

## Increasing prison sentences – by any name or number – won't stem violence

By: Commentary: Maj. Neill Franklin and Paul DeWolfe ◉ March 8, 2018

In response to various legislative proposals from Gov. Larry Hogan, Maryland is on a fast track to pass a poorly conceived law that, if enacted, will grow Maryland's prison population with little impact on our safety. The full Senate on Thursday gave preliminary approval to an omnibus bill that includes increasing sentence terms for an array of charges, including weapons possession and obstructing justice. While well intentioned, these measures largely miss the mark.

The governor's proposals include seeking new mandatory minimum sentences for two crimes that already have mandatory minimums. The Senate has smartly moved away from that – sort of. Most in the chamber, including President Thomas V. Mike Miller Jr., acknowledge mandatory minimums have never proven to be effective at anything other than ballooning the prison population. However, the current bill does away with Hogan's mandatory minimums in name only. For example, it leaves a new, 10-year minimum sentence in place, but makes half its length subject to suspension and parole, and then tacks on an additional 20-year maximum penalty.

Also included are increases to existing mandatory sentences, which reach much further than politicians claim. Of the bill's four main sentencing provisions, two are tied to misdemeanor offenses, not felonies, and three are not crimes of violence. The provision with the proposed longest mandatory minimum sentence is a vestige of the failed war on drugs. Another provision, increasing the minimum sentence for possession or transport of a gun, extends well beyond individuals who may actively use or brandish a firearm. For example, when a gun is found in a car, every individual in that car is generally charged with its possession – an all-too-easy alternative taken when law enforcement fails to investigate the actual ownership of the gun or the car. As a result, anyone in someone else's car where a gun is present may be forced to agree to a lesser charge to avoid the risk of a five-year minimum sentence.

Demanding harsh prison sentences is a tried-and-true political campaign tactic with minimal benefit to safety and community health. Research has shown that not only does increasing prison time fail to keep the public safe, but there is a strong correlation between longer sentences and repeat offenses. In other words, rather than deterring crime, long prison sentences often result in more serious and violent crime because offenders are not truly rehabilitated or given opportunities to succeed in a life outside of crime upon returning to their communities.

### Defying logic

The Senate proposal defies all logic and research in this area. Senators have candidly acknowledged that, while they know judges are not likely to sentence to these new maximum terms in most cases, they will provide prosecutors with additional leverage in plea negotiations. This tipping of the scales goes against the very tenets of our criminal justice system, which are supposed to be impartial and fairly administered.

Lengthy pretrial detention, which remains common; police corruption, which is a systemic problem in Baltimore city; and the racially and geographically disparate exercise of prosecutorial discretion already place undue pressure on defendants across the state. Threatening longer sentences will inevitably result in a dysfunctional justice system, as defendants are forced to bend under the massive risk of five to twenty more years of prison time, regardless of the strength of their defense.

A potentially promising feature of the omnibus bill is to increase funding for violence prevention programs but money is lacking, particularly when compared to the costs allocated for incarceration that result from the rest of the bill. Community-based services help provide opportunity and resources to decrease the likelihood of violence at the front end.

A recent national survey showed 54 percent of crime survivors prefer spending on prevention and rehabilitation programs, while only 6 percent prefer spending on prisons and jails. 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. Efforts to help Baltimore improve police-community relations will also help law enforcement improve community/police cooperation to solve crime.

The proposals within the omnibus bill are based on political pressures, not on the data-driven analysis that guides the most effective criminal justice reforms. Two years ago, the General Assembly established a Justice Reinvestment Task Force. As was required then for a reinvestment into programs and efforts to reduce the incarceration of nonviolent low-level offenders, legislators should now demand similar evidence and deliberation before passing countervailing measures of longer sentences and mandatory minimums. The best available evidence tells us which crime-reduction strategies are effective, but the omnibus package fails to take that into account.

*Maj. Neill Franklin, Ret., is the executive director of the Law Enforcement Action Partnership. He can be reached at [neill@lawenforcementaction.org](mailto:neill@lawenforcementaction.org). Paul DeWolfe is the public defender for Maryland. He can be reached at [pdewolfe@opd.state.md.us](mailto:pdewolfe@opd.state.md.us).*

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