

Testimony - Support - SB 113 - Gun Industry Accoun

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Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 113 - Civil Actions - Public Nuisances - Firearm Industry Members (Gun Industry Accountability Act of 2023)

TO: Senator Will Smith, Jr. Chair and Members of the Judicial Proceedings
Committee
FROM: Ken Shilling, UULM-MD Gun Violence Prevention, Lead Advocate
Unitarian Universalist Legislative Ministry of Maryland.
DATE: February 7, 2023

Unitarian Universalists are committed to measures that contribute to the public well-being. We must balance rights and responsibilities. We support common-sense regulation of firearms so we may assemble in public without fear of gun violence

One firearms manufacturer recently announced the sale of the JR-15; a smaller, lighter assault weapon for a child. The public harm is a reasonably foreseeable effect of the company's marketing this weapon to children.

We must require that the firearm industries establish and implement reasonable controls regarding firearm-related products. When companies abdicate their responsibility to public safety, we must hold them accountable. The public must be able to bring action for damages against a firearms industry member for injury or loss sustained.

The measure before you today is another tool to protect all of us from gun violence. We ask you to stand on the side of love and justice. We urge you to vote for this bill and others that strengthen Maryland's gun violence prevention laws.

We urge a favorable report.

Ken Shilling

Ken Shilling
Gun Violence Prevention Lead Advocate

SB0113 Gun Industry Accountability Act FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0113

Civil Actions - Public Nuisances - Firearm Industry Members (Gun Industry Accountability Act of 2023)

Bill Sponsor: Senator Waldstreicher

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0113 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

Our members believe firmly in common sense gun legislation, as do most gun owners and the majority of residents in Maryland. We have a lot of solid, common-sense laws on the books, but like many states, continue to see deaths from random shootings by people who should never, ever have been able to purchase a gun.

This legislation should be re-named to the "About Time Gun Owners Were Required to Act Responsibly Act of 2023". This legislation does not make the job of gun owners more difficult. It instead makes them act responsibly, by not putting profits over lives. It allows the Attorney General, or an individual to sue them for negligence under the public nuisance statute.

Our members think this legislation is well overdue and should be passed as quickly as possible. We support this bill and recommend a **FAVORABLE** report in committee.

Webster Testimony SB 113 dealer regs 2-7-23.pdf

Uploaded by: Daniel Webster

Position: FAV

Testimony in Support of SB 113
Civil Actions - Public Nuisances - Firearm Industry Members (Gun Industry Accountability Act of 2023)
Maryland Senate Judicial Proceedings Committee
February 7, 2023

Daniel W. Webster, Sc.D., M.P.H.

Thank you, Chairman Smith, for the opportunity to testify in support of SB 113. I am a professor at the Johns Hopkins Bloomberg School of Public Health and Distinguished Scholar for the Johns Hopkins Center for Gun Violence Solutions. My testimony is offered by me individually, and it does not represent the official position of the Johns Hopkins University.

During the past thirty years, I have conducted research on gun laws in Maryland and in other states and communicated with many law enforcement officials charged with keeping the public safe from gun violence. Maryland has adopted several measures that our Center's research indicates are effective in reducing gun availability to criminals. But there is an important gap in Maryland's gun laws that hinders law enforcement's ability to keep guns from individuals who commit violent crime that SB 113 seeks to fill. The federal Protection of Lawful Commerce in Arms Act (PLCAA) gives special protections to firearms sellers against litigation for reckless business practices that create significant harm to others. Passage of SB 113 would require firearm sellers to establish reasonable measures to prevent illegal straw purchases, trafficking, and theft of firearms and make violators open to litigation brought by Maryland's Attorney General because violation of state law is an exception to PLCAA's special protections.

Research which I led provides evidence that undercover stings exposing illegal and negligent practices, lawsuits, and, in some cases, prosecutions of scofflaw gun dealers dramatically reduced the diversion of guns from licensed gun dealers to criminals in Chicago, Detroit,¹ and New York City.² New York sued 24 gun dealers for practices that contributed to interstate firearm trafficking who settled their lawsuit by agreeing to adopt a series of specific policies to prevent illegal sales and theft. Ten of these gun dealers had electronic sales records that we linked with firearms recovered from criminal suspects and crime scenes by New York Police Department. We found an 82% decrease in the probability that guns sold by these gun dealers were subsequently recovered by NYPD after the dealers implemented these new measures.

A study of ATF gun trafficking investigations found that corrupt retail gun dealers accounted for more guns diverted into the illegal market than any other single trafficking channel.³ A very small percentage of gun retailers sell the majority guns recovered from criminals.⁴ The disproportionate sales of guns diverted for criminal use cannot be explained solely by differences in sales volume, customer demographics, or local crime rates.⁵ There are egregious examples of such scofflaw gun dealers in Maryland whose guns were commonly linked to violent crime for many years before federal action was taken.^{6,7} Weak federal laws and resource constraints hamper the ATF's ability to ensure gun dealers comply with gun laws.^{8,9}

Passage of SB 113 would protect Marylanders against negligent business practices that channel guns to violent criminals.

Research Cited

¹ Webster DW, Bulzacchelli MT, Zeoli AM, Vernick JS. Effects of undercover police stings of gun dealers on the supply of new guns to criminals. *Injury Prevention*. 2006; 12:225-230.

² Webster DW, Vernick JS. “Spurring Responsible Firearms Sales Practices Through Litigation: The Impact of New York City’s Lawsuits Against Gun Dealers on Interstate Gun Trafficking,” pages 123-132 in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, Daniel W. Webster and Jon S. Vernick, Eds. Baltimore: Johns Hopkins University Press, 2013.

³ Braga AA, Wintemute GJ, Pierce GL, Cook PJ, Ridgeway G. Interpreting the empirical evidence on illegal gun market dynamics. *Journal of Urban Health* 2012; DOI 10.1007/s11524-012-9681-y.

⁴ Bureau of Alcohol, Tobacco and Firearms (ATF). *Crime Gun Trace Reports (2000): The Youth Gun Interdiction Initiative*. Washington, DC: U.S. Department of the Treasury, 2002.

⁵ Wintemute GJ, Cook PJ, Wright MA. Risk factors among handgun retailers for frequent and disproportionate sales of guns used in violent and firearm related crimes. *Injury Prevention* 2005; 11:357-363.

⁶ Brady Center to Prevent Gun Violence. *Death Valley: Profile of a Rouge Gun Dealer: Valley Gun Baltimore, Maryland*. Washington, DC, June 2006.

⁷ *The Washington Post*. “The Dance of Revocation.” December 14, 2010.

⁸ Inspector General of the United States Department of Justice. Inspections of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives. Report I-2004-2005. Washington, DC, July 2004.

⁹ Braga AA, Gagliardi PL. “Enforcing Federal Laws Against Firearms Traffickers: Raising Operational Effectiveness by Lowering Enforcement Obstacles,” pages 143-156 in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, Daniel W. Webster and Jon S. Vernick, Eds. Baltimore: Johns Hopkins University Press, 2013.

Giffords Memorandum in Support of SB 113.pdf

Uploaded by: David Pucino

Position: FAV

To: Judicial Proceedings Committee
Date: February 6, 2023
Submitted by: David Pucino
Deputy Chief Counsel
Giffords Law Center to Prevent Gun Violence

TESTIMONY IN SUPPORT OF SB 113

Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee: thank you for the opportunity to testify in support of SB 113, the Gun Industry Accountability Act of 2023.

In nearly every industry, civil liability serves as an important check on irresponsible behavior. Companies that manufacture and sell products are held responsible for the consequences that follow from the intended use of their products. But the ordinary principles of civil liability do not apply to the gun industry. For too long, companies that manufacture, import, market, and sell firearms have hidden behind a federal statute that exempts them from normal liability under the common law. Armed with these exceptional protections, the industry has acted with impunity, flooding the streets with weapons secure in the assumption that it will be able to duck any lawsuit brought by the victims of its irresponsible practices. And survivors and the families of the victims of gun violence have been denied their day in court.

The Gun Industry Accountability Act would provide the victims of gun violence with an avenue to seek justice against the gun industry, reopening the courtroom doors for victims who have suffered as a direct result of industry's sale, manufacturing, importing, and marketing practices.

Traditional legal principles provide that the law should compensate injured parties for wrongful conduct, place the burden of that compensation on the responsible party, and serve as a deterrent to prevent future harms. These principles apply generally to the consumer market, compensating those who are hurt, holding accountable those who are responsible, and creating an incentive structure that promotes consumer safety. The possibility of civil liability provides critical monetary incentives for industries to take affirmative steps to ensure the safety and safe use of their products—to internalize the “costs of doing business” so that it is the business, rather than the public, that pays. The law of civil liability thus stands as a pillar of consumer safety and injury prevention.

But these principles do not apply to the gun industry. Faced with a number of victims who came to court demanding that it bear the costs of its deadly business, in 2005 the gun industry successfully lobbied Congress to pass the Protection of Lawful Commerce in Arms Act (“PLCAA”). PLCAA prohibits courts from hearing proceedings for civil claims that “result from the criminal or lawful misuse” of firearms or ammunition. It thus provides the gun industry with an exemption from the longstanding system of accountability, applicable to any number of other businesses, that stands at the base of our legal system.

PLCAA has been remarkably successful at shielding the gun industry from lawsuits that would otherwise have proceeded, stripping courts of jurisdiction and shutting the door on litigant after litigant in its first decade and a half of existence.

But PLCAA is not absolute: the statutory text includes six limited and enumerated exceptions. One of these exceptions applies to “[a]n action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought.” This provision, which is often referred to as the “predicate exception,” keeps the door open to lawsuits that involve violations of statutes that apply to the sale or marketing of firearms.

The Gun Industry Accountability Act would provide a statutory grounding for gun industry accountability, reopening the court doors that the industry has so far kept shut, by prohibiting specific dangerous conduct.

It would prohibit industry actors from endangering public health and safety through unlawful or unreasonable conduct. It would also require industry actors to “establish and implement reasonable controls” with respect to their manufacturing, distribution, and sale practices.

In the event that bad actors in the gun industry fail to take these basic steps, which any responsible actor in any industry would follow, the Act would properly acknowledge that such failures constitute a public nuisance that endangers the public. The law would allow for those who suffer harm as a result—whether that is the individuals who have been the direct victims, or the Attorney General acting on behalf of the People—to have their day in court.

The Gun Industry Accountability Act would thus restore accountability to an industry that has for too long acted with an impunity acquired at the expense of public health and safety. Giffords urges a favorable report on SB 113.

Respectfully Submitted,

David Pucino
Deputy Chief Counsel
Giffords Law Center to Prevent Gun
Violence

ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Founded and led by former Congresswoman Gabrielle Giffords, Giffords inspires the courage of people from all walks of life to make America safer.

mcguire_favorable_sb-0113.pdf

Uploaded by: James McGuire

Position: FAV

06 February 2023

James I. McGuire III
3482 Augusta Drive
Ijamsville, MD 21754

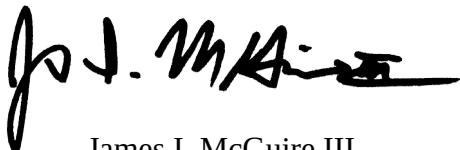
FAVORABLE FOR SENATE BILL 0113

Civil Actions – Public Nuisances – Firearm Industry Members
(Gun Industry Accountability Act of 2023)

Please leave the body of SB-0113 unmodified. The vote tally will provide an authoritative reference of those legislators who violate their oath of office by endorsing this blatantly unConstitutional and obviously civil-rights-infringing proposal.

Additionally, you should probably acquaint yourselves with the PLCAA and associated lawsuits regarding legislation like SB-0113.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James I. McGuire III", with a stylized flourish at the end.

James I. McGuire III

SB113HB259 LSPC INDUSTRY ACCOUNTABILITY.docx.pdf

Uploaded by: Jared Schablein

Position: FAV

SB113/HB 259 Industry Accountability

Bill Sponsor: Senator Waldstreicher and Delegate Atterbeary

Committee: Senate Judicial Proceedings Committee and House Judiciary Committee

Organization Submitting: Lower Shore Progressive Caucus

Person Submitting: Dr. Nicole Hollywood, LSPC

Position: FAVORABLE

I am submitting this testimony in favor of SB113/HB259 on behalf of the Lower Shore Progressive Caucus. The Caucus is a political and activist organization on the Eastern Shore, unaffiliated with any political party, committed to empowering working people by building a Progressive movement on the Lower Eastern Shore.

Since 2005, a federal law called the Protection of Lawful Commerce in Arms Act (“PLCAA”) has shielded bad actor gun manufacturers and dealers from most lawsuits, creating a culture of impunity within the industry. PLCAA blocks legal responsibility for gun manufacturers that have failed to prevent unintentional shootings by innovating and making guns safer, and for irresponsible, reckless, and negligent sales practices that contribute to the flood of illegal firearms in our communities.

No other industry receives the protections afforded to gun manufacturers. PLCAA stops most litigation that could incentivize gun manufacturers to design their products more safely, including the addition of simple safety features that have been available for years that could prevent unauthorized access by children and teens. PLCAA also blocks legal claims that could compel gunmakers to stop selling to those dealers who fuel the criminal market, have poor safety practices or training, or are not willing to use basic security measures or record every sale on video.

This legislation will help victims of gun violence, their families and the state of Maryland hold bad actors in the gun industry accountable by creating a path to civil liability when their misconduct and negligence causes harm in our State. This bill works within the scope of the federal law by creating new state standards applicable to the sale and marketing of firearms. These new minimum standards which gun industry members will encompass minimal preventative measures to thwart thefts, straw purchases, and sales to prohibited purchasers or those likely to harm themselves or others—and prohibit any conduct that creates or contributes to dangers that harm Marylanders.

The Lower Shore Progressive Caucus supports this bill and recommends a **FAVORABLE** report in committee.

