

Testimony of Akhi Johnson, Vera Institute of Justice, Supporting HB502/SB456: Requiring the Collection and Publication of Prosecutorial Information

Oral testimony

Good afternoon, my name is Akhi Johnson. I am the Deputy Director of the Vera Institute of Justice's Reshaping Prosecution Program. Vera is a national research-based non-profit that works with government stakeholders to drive change and build justice systems that ensure fairness, promote safety, and strengthen communities. Our prosecution team works with offices to reduce their reliance on incarceration, address systemic racial disparities, and help them be more accountable to the communities they serve.

Prosecutors play a critical but often hidden role in public safety as one of the most powerful actors in the criminal justice system. They decide whom to charge with a crime, what crime to charge, whether to ask that a person sit in jail pending trial, and what sentence to ask for upon conviction. Yet, despite this immense power, the general public does not receive much, if any, information on how prosecutors use their discretion.

HB502/SB456 is a significant step towards unlocking the black box of prosecution for Maryland residents. The legislation requires state's attorneys to collect and report information about their decisions at key points in a case. With access to this data, community members will have information necessary to address vital issues like the resources state's attorneys spend on cases driven by substance abuse, how frequently they ask for innocent people to remain in jail pending trial, and how they contribute to racial disparities in the system.

However, though HB502/SB456 is a significant step, its success will depend on equipping state's attorneys' offices to implement it effectively. The vast majority of state's attorneys' offices likely do not have the in-house capacity necessary to properly collect or report many of the data points in the legislation. As such, the general assembly or the governor's office should consider providing state-wide technical assistance to help them meet the demands of the legislation.

Please see my supplemental written testimony for additional data points that the legislation could capture, as well as implementation suggestions to support offices in collecting and publishing data.

Supplemental written testimony

My supplemental testimony focuses on two areas: additional data points to collect and avenues to help state's attorneys collect data.

First, although HB502/SB456 requires collection and reporting of many crucial data points, there are a few others our team would suggest:

- Pretext stops. These are stops where someone is detained for a minor infraction while police seek evidence of a more serious crime. These stops increase racial bias in the system and do not provide a public safety benefit.¹ To capture how these stops impact the justice system, consider requiring state's attorneys to collect whether an arrest involved:

¹ Vera Institute of Justice and Institute of Innovation in Prosecution, "Refuse: Decline arrests from pretextual stops," <https://motionforjustice.vera.org/strategies/refuse>.

- a traffic stop, documenting the traffic infraction even if the prosecutor does not file the traffic offense;
 - an outstanding warrant; or
 - a consent search.
- Demographic information. In addition to the proposed information about the person charged, state's attorneys could collect the person's residential zip code and ethnicity – both of which would shed light on who is disparately impacted by the justice system. Further, state's attorneys should collect demographic information on victims like race, ethnicity, age, gender, residential zip code, and disability status to similarly shed light on the disparate impact of the justice system.

Second, the state should consider providing support – financial or technical – to increase the data collection capacity for state's attorneys' offices. Even for well-resourced offices, changing practices to collect the data required under the legislation will be a heavy lift.

To relieve that burden, and to ensure the effective collection of data, other states have offices devoted to providing technical assistance to prosecutor offices. For example, the Colorado District Attorney's Council manages a centralized state-wide data system and provides technical support to offices in maintaining data standards.² The Prosecuting Attorneys Association of Michigan develops software and helps offices with technical matters.³ Developing a similar centralized support system for state's attorneys could help with standardizing data collection and ease implementation of the legislation.

² Colorado District Attorneys' Council homepage, accessed February 8, 2021, <http://www.cdacweb.com/>.

³ Prosecuting Attorneys Association of Michigan homepage, accessed February 8, 2021, <https://www.michiganprosecutor.org/>.