



## Testimony for the Senate Judicial Proceedings Committee

February 6, 2020

### SB 273 Crimes - Firearms - Penalties and Procedures (Violent Firearms Offender Act of 2020)

### SB 271 Crimes - Victim and Witness Intimidation - Penalties and Procedures

#### UNFAVORABLE

TONI HOLNESS  
PUBLIC POLICY DIRECTOR

AMERICAN CIVIL  
LIBERTIES UNION  
OF MARYLAND

MAIN OFFICE  
& MAILING ADDRESS  
3600 CLIPPER MILL ROAD  
SUITE 350  
BALTIMORE, MD 21211  
T/410-889-8555  
or 240-274-5295  
F/410-366-7838

FIELD OFFICE  
6930 CARROLL AVENUE  
SUITE 610  
TAKOMA PARK, MD 20912  
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS  
JOHN HENDERSON  
PRESIDENT

DANA VICKERS SHELLEY  
EXECUTIVE DIRECTOR

ANDREW FREEMAN  
GENERAL COUNSEL

The ACLU of Maryland urges an unfavorable report on SB 273, which—among other regressive proposals—would exclude the use or possession of a firearm from the definition of a technical violation and implement new or harsher mandatory minimum sentencing schemes for various firearm-related offenses.

We also oppose SB 271, which would allow hearsay statements to be admissible in a broader range of cases and create a host of new offenses related to witness intimidation.

#### **Criminal penalties are disproportionately levied against communities of color**

New criminal penalties and lengthy sentences, such as the ones being proposed in SB 271 and SB 273 have historically been levied disproportionately against persons of color. In Maryland, African Americans make up only 30% of the general population, but over 70% of the incarcerated population. Until the state can identify causes of and begin to undo the racial disparities that permeate every dimension of the criminal legal system, we strongly discourage this body from enacting new or enhancing existing criminal penalties.

#### **Long sentences are expensive and yield little or no public safety returns**

Enhanced sentences require that the state expend unjustified resources housing persons who may otherwise be appropriate for release. Maryland currently expends on average \$3,800 per month per inmate in state facilities. A few years ago, the General Assembly passed the Justice Reinvestment Act in an effort to curb the bloated prison population while maintaining public safety. By increasing the number of persons subject to incarceration, both SB 271 and SB 273 threaten to undermine the progress and savings under the JRA, which the state is only just beginning to realize.

Moreover, no evidence indicates that there is a public safety benefit to increasing sentence lengths. Indeed, the evidence shows that more severe sentences do not deter crime more effectively than less severe sentences.<sup>1</sup> In researching the correlation between severe sentences and crime deterrence, Professors Durlauf & Nagin found that the marginal deterrent effect of increasing already lengthy prison sentences is modest at best and evidence suggests the possibility of a negative criminogenic effect from imprisonment.<sup>2</sup>

In the its final report to the General Assembly, the Justice Reinvestment Coordinating Council noted:

A growing body of criminological research demonstrates that prison terms are not more likely to reduce recidivism than noncustodial sanctions. For some offenders, *including drug offenders*, technical violators, and first-time offenders, studies have shown that prison can actually increase the likelihood of recidivism. There is also growing evidence that, for many offenders, adding days, months, or years to prison sentences has no impact on recidivism.<sup>3</sup> (*internal citations omitted*)

For the forgoing reasons, the ACLU of Maryland respectfully urges an unfavorable report on SB 271 and SB 273.

<sup>1</sup> Durlauf & Nagin, *Imprisonment and Crime: Can Both Be Reduced?*, 10 CRIMINOLOGY & PUBL. POL'Y, 13, 37-38 (2011)

<sup>2</sup> *Id.*

<sup>3</sup> Maryland Justice Reinvestment Coordinating Council—Final Report (December 2015).



TONI HOLNESS  
PUBLIC POLICY DIRECTOR

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
MARYLAND

MAIN OFFICE  
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SUITE 350  
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