Senator Jeff Waldstreicher Testimony - SB 113 - Gu

Uploaded by: Jeff Waldstreicher

Position: FAV

SENATOR JEFF WALDSTREICHER
Legislative District 18
Montgomery County

—
Vice Chair
Judicial Proceedings Committee

—
Joint Committee on Federal Relations



Annapolis Office
Miller Senate Office Building
11 Bladen Street, Suite 2 East
Annapolis, Maryland 21401
301-858-3137 · 410-841-3137
800-492-7122 Ext. 3137
Jeff.Waldstreicher@senate.state.md.us

The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Jeff Waldstreicher
Senate Bill 113 – Civil Actions – Public Nuisances – Firearm Industry Members
(Gun Industry Accountability Act of 2023)

February 7, 2023

Chairman Smith & Members of the Judicial Proceedings Committee:

There's a deadly industry in the United States. It kills more people than drug overdoses, car accidents, and AIDS combined. And the product this industry sells is 100% legal. That product is tobacco. In 1965, 42% of Americans smoked. But through a series of regulations—including raising the age to 21—and especially litigation, that number is now down to 14%.

There's another dangerous industry in the United States. It kills about 16,000 Americans per year. And the product this industry sells is 100% legal. That product is prescription opioids. In 2012, for every 100 Americans, there were 81 opioid prescriptions. But through a series of regulations and especially litigation, that number is now down to 43.

Nearly every industry in the United States faces the possibility of legal repercussions for irresponsible and harmful behaviors. And all these industries sell legal products and services. It's not just tobacco and opioids: our judicial system acts as a check against corporate polluters, landlords, the financial sector, and many, many others. These suits are brought by private plaintiffs who are directly harmed, and by attorneys general of all stripes. Liberal attorneys general. Conservative attorneys general. Democratic attorneys general. Republican attorneys general.

Why should the gun industry be any exception?

It shouldn't. Gun industry immunity isn't just terrible policy, it's fundamentally different from how we treat every other industry, and directly counter to basic American notions of accountability and access to justice.

Mr. Chairman, members of the committee: it's time to end gun industry immunity in Maryland.

Are we even allowed to do this? You're darn right we are. As many of you know, there is a federal law called the Protection of Lawful Commerce in Arms Act, also known as PLCAA. This federal law shields firearm and ammunition manufacturers, dealers, and other industry members from lawsuits. Naturally, this meant that the gun industry no longer had a financial

incentive to consider public safety when marketing, distributing, and selling their products. That's part of the reason this industry became so reckless and dangerous.

But nested within PLCAA is something very explicit: states are not bound by it. There is no preemption. We can essentially repeal PLCAA at the state level. And that's exactly what this bill does.

We wouldn't be the first. New Jersey, New York, California, and Delaware have all passed state PLCAA repeals.

The Gun Industry Accountability Act of 2023 allows directly impacted victims of gun violence to hold firearm manufacturers accountable in certain circumstances through civil suits. The bill also empowers our Attorney General to pursue litigation in similar, narrow circumstances, just as past attorneys general here in Maryland have done in the case tobacco and opioids.

Mr. Chairman, members of the committee, let's be plain: the firearms industry has enjoyed unprecedented, complete and total legal immunity for far too long. The Gun Industry Accountability Act of 2023 would simply hold these manufacturers to the same standard as all other industries. For these reasons, I respectfully urge a favorable report on Senate Bill 113.

Very truly yours,

A handwritten signature in black ink that reads "Jeff Waldstreicher". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Senator Jeff Waldstreicher

Final CIF testimony SB 113 2-5-23.pdf

Uploaded by: Jim Lieberman

Position: FAV



**TESTIMONY OF THE CRITICAL ISSUES FORUM: ADVOCACY
FOR SOCIAL JUSTICE OF MONTGOMERY COUNTY, MARYLAND
ON FEBRUARY 7, 2023
BEFORE THE SENATE JUDICIAL PROCEDURES COMMITTEE
IN SUPPORT OF SB 113 (The Gun Industry Accountability Act of 2023)**

Honorable Chair William C. Smith, Vice-Chair Jeff Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Critical Issues Forum: Advocacy for Social Justice (CIF), provides this testimony in support of SB 113, the Gun Industry Accountability Act of 2023. SB 113 is designed to deter gun industry members operating in Maryland from engaging in irresponsible practices that actively contribute to the epidemic of gun violence and hold those who engage in such practices accountable for their actions.

CIF is a coalition of three synagogues, Temple Beth Ami, Kol Shalom, and Adat Shalom that include over 1,750 households and three denominations of Judaism: Reform, Conservative, and Reconstructionist. CIF serves as a vehicle for our congregations to speak out on policy issues, such as gun violence prevention, that relate to our shared values, including the Jewish traditions that emphasizes the sanctity and primary value of human life.

SB 113 is a narrowly tailored bill, which creates a right to file a civil action by the Attorney General or a member of the public against a firearm industry member that “knowingly or recklessly” caused “harm to the public through the sale, manufacture, distribution, importation, or marketing” of a firearm “by engaging in conduct that is: (1) Unlawful; or (2) Unreasonable under the totality of the circumstances.”¹

¹ §§3-2303 and 3-2302(A).

SB 113 further requires that a firearm industry member establish reasonable controls, which it specifically defines as policies that:

- prevent the sale of a firearm to (a) a straw purchaser, (b) a firearm trafficker, (c) a person prohibited from possessing a firearm, and (d) a person who it has reason to believe will use the firearm to commit a crime or harm to a person;
- prevent the loss or theft of a firearm; and
- ensure that the member complies with all Federal and State laws.²

Clearly each of these “controls” is reasonable and intended to prevent conduct that is unlawful or unreasonable under the totality of the circumstances. None imposes a significant burden on law abiding firearm industry members. And none of the “controls” impinge on anyone’s second amendment rights.

As shown in an amicus brief filed by 18 Attorneys General,³ empirical evidence demonstrates the need for, and effectiveness of, laws such as SB 113. For example, a 2017 report determined that a quarter of all firearms recovered at crime scenes in Chicago between 2013 and 2016 were purchased at just ten dealers.⁴ Similarly, a California study showed that 12 percent of gun dealers were responsible for selling 86 percent of the firearms recovered from the scene of violent firearm related offenses committed in the State between 1996 and 2000.⁵ Finally, the Bureau of Alcohol, Tobacco, Firearms and Explosives reported that 14 percent of federally licensed gun dealers sold all of the firearms recovered in gun crimes nationwide in 1998.⁶

It is also well-documented that gun dealers contribute to the harm caused by firearms entering the illegal market when they engage in unlawful or irresponsible business practices, such as by selling firearms to known straw purchasers or to individuals who do not provide appropriate

² §§3-2302(B) and 3-2301(G).

³ <https://www.marylandattorneygeneral.gov/news>

[documents/011722_Amici_in_Support_of_New_York.pdf](#)

⁴ City Of Chicago, Gun Trace Report 2017, at 4, bit.ly/3ltoLS2.

⁵ Christopher S. Koper, *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use* 12 (2007), bit.ly/3G6uMkO.

⁶ *Id.*

documentation.⁷ Studies reveal that most dealers are confronted with individuals whom they believe may be a straw purchaser. One study concluded that one in five dealers would sell a firearm to an individual whom they suspected was purchasing it on behalf of someone else, including for those who may not legally be allowed to buy it.⁸ One consequence of this conduct in the aggregate is that a large number of firearms enter the illegal market; indeed, by some estimates, nearly half of all guns that are trafficked on the secondary market began as straw purchases.⁹ But studies show that when gun dealers either are held accountable for their sales to straw purchasers or choose to engage in more responsible business practices that prevent such sales, there is a significant decrease in the flow of firearms into the illegal market.¹⁰

Studies also show that some gun dealers do not record sales in the manner required under state and federal law. According to one report, there were no records of the requisite federal forms for five percent of firearms recovered at crime scenes, even though those firearms were traced to a specific seller, suggesting that the sales were “off the books.”¹¹

Those who oppose SB 113 may argue that it violates the so-called Protection of Lawful Commerce in Arms Act (the Act),¹² which provides immunity for manufacturers, sellers, and importers of firearms, ammunition, or component parts of a firearm or ammunition from civil actions seeking damages or other relief “resulting from the criminal or unlawful misuse” of their products by a plaintiff or a third party.¹³

⁷ E.g., Philip J. Cook et al., *Some Source of Crime Guns in Chicago: Dirty Dealers, Straw Purchasers, and Illegal Traffickers*, 104 J. Of Crim. L. & Criminology 717, 723 (2015); Rachana Bhowmik, *Aiming for Accountability: How City Lawsuits Can Help Reform an Irresponsible Gun Industry*, 11 J.L. & POL'Y 67, 108-09 (2002).

⁸ Garen J. Wintemute, *Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase*, 87 J. URBAN HEALTH 865, 870 (2010), bit.ly/3QCeSUn.

⁹ Garen J. Wintemute, *Frequency of and responses to illegal activity related to commerce in firearms: findings from the Firearms Licensee Survey*, BMJ Inj. Prevention, Mar. 11, 2013, at 6, bit.ly/3WQgOL1.

¹⁰ See, e.g., Daniel W. Webster et al., *Effects of Undercover Police Stings of Gun Dealers on the Supply of New Guns to Criminals*, 12 INJ. PREVENTION 225, 225-230 (2006); Daniel W. Webster et al., *Effects of a Gun Dealer's Change in Sales Practices on the Supply of Guns to Criminals*, 83 J. Of Urban Health 778, 778-87 (2006).

¹¹ Cook, *supra* note 7, at 744-45.

¹² Pub.L. No. 109- 92, 119 Stat. 2095 (codified at 15 U.S.C. §§ 7901- 03).

¹³ 15 U.S.C. §§7902(a), 7903(5)(A).

The Act, however, exempts from the prohibition state laws authorizing “an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought.”¹⁴ The Act, thus, allows States to enact laws designed to deter gun industry members from engaging in irresponsible practices that actively contribute to the increasing gun violence facing individual States and, where necessary, to hold those who engage in such practices accountable for their actions.

Moreover, the Act does not limit state actions to persons who “knowingly violated” the state statute. An example in the “knowingly violated” section specifically authorizes state laws where the person acted “knowing, or *having reasonable cause to believe*, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm”¹⁵ Thus, the authorization in SB 113 of a civil action based on conduct that is “unreasonable under the totality of the circumstances” clearly falls within the exemption.

Opponents have also argued that SB 113 would put lawful gun dealers out of business because they will not be able to obtain insurance. We understand that insurance is available in New York, which, as noted below, has enacted a similar law. And the practices of gun dealers who operate within the law today will not suddenly become unlawful if SB 113 is enacted.

Significantly, the states of Delaware, New York, New Jersey, and California have taken advantage of the exemption in the Act and have enacted legislation similar to SB 113.¹⁶ The New York law has been upheld by the United States District Court for the Northern District of New York.¹⁷ While the plaintiffs have appealed that decision, the Attorney General of Maryland, along with 17 other Attorneys General have filed an amicus brief

¹⁴ 15 U.S.C. § 7903(5)(A)(iii).

¹⁵ 15 U.S.C. § 7903(5)(A)(iii)(II)(emphasis added).

¹⁶ Del Code tit. 10 §3930; New York General Business Law §§ 898-a-e; N.J. Stat. Ann. §2C:58-35; 2022 Cal. Legis. Serv. Ch. 98 (A.B. 1594).

¹⁷ *National Shooting Sports Foundation, Inc. v. James*, No. 1:21-cv-1348 (MAD/CFH) (N.D. N.Y. May 25, 2022)

in support of the District Court decision, asserting that the New York law is a valid exercise of the authority granted to the States by the Act.¹⁸

SB 113 is similarly a valid exercise of that authority. Importantly, it will not interfere with gun dealers who follow the rules. It is properly aimed at those who do not. It is, in short, a much needed tool to help combat the illegal sale of firearms in Maryland that contributes to the epidemic of gun violence. CIF urges this committee to produce a favorable report on SB 113.

¹⁸ See, *supra* note 3.

2023 SB113 testimony (PLCAA).pdf

Uploaded by: Karen Herren

Position: FAV



Testimony in **Support** of
Civil Actions - Public Nuisances -
Firearm Industry Members
(Gun Industry Accountability Act of 2023)

SB113/HB259
Executive Director Karen Herren
Marylanders to Prevent Gun Violence

February 7, 2023

Dear Chair Smith, Vice-Chair Waldstreicher, and distinguished members of the committee,

Marylanders to Prevent Gun Violence (MPGV) is a statewide, grassroots organization dedicated to reducing gun deaths and injuries throughout the state of Maryland. We urge the committee for a **FAVORABLE** report on **Senate Bill 113** to create a State cause of action permissible under the Protection of Lawful Commerce in Arms Act (“PLCAA”)¹.

BACKGROUND

Civil liability is effectively used in the United States as an important check on irresponsible and harmful industry behaviors. When legislators have been unwilling or unable to enact laws regulating a dangerous industry, the possibility of civil litigation has helped to incentivize industries to take reasonable steps to prevent their products or business practices from causing foreseeable risks to human life and well-being. Traditionally, this means that victims harmed by wrongful conduct, or public officials on the people’s behalf, can seek fair justice and accountability in the courts by filing lawsuits seeking monetary compensation or other court-ordered relief when industries have negligently or recklessly caused harm or failed to take reasonable steps to prevent foreseeable harm. However, in 2005, President Bush signed the Protection of Lawful Commerce in Arms Act (“PLCAA”) which gave the gun industry enormous exemptions from liability and accountability within the justice system. PLCAA has granted the gun industry unprecedented immunity from this system of justice and accountability. In

¹ 15 U.S.C. § 7901-7903

addition to shielding the gun industry, these legal immunities also provide an unfair business advantage to irresponsible firearm industry members over more responsible competitors who take stronger precautions to protect human life and well-being.

PLCAA AND EXCEPTIONS

PLCAA provides general immunity from lawsuits to federally licensed manufacturers, federally licensed firearm dealers and importers, and entities engaged in the business of selling ammunition at the wholesale or retail level. PLCAA prohibits plaintiffs from bringing “qualified civil liability actions” against these industry defendants. “Qualified civil liability actions” are civil or administrative proceedings for damages or other relief brought by any person including a governmental entity, “resulting from the criminal or unlawful misuse” of firearms, ammunition, or firearm or ammunition component parts by the plaintiff or a third party. There are 6 exceptions to the general industry immunity under 15 U.S.C. § 7903(5)(A):

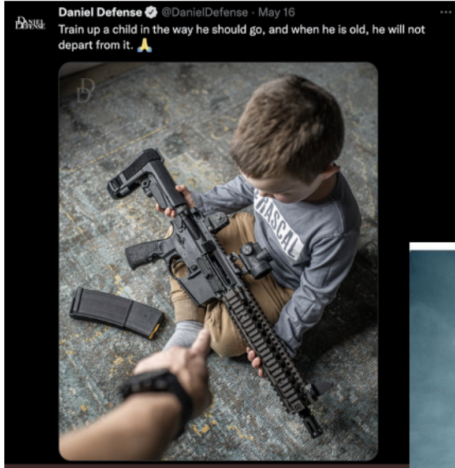
- An action brought against someone convicted of “knowingly transfer[ing] a firearm, knowing that such firearm will be used to commit a crime of violence” by someone directly harmed by such unlawful conduct;
- An action brought against a seller (or importer) for negligent entrustment or negligence per se;
- **An action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, if the violation was a proximate cause of the harm for which relief is sought.**
- An action for breach of contract or warranty in connection with the purchase of the product;
- An action for death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or
- An action commenced by the Attorney General to enforce the Gun Control Act or the National Firearms Act.

