in police and city government. The increase in gun carrying is reflective of the culture of fear throughout this country that has resulted in record surge of gun purchasing since the onset of the Covid-19 pandemic.

Research ties this unfinished work of repair and trust-building as vital to gains in public safety in numerous ways.<sup>33</sup> Eroded police legitimacy can actually decrease compliance with the law, and significantly impacts the willingness of community members to share information with law enforcement officials trying to solve or prosecute cases.<sup>34</sup> We are not talking enough about the crisis of clearance rates throughout the state, which in Baltimore dropped again last year for homicides to 36% (lower for nonfatal shootings), which *includes* cases where any arrest was made or the case was “cleared by other means,” such as the suspect is subsequently murdered. To say we have work to do is an understatement. None of this is fixed, and is likely made worse, by this bill.

### **A more promising policy agenda for reducing gun violence**

Though there is no research evidence to support this bill, the good news is there are many highly promising strategies for reducing gun violence that we have yet to fully embrace.

A recent report I co authored on the response to victims of violence in Baltimore in my previous role, as part of the U.S. Department of Justice Public Safety Partnership Program (PSP), focused on those who are

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<sup>31</sup>[www.baltimoresun.com/politics/bs-md-ci-baltimore-settlement-gttf-burley-johnson-20230208-bv4rxn6rrfrfpwz5tv7w07k4-story.html](http://www.baltimoresun.com/politics/bs-md-ci-baltimore-settlement-gttf-burley-johnson-20230208-bv4rxn6rrfrfpwz5tv7w07k4-story.html).

<sup>32</sup> Professor David Kennedy of John Jay College of Criminal Justice, Director of the National Network of Safe Communities described this phenomenon in the LA Times as, “what families in stressed black neighborhoods have experienced, very high rates of arrest for minor offenses white folks routinely get away with, and shockingly low arrest rates for serious violent crime. The cause of the latter is not as simple as deliberate police withdrawal - it’s a toxic mix of a terrible history of exactly that, and a nearly as toxic present of mistrust, broken relationships and bad behavior on both sides - but the result is the same. Being overpoliced for the small stuff, and under-policed for the important stuff, alienates the community, undercuts cooperation and fuels private violence: which itself often then drives even more intrusive policing, more alienation, lower clearance rates, and still more violence.”  
<https://www.latimes.com/opinion/bookclub/la-reading-los-angeles-kennedy-ghettoside-20150404-story.html>.

<sup>33</sup>Warnken et al., *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021; Webster, Crifasi, Williams, Booty, Buggs, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 9, 2022

<sup>34</sup>Id.



so often most harmed yet least helped by our systems of support - Black and brown victims of gun violence. The report details the prevalence of mistreatment by the criminal legal system, numerous barriers and gaps in services, and the implications of this.

The reality that repeatedly emerged in our assessment is that Black residents impacted by violence, especially those who are low income or who have ever touched the system previously, are more likely to be criminalized than seen as human beings deserving of dignity and support. Even surviving loved ones of homicide victims, witnesses at crime scenes, and people fighting for their lives in hospital beds are experiencing additional trauma at the hands of the system, including rights violations and coercion, in the course of investigations, prosecutions, and beyond. Throughout the over 50 hours of recorded confidential interviews our team conducted, service providers in multiple settings repeatedly expressed how they often feel they are expending their limited resources trying to protect victims from the system rather than proactively helping them heal.

These dynamics don't just fail residents in their most difficult moments. They profoundly worsen the relationship between the community and police, and the system as a whole. They undermine police and prosecutor's own investigative goals. They alienate victims and witnesses who face genuine threats to their physical safety, who subsequently get characterized as emblematic of "stop snitching" culture. They miss opportunities to interrupt cycles of harm and violence stated as top of every elected leader's agenda.

The report identifies numerous opportunities for public safety and prevention in the community, public health, and criminal legal system realm, especially for those living at highest risk, such as addressing the current deficiencies in victim/witness relocation and Criminal Injuries Compensation Board benefits eligibility. Most importantly, the report proactively offers 21 recommendations for changing policy, practice and culture urgently needed to more effectively help residents heal and reduce violence, including the homicides and retaliatory shootings committed with illegal guns.

The work starts with respect for human dignity. It depends on real collaboration across community and government toward a more holistic set of public safety goals. The work requires repair and investment in our long-divested communities - the same communities bearing the brunt of gun violence, which research now directly ties to their history of being redlined.<sup>35</sup> We have not reckoned with this intergenerational exclusion. We have continued it through a fiscally and morally unsustainable overreliance on incarceration, rather than scaling an evidence-based infrastructure of opportunity and care.

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<sup>35</sup> Warnken et al., *Victim Services Capacity Assessment Report*, noting recent analysis examining the enduring impact of redlining, the pattern of deliberate disinvestment widely practiced from the 1930s onward. In particular, this study looked at Census Tracts placed within red zones in 1937 and found that they now have more than eight times the amount of gun violence than those places that had been previously placed in the green. In other words, the same places imagined to be "unworthy of economic investment" due to residents' race and ethnicity are the places where gun violence is most common today. <https://ovc.ojp.gov/media/video/12971>. Curie, *A Peculiar Indifference: The Neglected Tool of Violence in Black America*, Metropolitan Books, 2020

There are many other highly promising strategies that would produce a far greater return on investment in addressing the problems this bill seeks to address, and this testimony will do nothing close to providing a comprehensive list. However, I will call out more that are within the lane and partnerships of the State’s Attorney’s Office, including addressing unmet needs in reentry, and numerous ideas listed in the Johns Hopkins report. For example, the need for a government funded collaboration with community-based organizations and academic institutions to develop, implement and evaluate a program to reduce the risk of an individual previously charged with illegal gun possession from committing gun related crimes. And, relatedly, growing the availability and follow-up capacity for anti-violence programs such as ROCA and its evidence based cognitive behavioral therapy model for youth up to 25, to reach a greater percentage of all ages of the highest risk population currently carrying guns.

The promising work of Maryland’s hospital based violence intervention programs is also far from realized. Some program staff feel as though they are “bailing water out of the ocean with a thimble”; under-capacity for meeting the needs of victims, and facing too many headwinds protecting the rights and dignity of their patients from ongoing criminalization of those patients by law enforcement to have yet been given a real chance to succeed.<sup>36</sup>

It is both a public safety and a racial justice imperative to end this ineffective reliance on criminalizing the same Black, brown, low income communities this country has long excluded and abandoned, especially while leaving so many promising health and healing oriented strategies on the table. We have to have the courage to give these evidence-based and emerging solutions a chance to work, rather than regressing to politically expedient yet utterly failed strategies of the past.

Similar to the “tough on crime” failed strategies of the war on drugs, we cannot and will not incarcerate our way out of the epidemic of gun violence. The well documented history of that “war” demonstrates that knee jerk reactions to crime not grounded in science and evidence will continue to produce negative results in the short and long term. We can’t afford that.

When we know better, we’re supposed to do better. We implore you to not go backwards.

For these reasons, we urge an unfavorable report on House Bill 481.

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<sup>36</sup>Warnken et al., *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021; Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 9, 2022.



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Maryland Prisoners Rights Coalition

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