PLCAA provides firearm industry defendants with broad immunity from many common law tort actions, but also provides exceptions, including what has been called the “predicate exception,” which authorizes plaintiffs to bring civil actions against a firearm industry defendant who has knowingly violated a statute applicable to the sale or marketing of a firearm or other qualified product, if the violation was a proximate cause of the plaintiffs’ harm.

CONCLUSION

Senate Bill 113 seeks to codify into Maryland law a firearm industry standard of conduct under the predicate exception clarifying the obligations and prohibitions that are unquestionably and specifically applicable to the sale and marketing of firearms and to provide redress to victims when the industry fails to uphold that standard. MPGCV urges a FAVORABLE report on **SB113**.

Gun Industry Marketing has given us a national nightmare.



JR-15™ GET EM ONE LIKE YOURS
22 Long Rifle

SMALLER SAFER LIGHTER
PATENTED SAFETY
MADE IN USA

Our goal was to develop a shooting platform that was not only sized correctly, and safe, but also looks, feels, and operates just like Mom and Dad's gun. Safety was at the heart of our thought process that we developed and patented a tamper resistant safety that puts the adult in control of the firearm safety switch. The WHEEL and School Tool Team brought their collective experience in the firearms business, specifically the AR platform, to the table to launch the JR-15. We are so excited to start capturing the imagination of the next generation to enter the shooting sports.

SPECIFICATIONS

SIZE:	30.75"
WEIGHT:	APPROX 2.85
SAFETY:	PATENTED TAMPER RESISTANT
LOWER:	POWNER
UPPER:	POWNER
RAIL:	STANDARD PICATINNY RAIL WITH M-LOK FOR ALL STANDARD ACCESSORIES
TRIGGER:	3090 MIL-SPEC
BARREL:	16"
SIGHT:	NO SIGHT INCLUDED
MAGAZINE:	150, 180, 190, 200, with WHEEL 30 MAG

WHEEL TACTICAL



SB 113 - MoCo_Boucher_FAV (GA 23).pdf

Uploaded by: Kathleen Boucher

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 113

DATE: February 7, 2023

SPONSOR: Senators Waldstreicher and Lee

ASSIGNED TO: Judicial Proceedings

CONTACT PERSON: Kathleen Boucher (Kathleen.boucher@montgomerycountymd.gov)

POSITION: Support

Civil Actions – Public Nuisances – Firearm Industry Members (Gun Industry Accountability Act of 2023)

This bill allows the Attorney General and members of the public to sue a “firearm industry member” (i.e., manufacturer, distributor, dealer, marketer, or importer) when they knowingly and recklessly create a “public nuisance” by engaging in conduct that is unlawful or unreasonable under the totality of circumstances. The Attorney General may seek injunctive relief, restitution, compensatory and punitive damages, reasonable attorney’s fees and costs, and any other appropriate relief. A member of the public may seek compensatory and punitive damages for injury or loss as well as injunctive relief and reasonable attorney’s fees and costs,

The bill requires firearm industry members to establish “reasonable controls” regarding firearm-related products (i.e., firearms, component parts, and ammunition) to protect against public harm. The term “reasonable controls” is defined to mean policies that are designed to: (1) prevent the sale or distribution of a firearm-related product to a straw purchaser, firearm trafficker, or any person prohibited from possessing a firearm-related product under federal or State law or for whom the manufacturer or distributor has reasonable cause to believe intends to use the product to commit a crime or cause harm to self or others; (2) prevent the loss or theft of firearm-related products; and (3) ensure compliance with State and federal law. The bill specifies that the conduct of a firearm industry member is a proximate cause of harm to the public if the harm is a reasonably foreseeable effect of the conduct.

The County supports this bill and respectfully requests that the Senate Judicial Proceedings Committee give the bill a favorable report with any amendments necessary to ensure its legal validity. Gun violence throughout our country continues unabated and regulation of these deadly instruments is woefully inadequate. It is critically important the Attorney General and individuals harmed by gun violence have a clear path for holding the firearms industry accountable for practices that pose a risk to public health and safety.

2023 MD _ PLCAA SEC Oral Testimony SB 0113.pdf

Uploaded by: Lauren Kline

Position: FAV



Testimony of Lauren Kline
Support for SB 0113
Before the Maryland Senate Judicial Proceedings Committee

Oral Testimony for SB 0113

Chairman Smith, Vice Chair Waldstreicher and distinguished members of the Senate Judicial Proceedings Committee, thank you for the opportunity to speak with you today.

My name is Lauren Kline. and as both a longtime resident of Maryland who cares deeply about the safety, well-being and quality of life of our state and residents and as the Co-Lead of Brady Maryland, I am pleased to speak today in support of SB 113, which will allow our state and the people of our state to pursue civil claims against the gun industry in the same way they can be pursued against other industries.

As you have heard, since it was passed, PLCAA has shielded bad actors in the gun industry from most civil lawsuits, even when they have acted irresponsibly or negligently. There is no reason that any industry should be insulated from liability, much less an industry that deals in lethal weapons and has all too often put profits over people.

There are many responsible gun industry actors, and this won't impact them. But there are others that act with impunity because of the shield that PLCAA has provided:

Dealers who facilitate gun trafficking, which is devastating communities in Maryland. Online sellers who negligently allow children to purchase firearm accessories or ghost gun parts. Manufacturers who fail to incorporate safety technologies that could prevent unintentional shootings by children.

Guns can be safer-guns should be safer- Children have died because the manufacturers have chosen not to make them safer and have suffered no consequences.

It is past time to ensure that there is accountability for this action or inaction.

I urge a favorable report.

2023 MD _ PLCAA Written Testimony SB 0113.docx.pdf

Uploaded by: Tanya Schardt

Position: FAV

Brady
840 First St. NE Ste. 400
Washington, DC 20002



Testimony of Tanya Schardt, Senior Counsel and Director of State and Federal Policy
Support for SB 0113 [FAV]
Before the Maryland Senate Judicial Proceedings Committee
February 6, 2023

Chair Smith, Vice Chair Waldstreicher, and distinguished members of the Maryland Senate Judicial Proceedings Committee,

Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America's gun violence epidemic. Brady today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife, Sarah, led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans from coast to coast, red and blue, young and old, liberal and conservative, to combat the epidemic of gun violence. **In furtherance of our goal to reduce firearm violence across Maryland, the Brady Campaign to Prevent Gun Violence is proud to support the passage of Senate Bill 0113.** SB 0113 creates a path for gun industry members to be held accountable for dangerous, unlawful, negligent and unsafe business practices that impact Marylanders and removes barriers that currently prevent victims and survivors from obtaining justice in the courtroom.

The Gun Industry has been Afforded Special Protections that Harm Marylanders

A top priority of the gun industry, the Protection of Lawful Commerce in Arms Act (PLCAA) was signed into law by then-President George W. Bush in 2005.¹ PLCAA provides gun manufacturers, distributors, and gun dealers with special protections from civil liability that no other U.S. industry is currently afforded. Although PLCAA does not provide complete immunity from all civil lawsuits, some courts have interpreted the law to effectively bar victims and survivors of gun violence from holding firearms businesses liable for injuries caused by negligence, defective products, or unreasonably dangerous conduct that would otherwise be actionable under civil justice principles. Enabling the gun industry to evade accountability at the expense of victims of gun violence significantly contributes to the gun violence epidemic by

¹ 15 U.S.C. § 7901 (2005).

removing key incentives for the gun industry to adopt life-saving business practices.² Moreover, PLCAA has had a chilling effect on civil cases against the gun industry and has worked to prevent victims and survivors from recovering damages they are owed after tragic injuries or deaths. SB 0113 would ensure that the gun industry would no longer be shielded from accountability for their dangerous, irresponsible, or illegal practices that endanger the lives of Marylanders.

PLCAA Denies Justice to Victims and Survivors

Victims should have recourse for the gun industry's negligence and dangerous practices, but PLCAA currently protects gun dealers and manufacturers from being held responsible. Gun dealers and manufacturers should be held responsible for negligent and irresponsible sales practices that are the proximate cause of an individual's injuries or death, and for selling to someone who is likely to harm themselves or others. Manufacturers who design firearms without life-saving safety features, such as chamber-loaded indicators and magazine disconnect safeties, or sell to someone who is clearly likely to harm themselves should be held liable for their design failures and malpractice.³

PLCAA Perpetuates the Flow of Crime Guns into Communities of Color

The latest available data from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reveals that just 2.7 percent of dealers accounted for over 71 percent of crime gun traces.⁴ While this small minority of gun dealers are the sources of crime guns recovered in communities of color, these gun dealers typically sit outside those communities in less diverse and more affluent suburbs.⁵ Residents of these communities suffer from the chronic stress of daily interpersonal gun violence and the negative impacts on their community's economic prosperity, without recourse or compensation, while irresponsible gun dealers face no consequences. The implications of this lack of accountability cannot be overstated. While gun violence touches Americans across the country, it disproportionately impacts communities of color. Approximately 80 percent of America's gun deaths occur in urban areas with large minority populations.⁶ Black Americans are 11 times more likely than their white peers to be the victim of a firearm homicide, and this problem is exacerbated for Black males, who lose four years in life expectancy on the basis of gun violence alone.⁷ Non-Hispanic Black males in Maryland are 27.7 times more likely to be victims of firearm homicide than non-Hispanic white males.⁸

² Brady Campaign & Brady Center, "What is PLCAA?", Brady, available at <https://www.bradyunited.org/fact-sheets/what-is-plcaa>.

³ Vernick, J., Meisel, Z., Teret, S., Milne, J. and Hargarten, S., 1999. "I Didn't Know the Gun Was Loaded": An Examination of Two Safety Devices That Can Reduce the Risk of Unintentional Firearm Injuries," *Journal of Public Health Policy*, 20(4), pp.427-440, available at <https://www.jstor.org/stable/3343129?seq=1>.

⁴ Department of the Treasury, "Commerce in Firearms in the United States," Bureau of ATF (Feb. 2000), available at http://www.joebrower.com/RKBA/RKBA_FILES/GOV_DOCS/BATF_report_020400.pdf.

⁵ Brady Campaign and Brady Center, "Crime Guns in Impacted Communities," Brady, available at <https://www.bradyunited.org/reports/crime-guns-in-impacted-communities>.

⁶ *Id.*

⁷ CDC, "Injury Prevention & Control," available at <https://www.cdc.gov/injury/wisqars/fatal.html>; Kalesan, B., Vyliparambil, M., Zuo, Y., Siracuse, J., Fagan, J., Branas, C. and Galea, S., 2018. "Cross-sectional study of loss of life expectancy at different ages related to firearm deaths among black and white Americans," *BMJ Evidence-Based Medicine*, 24(2), pp.55-58, available at <https://ebm.bmj.com/content/24/2/55>.

⁸ CDC, "Injury Prevention & Control," available at <https://www.cdc.gov/injury/wisqars/fatal.html>.

PLCAA Disincentivizes Responsible Business Practices

The mere threat of civil liability motivates companies to adopt safe business practices that prevent future injuries and death.⁹ For example, car manufacturers made numerous safety improvements that have cut automobile-related deaths by 50 percent since the 1960s, primarily because of technological advancements spurred by fear of liability.¹⁰ PLCAA effectively removed this motivation for the gun industry, disincentivizing gun dealers from adopting safe sales practices and gun manufacturers from incorporating affordable life-saving safety devices into their products and monitoring their distribution practices.¹¹ While the gun industry claims that mental health and violent video games are to blame for gun violence, it's actually common industry practices that create the conditions that enable most gun violence to occur.¹² The limitations on the ability to hold the industry accountable prevent public awareness and deter regulatory changes, as well as disincentivize independent action by the industry to avoid liability, all of which would reduce gun violence and save lives.

Conclusion

SB 0113 will function as an exception to PLCAA, ensuring that valid civil claims can be brought against the gun industry for their dangerous, negligent, and even unlawful actions. The possibility of civil liability will not only provide civil justice to victims and survivors but also encourage the gun industry to act responsibly to help stem the tide of crime guns that harm Marylanders, particularly in urban areas where communities of color are disproportionately harmed. Having operated with special protections for years, the industry has had no financial incentive to curb irresponsible conduct and instead puts profits over people. The prospect of civil liability can lead to safer products and better conduct that the industry has resisted for years.

SB 0113 must be enacted because no industry should be above the law, especially not one that makes and sells lethal weapons. SB 0113 will make sure that bad actors in the gun industry are held accountable and victims of gun violence are able to get justice through the law. ***For the reasons described above, Brady urges the committee to support the passage of Senate Bill 0113.***

Sincerely,
Tanya Schardt

⁹ Vernick, J. et al., 2003. "Role of Litigation in Preventing Product-related Injuries," *Epidemiologic Reviews*, 25(1), pp.90-98, available at <https://academic.oup.com/epirev/article/25/1/90/718671>.

¹⁰ LaFrance, Adrienne, "Why Haven't Gunmakers Improved Safety Technology the Way Automakers Did?", *The Atlantic* (Jan. 21, 2016), available at <https://www.theatlantic.com/technology/archive/2016/01/guns-cars/424878/>.

¹¹ Sampson, Kelly, "Tobacco Kills People. Opioids Kill People. But Guns Don't?," *Brady* (Sept. 4, 2019), available at <https://bradyunited.medium.com/tobacco-kills-people-opioids-kill-people-but-guns-dont-7852c288d496>.

¹² Zeballos-Roig, Joseph, "The NRA Issued a Statement Supporting Trump's Call to Focus on Mental Illness to Reduce Gun Violence after the Shootings in El Paso and Dayton," *Insider* (Aug. 5, 2019), available at <https://www.businessinsider.com/nra-statement-backing-trump-el-paso-dayton-shootings-mental-illness-2019-8>; Hudson, Laura, "The NRA Solution to Gun Violence: More Guns, Fewer Video Games," *Wired* (Dec. 21, 2012), available at <https://www.wired.com/2012/12/nra-video-games/>; Gluck, A., Nabavi-Noori, A. and Wang, S., 2021. Gun Violence in Court. *The Journal of Law, Medicine & Ethics*, 48(S4), pp.90-97, available at <https://journals.sagepub.com/doi/abs/10.1177/1073110520979406>.

Public Nuisances - SB0113.pdf

Uploaded by: Andrew Hobbs

Position: UNF

FROM THE DESK OF

ANDREW HOBBS

February 6, 2023

Judicial Proceedings Committee
Annapolis, MD

Dear Members of the Committee,

I am writing to express my unfavorable position on Civil Actions - Public Nuisances - Firearm Industry Members (Gun Industry Accountability Act of 2023). This bill attempts to go after companies producing legal products in a backhanded way to damage the industry.

Not even California's DA would defend a similar bill.

Sincerely yours,

Andrew J. Hobbs

Art_Novotny_UNF_SB113.pdf

Uploaded by: Art Novotny

Position: UNF

Testimony of Art Novotny in OPPOSITION to SB112
(Gun Industry Accountability Act of 2023)

Frankly, I do not fully understand the purpose of this bill. Firearms dealers are already heavily regulated by both the Maryland State Police and the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. In fact, dealers are so closely monitored by both of these agencies, that, should something “slip through the cracks,” the regulating agencies ought to share some of the liability.

“Straw Purchases” and “Trafficking” are already quite illegal, and dealers are penalized for it. There have been previous efforts to increase enforcement and penalties for the other side: those who chose to commit straw purchases. Unfortunately, those bills never seem to get passed.

A lot of the language seems overreaching or vague. Walmart sells “firearm accessories.” Are they going to be held accountable for illegal use of their products?

The gun problem is not dealers, Walmart or even guns. Just like drugs, alcohol, unhealthy food and fast motorcycles, the problem is bad people who misuse them.

Go after the bad guys for once!

I urge an unfavorable report on this bill.

Art Novotny
Aberdeen, MD
35A

sb0113.pdf

Uploaded by: Brenda Scarborough

Position: UNF

SB113 OPPOSE

Good Afternoon Committee Chair, Vice Chair and Committee Members. Thank you for allowing me to testify today.

I am opposed to this bill for many reasons, the primary reason being that it will infringe the rights of law abiding citizens to engage in the act of free trade making normal items regulated items and has the potential to create felons of law abiding citizens. This bill would set a dangerous precedent for all manufacturing industries. Making the manufacturer responsible for the actions of an end user is not a precedent we should make. That would be like making Chevrolet and Budweiser responsible for the millions of deaths caused by drunk drivers, taking the accountability for the crime off of the perpetrator and putting it on an innocent party. The thousands of Americans working at manufacturing facilities would be suffering the repercussions.

This bill would make tracking the purchase of such items as flashlights, sights, straps, rubber grips, scopes, optics, tripods, *powder horns*, *bayonets*, *ramrods (antique firearms)* and any other "firearm related product" a person could choose to attach to their firearm mandatory. The list of items a person could attach to their firearm limitless and could be construed to include screws, bolts, swivels etc. The potential for items to be deemed a nuisance is unfathomable.

This bill would also make the normal maintenance and upkeep of a firearm subject to being deemed unlawful as it is normal for a person to change out sights, grips, optics, slings, etc., make repairs to and switch out newer improved items.

For these reasons I urge you to respond with an UNFAVORABLE report.

Brenda Scarborough

7117 Olivia Rd.

Baltimore MD 21220

443-621-0494

Brent Amsbaugh SB113 Testimony.pdf

Uploaded by: Brent Amsbaugh

Position: UNF

Brent Amsbaugh

SB0113 Written testimony.

Whoever wrote this bill is either too much of an ignoramus to understand that this goes against Federal law or is willfully ignoring it. Where to begin? It is unconstitutionally vague. There are so many loopholes that you can fit the port of Baltimore in this bill. It is clear to anyone with common sense and a shred of education that this bill flies in the face of existing federal law. This is clearly an attempt to negate the Protection of Lawful Commerce in Arms Act, or PLCAA.

I urge you not to vote for this atrocious bill and I urge Senator Waldstreicher to rescind it immediately. This is flat out tyrannical overreach that seeks to strip Maryland citizens of the ability to purchase firearms and exercise our constitutionally protected **right** to keep and bear arms. Such vagueness is particularly intolerable because this Bill affects the exercise of rights under the Second Amendment to the Constitution. If you are such a tyrant that you cannot stand to allow the people to freely exercise our rights, then get out of politics. This does nothing to prevent crime, but criminalize those that believe in the second amendment.

My2AmendmantRightsLetter.pdf

Uploaded by: Bryan Coleman

Position: UNF

2/6/2023

To Whom It May Concern,

This is my written testimony this February 6, 2023. My name is Bryan Darrick Coleman and I would like to discuss my dissatisfaction on several Gun Bills. These bills are numbered as follows...SB 0001, SB 0086, SB 0113/HB 0259 and SB 0018. These bills should not even be considered, as they infringe upon our Second Amendment Rights! They add fuel to the fire of the criminals in our society, who go unscathed by such laws. They spit in the face of justice and mock us...The Law Abiding Citizens, who exercise the freedoms set forth by our forefathers. How can these laws do anything, but benefit the hoodlum, the murderer, the rapist, the snipers, the Drug Dealers... and such who stain our society with their foul stench! If you remove these Firearms from our hands or limit our movements, as to when and where we can and can't go, Gentleman and Ladies, you leave us naked, you leave us unprotected, you leave all those who would seek the safety of another Law Abiding Citizen in a Danger Zone, one can only imagine the demise of a Knight without his armor, thrust into a battle. Death or serious injury would definitely run rampant and lawlessness would abound at a rate so high, recovery would be a distant thought of coulda shoulda. Not only this situation, but you will strip away the avid Gun Sportsmen from his leisure. The hobbyist and collector would also be ruled out. Do understand that guns don't kill people, it's the criminal element that has been the problem all along. I know that if these laws went into full effect, there would still be Mass Shootings, Rapes, Murders, Drug Dealings and such...and you will have accomplished...NOTHING! No deterrents or declines in these crimes, but an escalation never seen before, gradual or out right forthcoming. What is a country, state or district that arms its criminals, yet takes away firearms from its Law Abiding Citizens? We stand as the Law Abiding Citizens ready to protect ourselves, our brothers and even our country from this disease I call crime. Throw these bills in the trash where they should be! I am thanking all in favor of our Second Amendment Rights in representation today! Thank you for your time and attention.

IN DEO SPERAMUS!

Bryan Darrick Coleman

SB113TestimonyPDF.pdf

Uploaded by: charles Knaggs

Position: UNF

Charles Knaggs
35296 Golf Course Drive
Mechanicsville, MD 20659
c-knaggs@hotmail.com
301-643-3285

Senate Bill 113
Position: OPOSE

This bill would hold liable firearms dealers for the actions of an individual they have no control over. Everyone is created with free will and chooses his/her own actions, holding a firearms dealer or manufacturer accountable for those actions is unjust. Why is there no similar bill for the automobile industry? Should a person be able to sue a dealership civilly for an accident due to driver error of a vehicle they sold the errant driver? This as a blatant attempt to shut down the firearms industry in the state of Maryland and would ultimately harm many hundreds of small businesses across our great state.

Please withdraw Senate Bill 113

Thanks,

A handwritten signature in black ink, appearing to read 'Charles Knaggs', written in a cursive style.

Charles Knaggs

SB113 Opposition Letter.pdf

Uploaded by: D.J. Spiker

Position: UNF

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

February 7, 2023

Chairman William C. Smith Jr.

90 State Circle

Annapolis, Maryland, 21401

Dear Chairman Smith:

On behalf of our members in Maryland, I would like to communicate our strong opposition to Senate Bill SB113.

SB 113 provides,

(A) A FIREARM INDUSTRY MEMBER MAY NOT KNOWINGLY OR RECKLESSLY CREATE, MAINTAIN, OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS:

- (1) UNLAWFUL; OR
- (2) **UNREASONABLE** UNDER THE TOTALITY OF THE CIRCUMSTANCES

(B) A FIREARM INDUSTRY MEMBER SHALL ESTABLISH AND IMPLEMENT **REASONABLE CONTROLS** REGARDING THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, MARKETING, POSSESSION, AND USE OF THE FIREARM INDUSTRY MEMBER'S FIREARM-RELATED PRODUCTS.

Under this bill members of the firearm industry would be required to implement "reasonable controls" and not act in an "unreasonable" manner or face a civil liability.

Neither of these terms is adequately defined as to allow for firearm industry members to understand what is expected of them. Only "reasonable controls" is defined at all, and the legislation provides no guidance.

(G) "REASONABLE CONTROLS" MEANS POLICIES THAT ARE DESIGNED:

- (1) TO PREVENT THE SALE OR DISTRIBUTION OF A FIREARM-RELATED PRODUCT

TO:

- (I) A STRAW PURCHASER
- (II) A FIREARM TRAFFICKER;
- (III) A PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW; AND
- (IV) A PERSON WHO THE FIREARM INDUSTRY MEMBER HAS REASONABLE CAUSE TO BELIEVE INTENDS TO USE THE FIREARM-RELATED PRODUCT:
 1. TO COMMIT A CRIME; OR
 2. TO CAUSE HARM TO THE PERSON OR ANOTHER PERSON;

NATIONAL RIFLE ASSOCIATION OF AMERICA

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

(2) TO PREVENT THE LOSS OR THEFT OF A FIREARM-RELATED PRODUCT FROM A FIREARM INDUSTRY MEMBER; AND

(3) TO ENSURE THAT THE FIREARM INDUSTRY MEMBER COMPLIES WITH ALL PROVISIONS OF STATE AND FEDERAL LAW AND DOES NOT OTHERWISE PROMOTE THE UNLAWFUL SALE, MANUFACTURE, IMPORTATION, MARKETING, POSSESSION, OR USE OF A FIREARM-RELATED PRODUCT.

Note the highlighted language. Whatever these “reasonable controls” are, they are in addition to the immense regulatory compliance that state and federal law already require.

Of course, Maryland could try to enact further policies regulating how gun dealers operate. But trying to get firearm industry members to implement whatever “reasonable controls” means is not the point of this legislation.

The point of this legislation is to create an impossibly vague standard for firearm industry member conduct. Then, plaintiffs can drag the firearm industry member into court through the PLCAA exception by claiming the industry member did not comply with the unknowable “reasonable controls” requirement. At minimum the industry member will be harmed by the legal fees until the situation is resolved and at worst they’ll be bankrupted by bogus damages.

In a complete perversion of tort law, SB 113 even makes clear the following:

(D) NOTWITHSTANDING ANY INTERVENING ACTIONS, INCLUDING A CRIMINAL ACTION BY A THIRD PARTY, THE CONDUCT OF A FIREARM INDUSTRY MEMBER IS A PROXIMATE CAUSE OF HARM TO THE PUBLIC IF THE HARM IS A REASONABLY FORESEEABLE EFFECT OF THE CONDUCT

For the foregoing reasons NRA opposes Senate Bill 86.

Sincerely,

D.J. Spiker
Maryland State Director
NRA-ILA

CC: Senator Jeff Waldstreicher
Senator Jill P. Carter
Senator William G. Folden
Senator Mary-Dulany James

NATIONAL RIFLE ASSOCIATION OF AMERICA

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

Senator Mike McKay
Senator C. Anthony Muse
Senator Charles E. Sydnor III
Senator Chris West

SB 0013 Hold Firearm Co responsible.pdf

Uploaded by: Dana Schulze

Position: UNF

HB 0013

I oppose HB 0013 because this impossible bill holds companies responsible for actions of individuals completely unrelated to the intent of the manufacturer. This is the same thing as condemning a company for failing grades of students who use pencils to take a test and then said student fails the test. The pencil company is not responsible for the test grade of the student using the pencil.

Stop infringing upon American's rights to possess and bear arms. As a combat veteran, I fought and my friends died to protect and defend the US Constitution from enemies both foreign and domestic. You elected officials are sworn to protect the US Constitution. Stop

SB0113.pdf

Uploaded by: Derek West

Position: UNF

SB0113 Gun Industry Accountability Act of 2023

Unfavorable report

As written violates PLCAA.

Written Testimony.pdf

Uploaded by: Douglass Palmer

Position: UNF

Written Testimony:

Douglass R Palmer
14001 Molly Berry Road
Brandywine, MD 20613
814-207-6052

Date: February 6, 2023

I am writing in regards to the follow bills and would like to make the following statements on each as noted:

SB001:

I am in opposition of this bill in its entirety. I would like to believe that the Maryland Legislature is making policy based on sound evidence and facts. The limiting and restricting of possession of firearms by permitted carriers is not based on either. Unless one is very meticulous cherry-picking studies performed on the subject there is no basis in facts to limit law abiding citizen from defending themselves outside their homes. The criminal rate of wear and carry permit holders is one of the lowest rates among any groups of people nationwide. The crime **rate** of gun permit holders is lower than that of off duty police officers. There is no data that even suggest that restrictions on permit holders will affect crime rates. The reality is that the states that have the most restrictive gun laws also have the highest violent crime rates. Despite Maryland having some the most stringent gun laws in the nation and, up until July of 2022, an almost impossible means to get a wear can carry permit we still have some of the highest gun violence in the nation. Baltimore is either first or second in the nation in gun violence currently. There is no correlation or connection between lower rates of gun violence and increase restrictions on a person's ability to legally wear and carry a firearm for personal protection. The overwhelming majority of locations that gun violence and mass shooting take place are in areas that either guns are entirely prohibited or that the laws make having a gun so burdensome that no one, except those committing crimes, have them. The statical reality is, the more "gun free" zones there are, the more targets murderous lunatics have to commit atrocities. And they do exactly that, they attack the area that are gun free because they are coward and know that they will not be stopped until they have killed as many as possible. The SCOTUS ruling clearly denotes that one has a right to protect themselves outside of their homes. Its sad time in this country when it takes a SCOTUS ruling to affirm that right, but it did. I hope that this legislative session also affirms that constitutional right, instead of choosing to act out of ignorance and emotion.

SB0086:

I am in opposition of this bill in its entirety. The constitution grants **all** full right of citizens at the age of 18. Owning a firearm and purchasing the ammunition for the firearm is a constitutional right. Unless we decide to change the legal age of adulthood, we should not be taking away constitutional rights from 18-20 year old citizens. If a person is legally an mentally able to choose their leadership (able to vote), they are also legal and mentally able to exercise the right of owning a firearm.

SB0113:

I am in opposition of this bill in its entirety. We need to hold the people who commit a crime responsible for their actions. We don't blame a car manufacture when someone purposely uses a vehicle to harm or kill someone, but we are somehow we are trying to justify doing exactly that with firearm producers. This law is a subjective law that will allow people to go after third parties who are not a party to a crime in an effort to make purchasing a firearm more difficult. Anyone trying to sell this bill as anything other than an end run around the Constitution and federal law is not be intellectually honest with themselves or others.

SB0159:

I believe this bill as written could be abused. If it is solely construction to be **entirely voluntary** and would requiring an affidavit, then I might support the bill. My fear is that the law enforcement would use this as a tool in criminal plea bargaining. I would hope that the process to restore a persons right after they have voluntary surrendered it is clear and unburdening.

HB0364:

I fully support this bill. Half of the state in the country are now constitutional carry states. The first state became so in 2003. We now have two decades of crime data on the impact of removing the requirement of permits to carry a firearm for your personal protection. Clearly, there is no correlation between the increasing or decreasing of legal firearms possession and crime rates. There have been multiple studies conducted and the best that can be said is that there was no impact on crime rates by making it legal to carry firearm without a permit. There are multiple studies that have inferred that it may actually reduce the crime rates in certain states.

HB0413:

I support this bill. There is no factual or evidentiary basis for denying a legal cannabis user the ability to purchase a firearm. There is absolutely no evidence that a legal cannabis user is more prone to commit violent crime than any other group of people. Denying someone their constitutional right solely based on an arbitrary guideline that is not basis in fact or evidence is wrong.

HB0481:

I am in opposition of this bill in its entirety. I think that any prison sentence upon people that are constitutionally entire to ware and carry a firearm for personal protection is a travesty. Increasing the already overly punitive sentencing is idiotic at best.

PLAW-109publ92.pdf

Uploaded by: Frederick Abt

Position: UNF

Public Law 109–92
109th Congress

An Act

To prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

Oct. 26, 2005
[S. 397]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protection of Lawful Commerce in Arms Act”.

Protection of
Lawful
Commerce in
Arms Act.
15 USC 7901
note.

SEC. 2. FINDINGS; PURPOSES.

15 USC 7901.

(a) **FINDINGS.**—Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(4) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(5) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition products that have been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(6) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation’s laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing

in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(7) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups and others are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(8) The liability actions commenced or contemplated by the Federal Government, States, municipalities, private interest groups and others attempt to use the judicial branch to circumvent the Legislative branch of government to regulate interstate and foreign commerce through judgments and judicial decrees thereby threatening the Separation of Powers doctrine and weakening and undermining important principles of federalism, State sovereignty and comity between the sister States.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

(6) To preserve and protect the Separation of Powers doctrine and important principles of federalism, State sovereignty and comity between sister States.

(7) To exercise congressional power under article IV, section 1 (the Full Faith and Credit Clause) of the United States Constitution.

15 USC 7902.

SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) **DISMISSAL OF PENDING ACTIONS.**—A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought or is currently pending.

SEC. 4. DEFINITIONS.

15 USC 7903.

In this Act:

(1) **ENGAGED IN THE BUSINESS.**—The term “engaged in the business” has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) **MANUFACTURER.**—The term “manufacturer” means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) **PERSON.**—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) **QUALIFIED PRODUCT.**—The term “qualified product” means a firearm (as defined in subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code), including any antique firearm (as defined in section 921(a)(16) of such title), or ammunition (as defined in section 921(a)(17)(A) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) **QUALIFIED CIVIL LIABILITY ACTION.**—

(A) **IN GENERAL.**—The term “qualified civil liability action” means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including—

(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required

to be kept under Federal or State law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of title 18, United States Code;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18 or chapter 53 of title 26, United States Code.

(B) **NEGLIGENT ENTRUSTMENT.**—As used in subparagraph (A)(ii), the term “negligent entrustment” means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) **RULE OF CONSTRUCTION.**—The exceptions enumerated under clauses (i) through (v) of subparagraph (A) shall be construed so as not to be in conflict, and no provision of this Act shall be construed to create a public or private cause of action or remedy.

(D) **MINOR CHILD EXCEPTION.**—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

(6) **SELLER.**—The term “seller” means, with respect to a qualified product—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and

who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17)(A) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level.

(7) STATE.—The term “State” includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term “trade association” means—

(A) any corporation, unincorporated association, federation, business league, professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(B) that is an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(C) 2 or more members of which are manufacturers or sellers of a qualified product.

(9) UNLAWFUL MISUSE.—The term “unlawful misuse” means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the “Child Safety Lock Act of 2005”.

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

“(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

“(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United

Child Safety
Lock Act of 2005.
18 USC 921 note.

18 USC 922 note.

States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

“(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

“(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

“(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

“(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

“(3) LIABILITY FOR USE.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

“(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

“(C) DEFINED TERM.—As used in this paragraph, the term ‘qualified civil liability action’—

“(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

“(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

“(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

“(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.”.

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking “or (f)” and inserting “(f), or (p)”; and

(B) by adding at the end the following:

“(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

“(1) IN GENERAL.—

“(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

“(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

“(ii) subject the licensee to a civil penalty in an amount equal to not more than \$2,500.

“(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

“(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.”.

(3) LIABILITY; EVIDENCE.—

18 USC 922 note.

(A) LIABILITY.—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

18 USC 922 note.

SEC. 6. ARMOR PIERCING AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

“(7) for any person to manufacture or import armor piercing ammunition, unless—

“(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

“(B) the manufacture of such ammunition is for the purpose of exportation; or

“(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

“(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

“(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

“(B) is for the purpose of exportation; or

“(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;”.

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

“(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

“(A) be sentenced to a term of imprisonment of not less than 15 years; and

“(B) if death results from the use of such ammunition—

“(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

“(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.”.

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

Approved October 26, 2005.

LEGISLATIVE HISTORY—S. 397:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 27-29, considered and passed Senate.

Oct. 20, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Oct. 26, Presidential statement.



SB 0113.pdf

Uploaded by: Galen Muhammad

Position: UNF

SB 0113

While I am providing testimony on my own behalf, I am the president of Onyx Sharpshooters, the Prince George's County chapter of the National African American Gun Association (NAAGA). I am also the State Director for Maryland and Washington, DC for said national organization.

First and foremost, this bill is prelude to more frivolous lawsuits. The last thing Maryland needs is more frivolous lawsuits.

Unless the firearm malfunctions, there is no basis for suing the manufacturer. There is also no basis for suing the sales entity that sold that firearm. Before the person took possession of said firearm, they passed a background check. What they did with said firearm has nothing to do with the manufacturer or the sales entity and neither of them has any control over what said owner does with said firearm after their purchase is complete. Similarly, the manufacturers and sales entity of cars have no control over how their products are used after the purchase of their product is completed. No entity can rightfully sue the manufacturer and sales entity of a car because the owner chooses to use their car to drive onto a crowded sidewalk.

Lawmakers were elected to make laws and govern based upon the facts, not feelings or emotions. While you are free to act upon feelings and emotions in your own personal lives, these feelings and emotions **should not** determine how you view the facts of this situation.

Ian Rus Maxwell SB113 HB259 Testimony MGA 2023.pdf

Uploaded by: Ian Rus Maxwell

Position: UNF

SB 113/HB 259 - Civil Actions - Public Nuisances - Firearm Industry Members (Gun Industry
Accountability Act of 2023

I am writing to oppose, and urge an unfavorable report on, SB159/HB162.

As is well known, the proposed law is in opposition to current Federal law and, should it be enacted, it will be overturned once it is challenged. The proposed law no doubt originates from the myth “that only gun makers are not responsible for the damage their products do.” To that I will reply Pfizer, Moderna, and Johnson and Johnson. If the Maryland General Assembly is serious about ignoring Federal law and holding companies accountable for the damage they have done to Marylanders, Americans and, indeed all human kind, then they will start with Pfizer, Moderna, and Johnson and Johnson.

Sincerely,

Ian Rus Maxwell

18307 Crestmount Road

Boyd MD 20841

ianrus.maxwell@gmail.com

301.325.7152

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Uploaded by: Jason du Pont

Position: UNF

February 6th, 2023

Dear members of the Maryland General Assembly

I am writing to inform you that I OPPOSE the following bills;

- SB0001 (Gun Safety Act of 2023)
- SB0086 (Raise the Age Act of 2023)
- SB0013 (Gun Industry Accountability Act of (2023))

These bills violate the 2nd Amendment rights of Maryland citizens based on the ruling in the US Supreme Court of NY VS BRUEN. In regards to SB0001, individuals carrying firearms that have been issued permits, CANNOT be restricted by "sensitive areas", based on the recent New Jersey's Judge's ruling in the KENDRICK VS PLATKIN case.

I am a MD Wear-and-Carry permit holder. I have submitted to photos, fingerprints, state and federal background checks, provided references and completed the required training. I have also paid hundreds of dollars in fees related to the process mentioned above. I have also spent thousands on a new firearm, holsters, ammunition and additional training to become proficient to safely carry a firearm.

SB0001 will render my permit to carry useless, and will have WRONGFULLY taxed me of money under false pretenses. I have been vetted by the aforementioned process and paid my money, and have no recourse for a refund.

The 2nd Amendment shall not be infringed!

Sincerely,

Jason du Pont
13419 Blenfield Rd
Phoenix,

02-07-2023_Attachments.pdf

Uploaded by: John Josselyn

Position: UNF

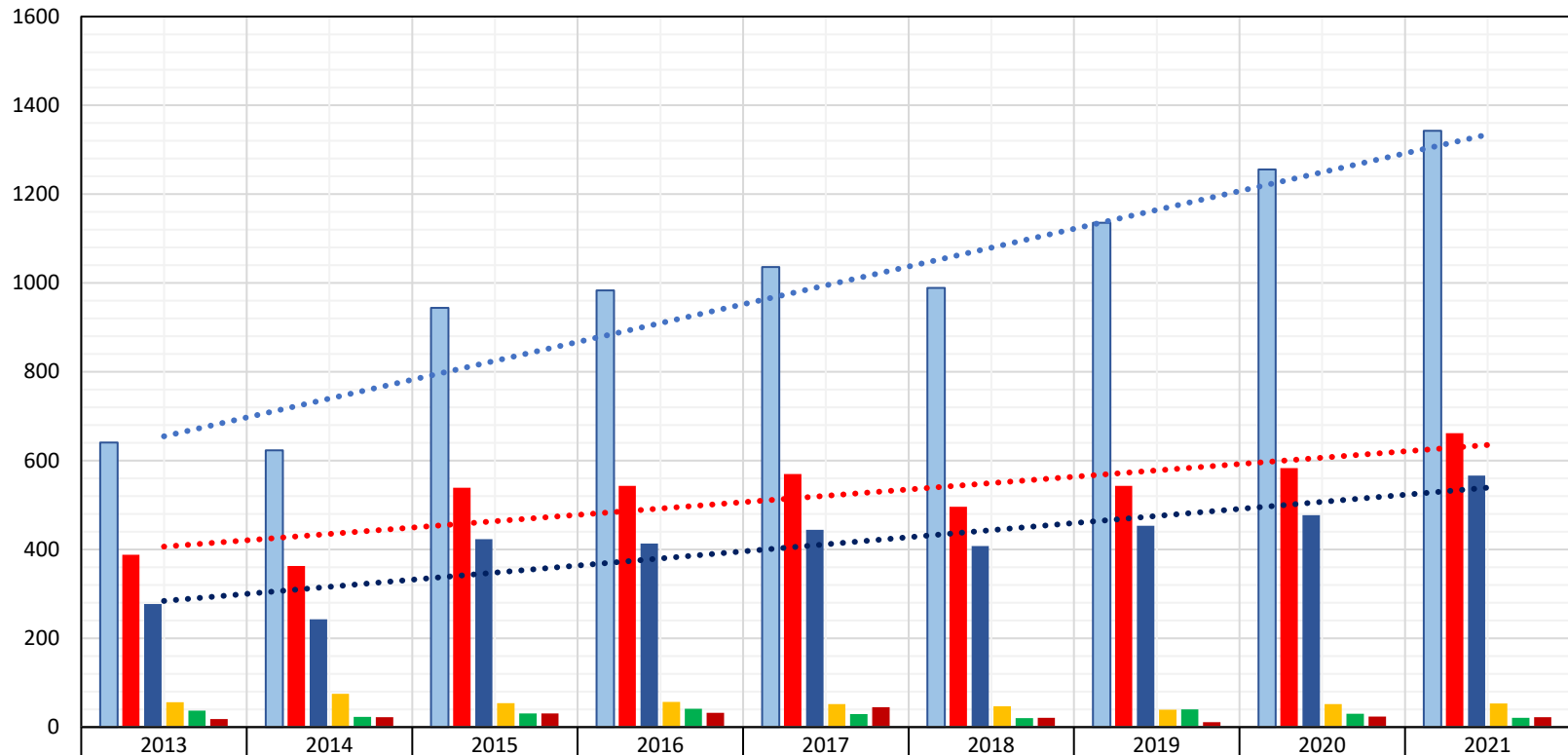
2A Maryland - Maryland Gun Laws 1988-2022

Session	Bill Number	Bill Title
1988	HB1131	Handguns - Prohibition of Manufacture and Sale (Saturday Night Special Ban)
1989	SB0531	Firearms - Assault Weapons
1992	SB0043	Firearms - Access by Minors
1993	SB0330	Gun Shows - Sale, Trade or Transfer of Regulated Firearms
1994	HB0595?	Storehouse Breaking - Penalty
1994	SB0619	Assault Pistol Ban
1996	HB0297	Maryland Gun Violence Act of 1996
1996	HB1254	Education - Expulsion for Bringing a Firearm onto School Property
1999	HB0907	School Safety Act of 1999
2000	SB0211	Responsible Gun Safety Act of 2000
2001	HB0305	Bulletproof Body Armor - Prohibitions
2002	HB1272	Criminal Justice Information System - Criminal History Records Check
2009	HB0296	Family Law - Protective Orders - Surrender of Firearms
2009	HB0302	Family Law - Temporary Protective Orders - Surrender of Firearms
2011	HB0241	Criminal Law - Restrictions Against Use and Possession of Firearms
2011	HB0519	Firearms - Violation of Specified Prohibitions - Ammunition and Penalty
2012	HB0209	Public Safety - Possession of Firearms - Crimes Committed in Other States
2012	HB0618	Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms
2013	SB0281	Firearms Safety Act of 2013
2018	HB1029	Criminal Law - Wearing, Carrying or Transporting Loaded Handgun - Subsequent Offender
2018	HB1302	Public Safety - Extreme Risk Protective Orders
2018	HB1646	Criminal Procedure - Firearms Transfer
2018	SB0707	Criminal Law - Firearm Crimes - Rapid Fire Trigger Activators
2019	SB0346	Public Safety - Regulated Firearms - Prohibition of Loans
2020	HB1629	Office of the Attorney General - Firearm Crime, Injuries, Fatalities, and Crime Firearms - Study
2021	HB1186	Office of the Attorney General - Firearm Crime, Injuries, Fatalities, and Crime Firearms - Study Extension
2022	HB0425	Public Safety - Untraceable Firearms (SB0387)
2022	HB1021	Public Safety – Licensed Firearms Dealers – Security Requirements

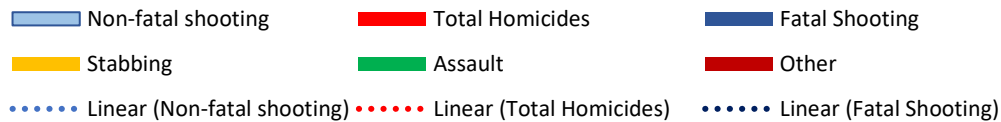
2A Maryland

Maryland Homicides, Non-fatal Shootings & Trends 2013-2021

Data Source: Maryland Coordination & Analysis Center (MCAC)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Non-fatal shooting	641	623	944	983	1036	989	1136	1256	1343
Total Homicides	388	363	539	543	570	496	543	583	662
Fatal Shooting	277	243	423	413	444	408	453	477	566
Stabbing	56	75	54	57	52	47	39	52	53
Assault	37	23	31	41	29	20	40	30	21
Other	18	22	31	32	45	21	11	24	22



2A Maryland - SB 1, SB 86, SB 113, SB 159

2A MARYLAND
Homicide Victim / Offender Demographics
Data Source: Maryland UCR 2011-2020

Victim - Race	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
White	68	68	69	71	96	85	102	75	88	97
Black	322	301	318	283	449	446	457	402	451	472
Asian	5	3	0	5	4	2	9	5	3	3
American Indian	0	0	0	2	0	0	0	1	0	1
Unknown	3	0	0	2	4	1	1	6	1	0
Total	398	372	387	363	553	534	569	489	543	573
Per Capita Rate	6.8	6.3	6.5	6.1	9.2	8.9	9.4	8.1	9.0	9.5

Victim - Race	2011-2020 Total	Yearly Avg - 10 Years	Ratio to White
White	819	82	1.00
Black	3901	390	4.76
Asian	39	4	0.05
American Indian	4	0	0.00
Unknown	18	2	0.02
Total	4781	478	
Per Capita Rate		7.98	

Offender - Race	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
White	65	44	50	74	85	64	79	58	71	56
Black	258	271	260	186	242	190	305	266	268	310
Asian	1	0	2	2	2	6	2	2	1	2
American Indian	0	0	0	0	0	0	0	1	0	3
Unknown	164	159	158	159	321	339	288	224	285	282
Total	488	474	470	421	650	599	674	551	625	653

Offender - Race	2011-2020 Total	Yearly Average - 10 Years	Ratio to White
White	646	65	1.00
Black	2556	256	3.96
Asian	20	2	0.03
American Indian	4	0	0.01
Unknown	2379	238	3.68
Total	5605	561	

Victim Age Range	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Under 18	32	21	26	30	43	27	43	27	29	30
18-21	57	65	65	40	69	81	64	52	79	89
22-29	130	104	115	110	184	179	194	157	172	165
30 and over	179	182	181	183	257	244	266	251	262	290
Unknown	0	0	0	0	0	3	2	2	2	1

Victim Age Range	2011-2020 Total	Yearly Average - 10 Years
Under 18	308	31
18-21	661	66
22-29	1510	151
30 and over	2295	230
Unknown	10	1

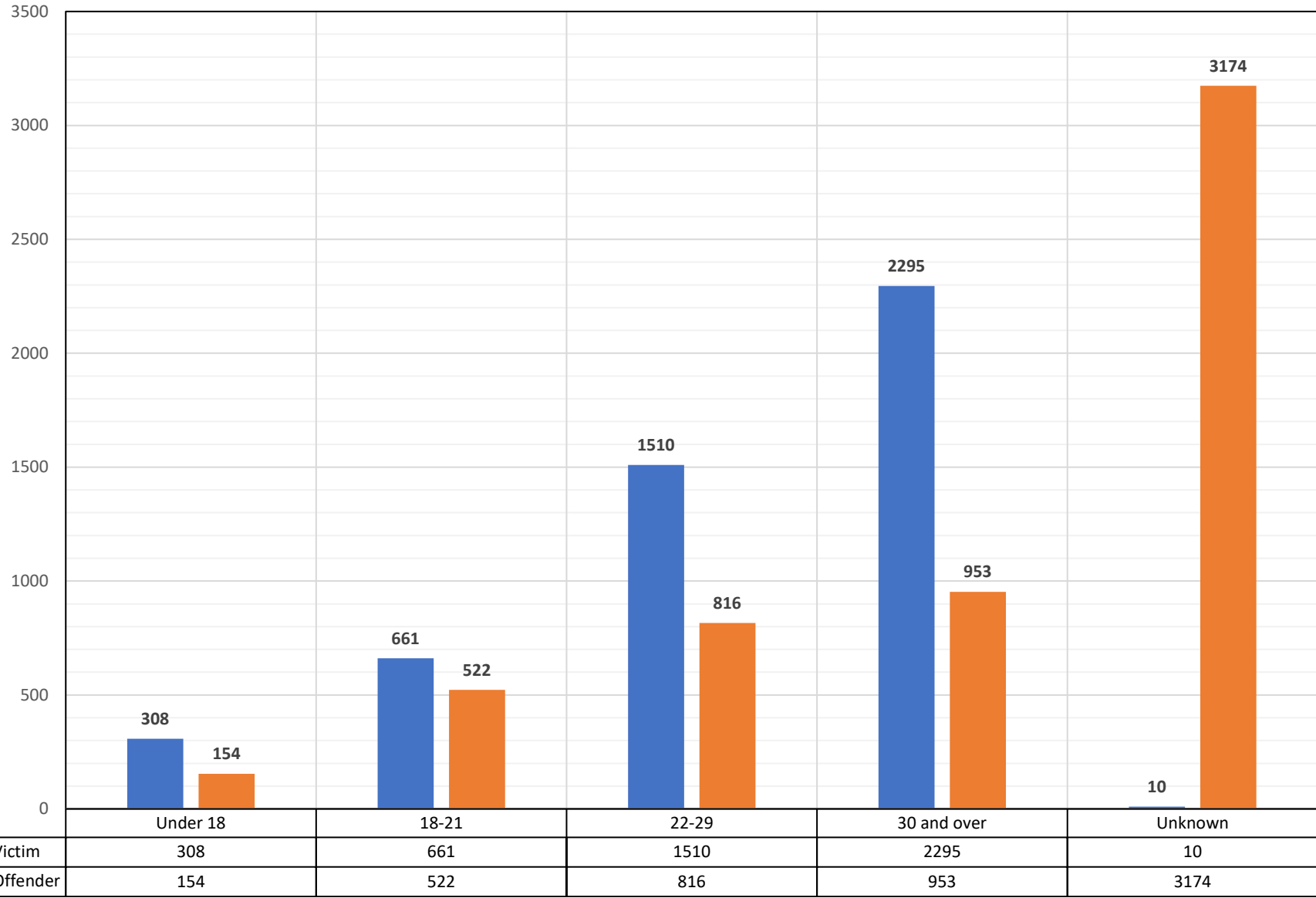
Offender Age Range	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Under 18	12	15	10	16	16	16	17	20	14	18
18-21	56	57	57	38	53	55	64	41	48	53
22-29	81	70	69	76	100	90	102	64	81	83
30 and over	99	72	83	97	103	91	107	99	91	111
Unknown	240	260	251	194	378	347	384	327	394	399

Offender Age Range	2011-2020 Total	Yearly Average - 10 Years
Under 18	154	15
18-21	522	52
22-29	816	82
30 and over	953	95
Unknown	3174	317

Population	Percent
White	55.54%
Black	29.89%
Asian	6.28%
American Indian	0.28%

2A Maryland

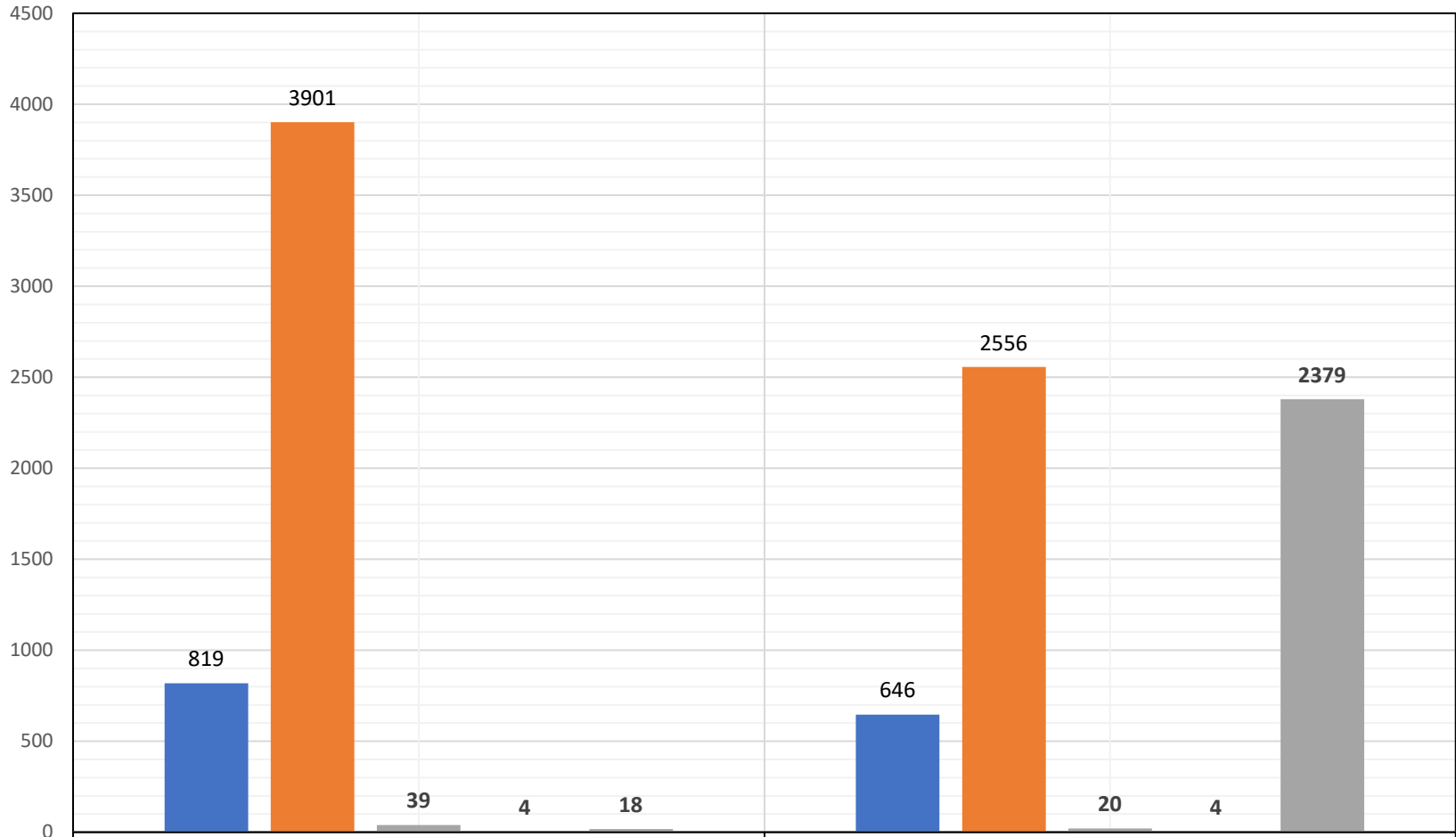
Homicide - Victims & Offenders by Age - Source: MSP Uniform Crime Reports 2011-2020



■ Victim ■ Offender

2A Maryland

Homicide - Victims & Offenders by Race - Source: MSP Uniform Crime Reports 2011-2020

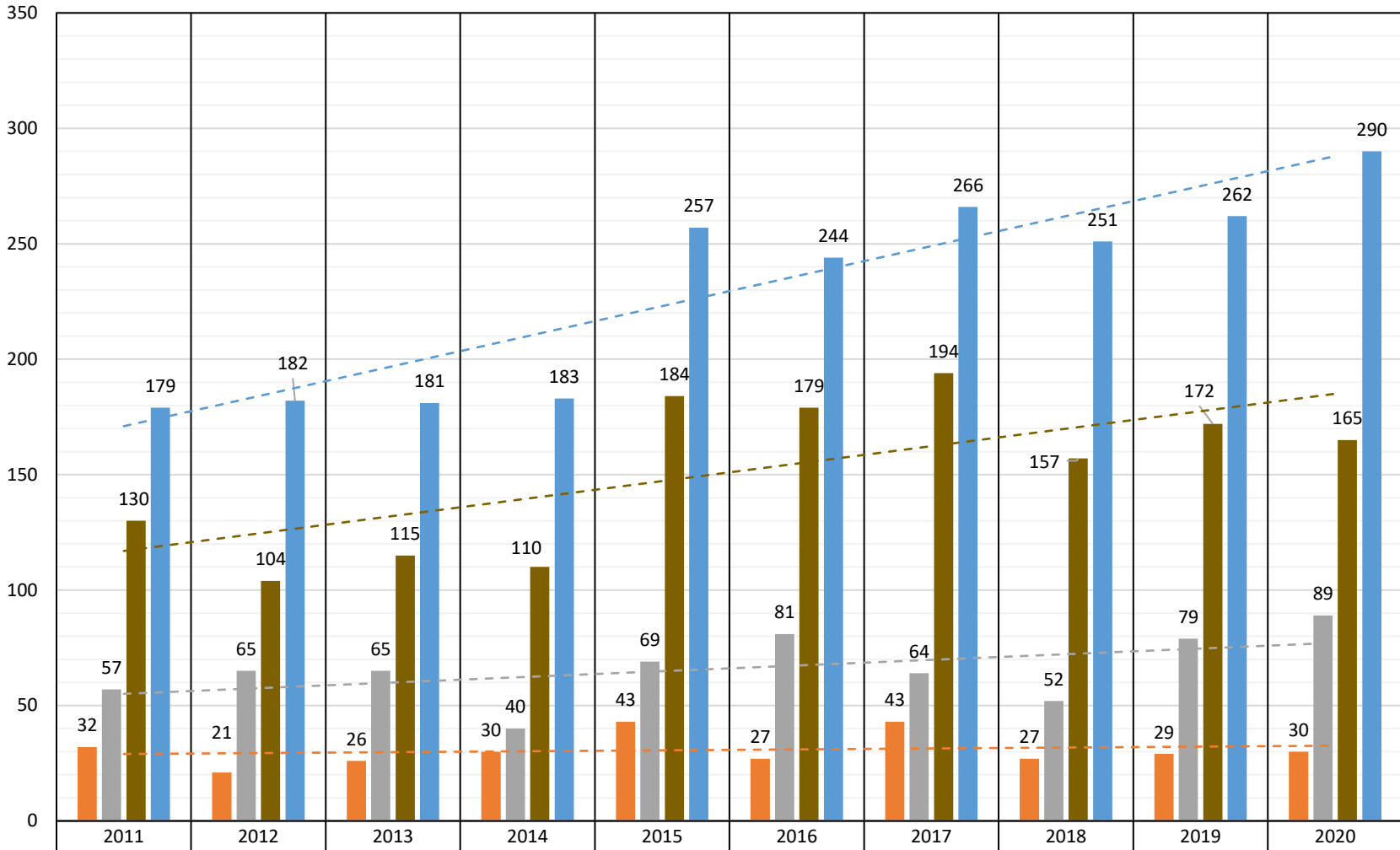


White	819	646
Black	3901	2556
Asian	39	20
American Indian	4	4
Unknown	18	2379

White Black Asian American Indian Unknown

2A Maryland

Homicide - Victims by Year & Age - Source: MSP Uniform Crime Reports 2011-2020

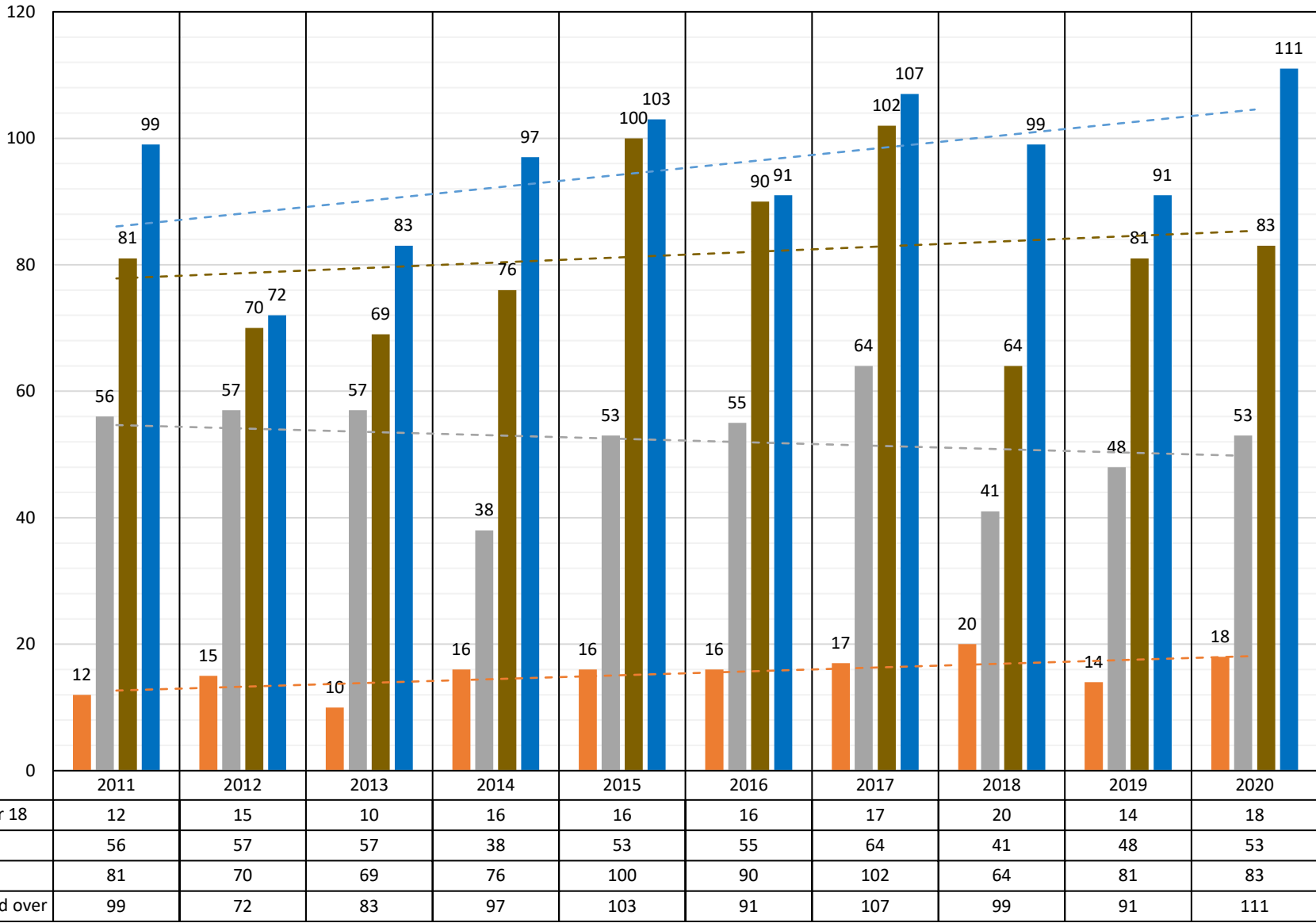


Under 18	32	21	26	30	43	27	43	27	29	30
18-21	57	65	65	40	69	81	64	52	79	89
22-29	130	104	115	110	184	179	194	157	172	165
30 and over	179	182	181	183	257	244	266	251	262	290

■ Under 18
 ■ 18-21
 ■ 22-29
 ■ 30 and over
 - - - Linear (Under 18)
 - - - Linear (18-21)
 - - - Linear (22-29)
 - - - Linear (30 and over)

2A Maryland

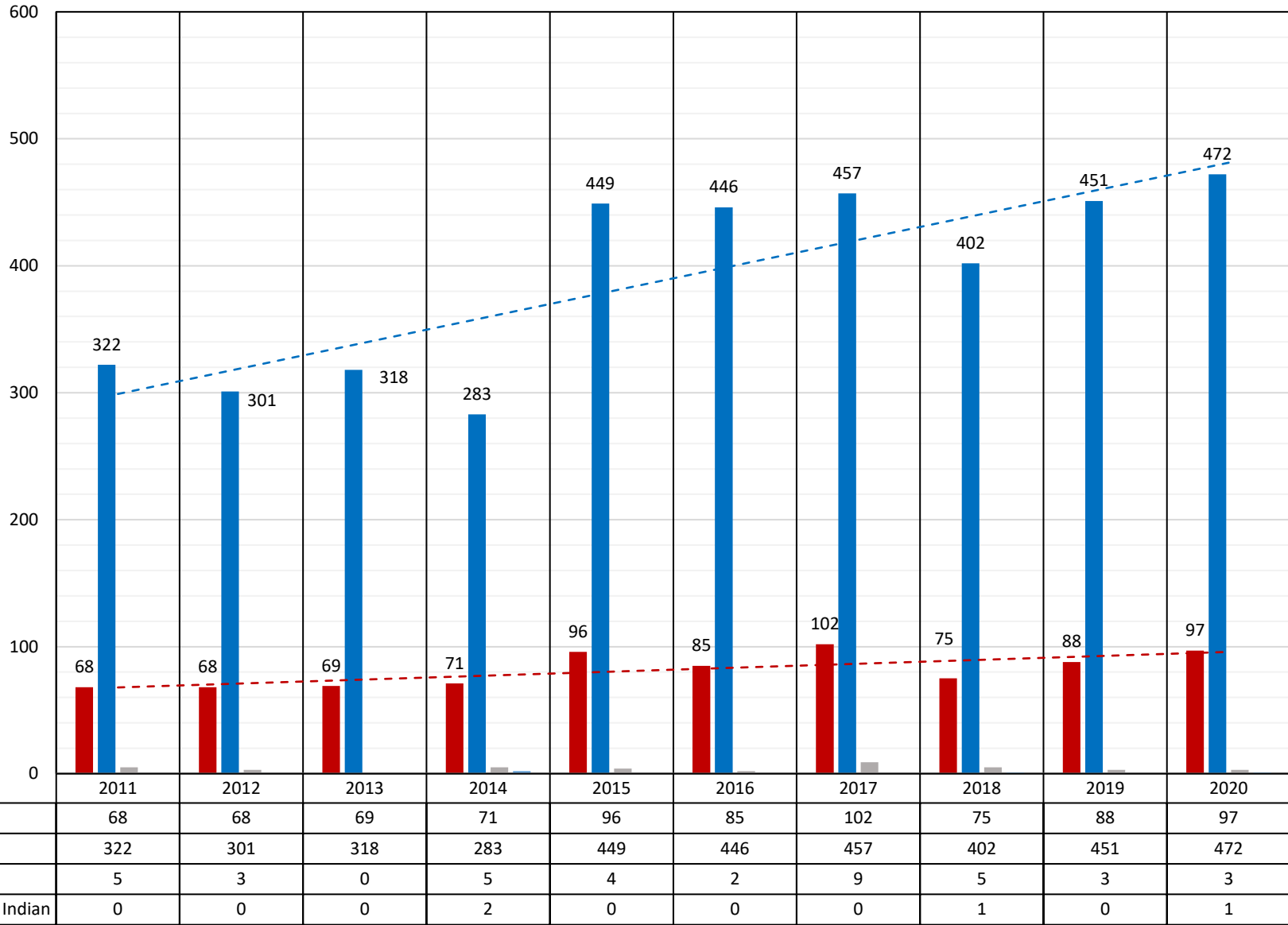
Homicide - Offenders by Year & Age - Source: MSP Uniform Crime Reports 2011-2020



■ Under 18
 ■ 18-21
 ■ 22-29
 ■ 30 and over
 - - - Linear (Under 18)
 - - - Linear (18-21)
 - - - Linear (22-29)
 - - - Linear (30 and over)

2A Maryland

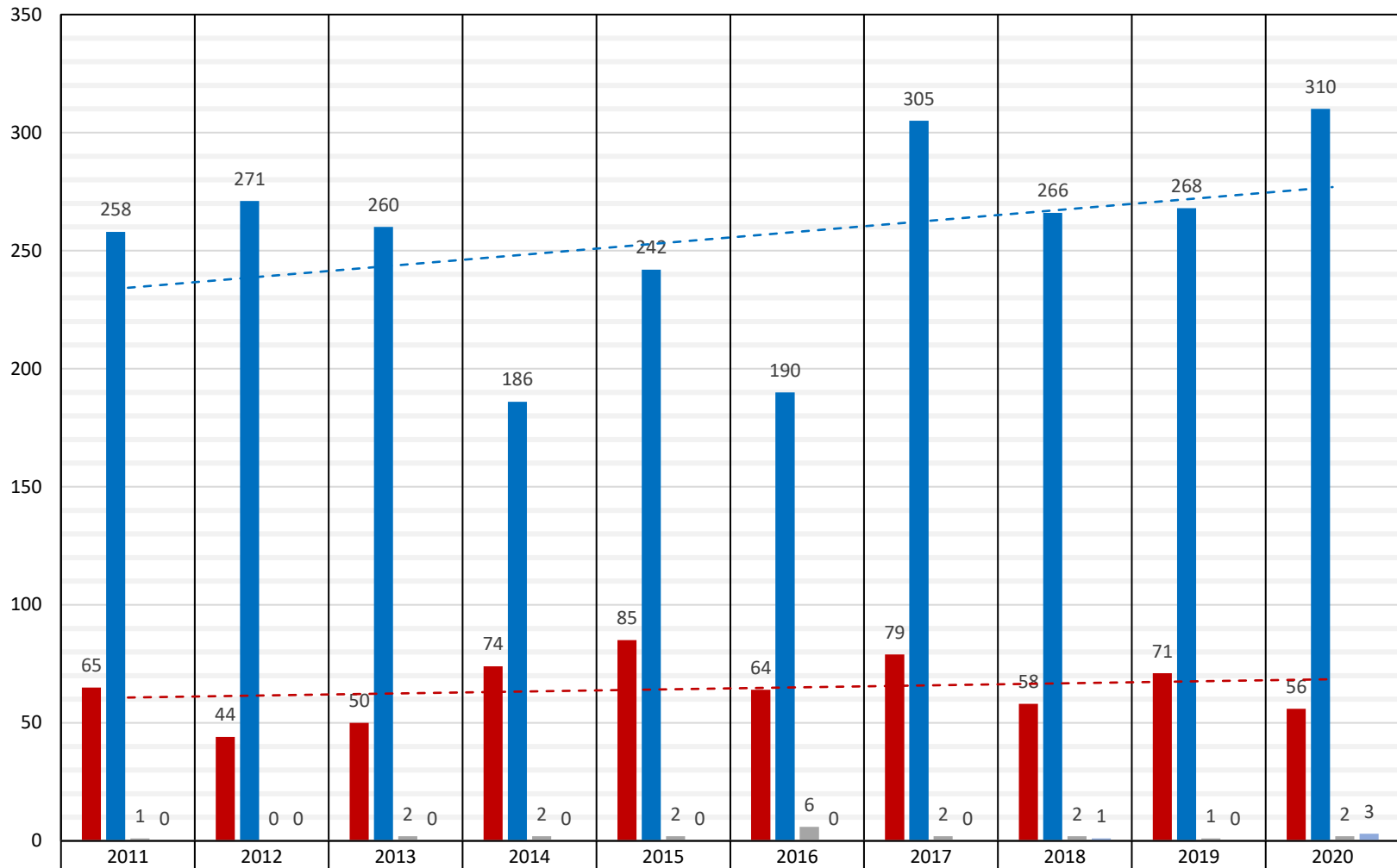
Homicide - Victims by Year & Race - Source: MSP Uniform Crime Reports 2011-2020



■ White
 ■ Black
 ■ Asian
 ■ American Indian
 - - - Linear (White)
 - - - Linear (Black)

2A Maryland

Homicide - Offenders by Year & Race - Source: MSP Uniform Crime Reports 2011-2020

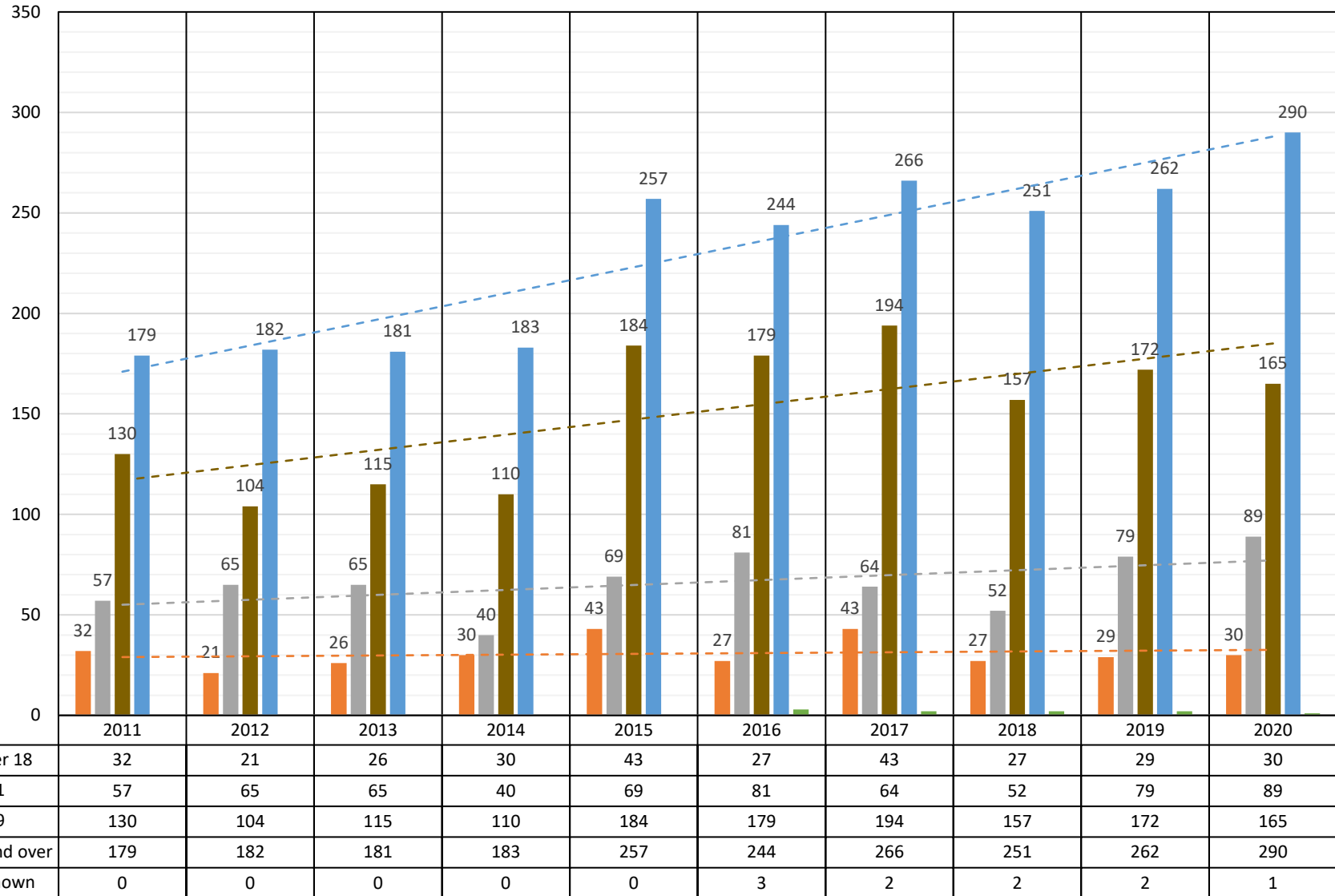


White	65	44	50	74	85	64	79	58	71	56
Black	258	271	260	186	242	190	305	266	268	310
Asian	1	0	2	2	2	6	2	2	1	2
American Indian	0	0	0	0	0	0	0	1	0	3

■ White
 ■ Black
 ■ Asian
 ■ American Indian
 - - - Linear (White)
 - - - Linear (Black)

2A Maryland

Homicide - Victims by Year & Age - Source: MSP Uniform Crime Reports 2011-2020

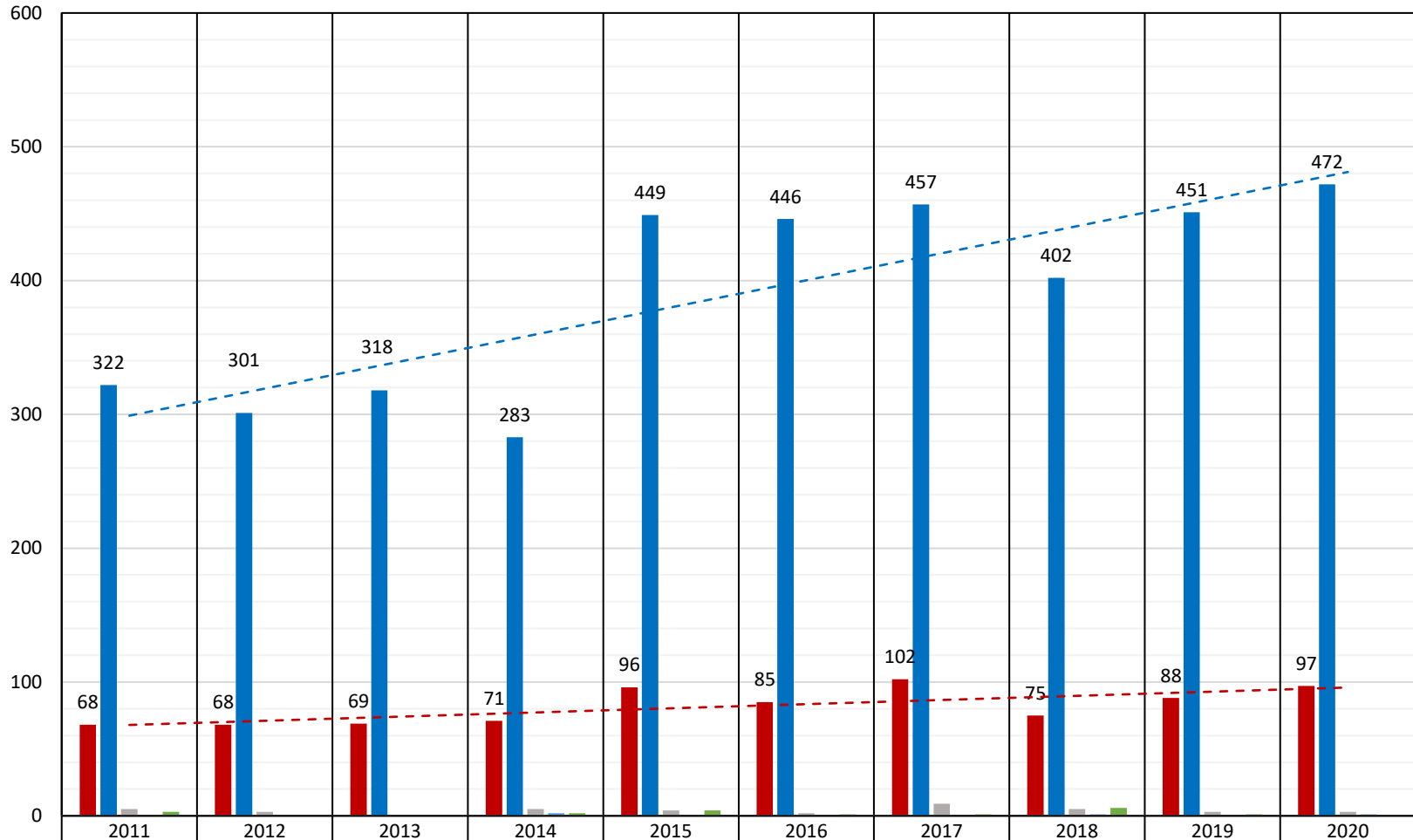


Under 18	32	21	26	30	43	27	43	27	29	30
18-21	57	65	65	40	69	81	64	52	79	89
22-29	130	104	115	110	184	179	194	157	172	165
30 and over	179	182	181	183	257	244	266	251	262	290
Unknown	0	0	0	0	0	3	2	2	2	1

■ Under 18 ■ 18-21 ■ 22-29 ■ 30 and over ■ Unknown
- - - Linear (Under 18) - - - Linear (18-21) - - - Linear (22-29) - - - Linear (30 and over)

2A Maryland

Homicide - Victims by Year & Race - Source: MSP Uniform Crime Reports 2011-2020

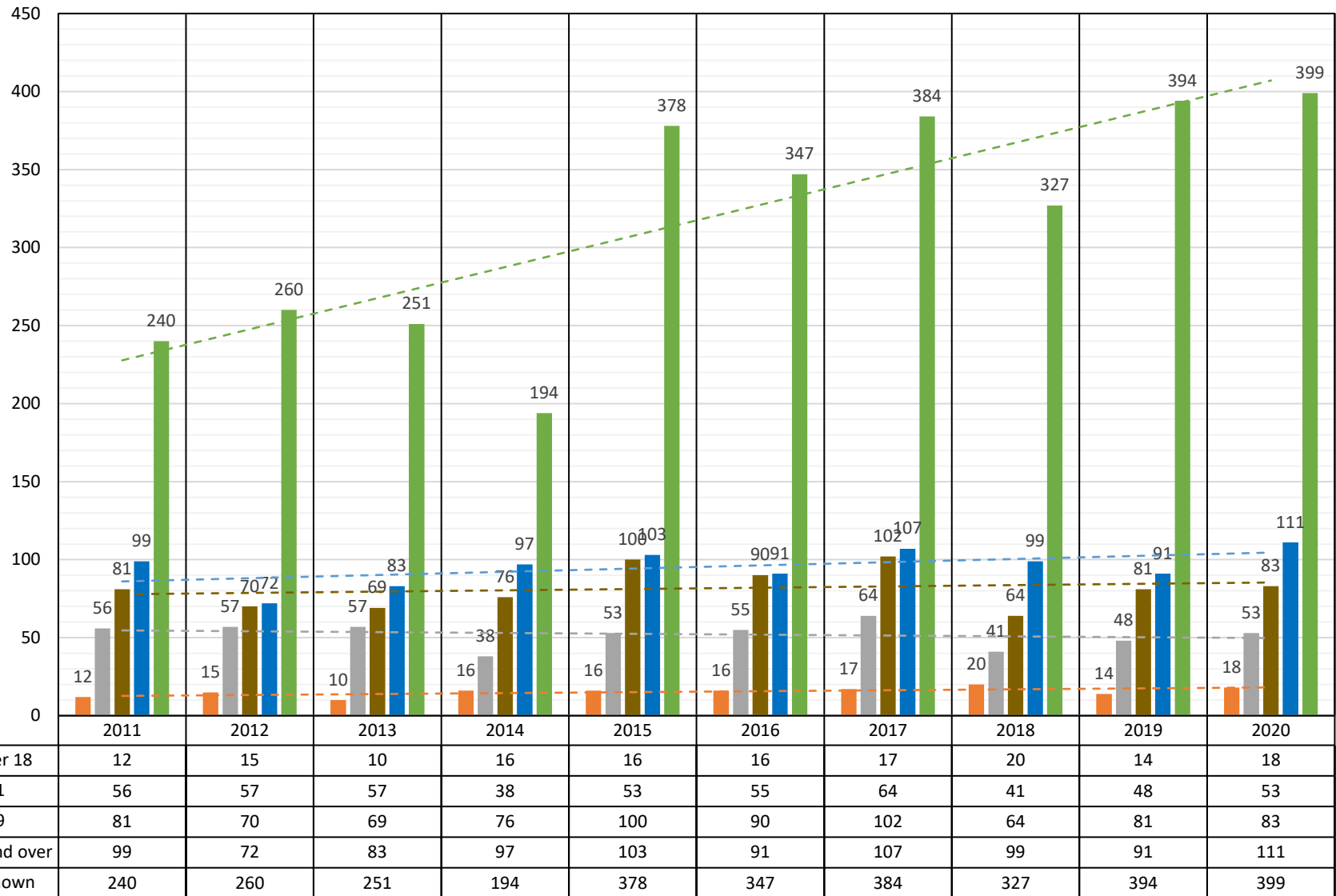


White	68	68	69	71	96	85	102	75	88	97
Black	322	301	318	283	449	446	457	402	451	472
Asian	5	3	0	5	4	2	9	5	3	3
American Indian	0	0	0	2	0	0	0	1	0	1
Unknown	3	0	0	2	4	1	1	6	1	0

■ White
 ■ Black
 ■ Asian
 ■ American Indian
 ■ Unknown
 - - - Linear (White)
 - - - Linear (Black)

2A Maryland

Homicide - Offenders by Year & Age - Source: MSP Uniform Crime Reports 2011-2020

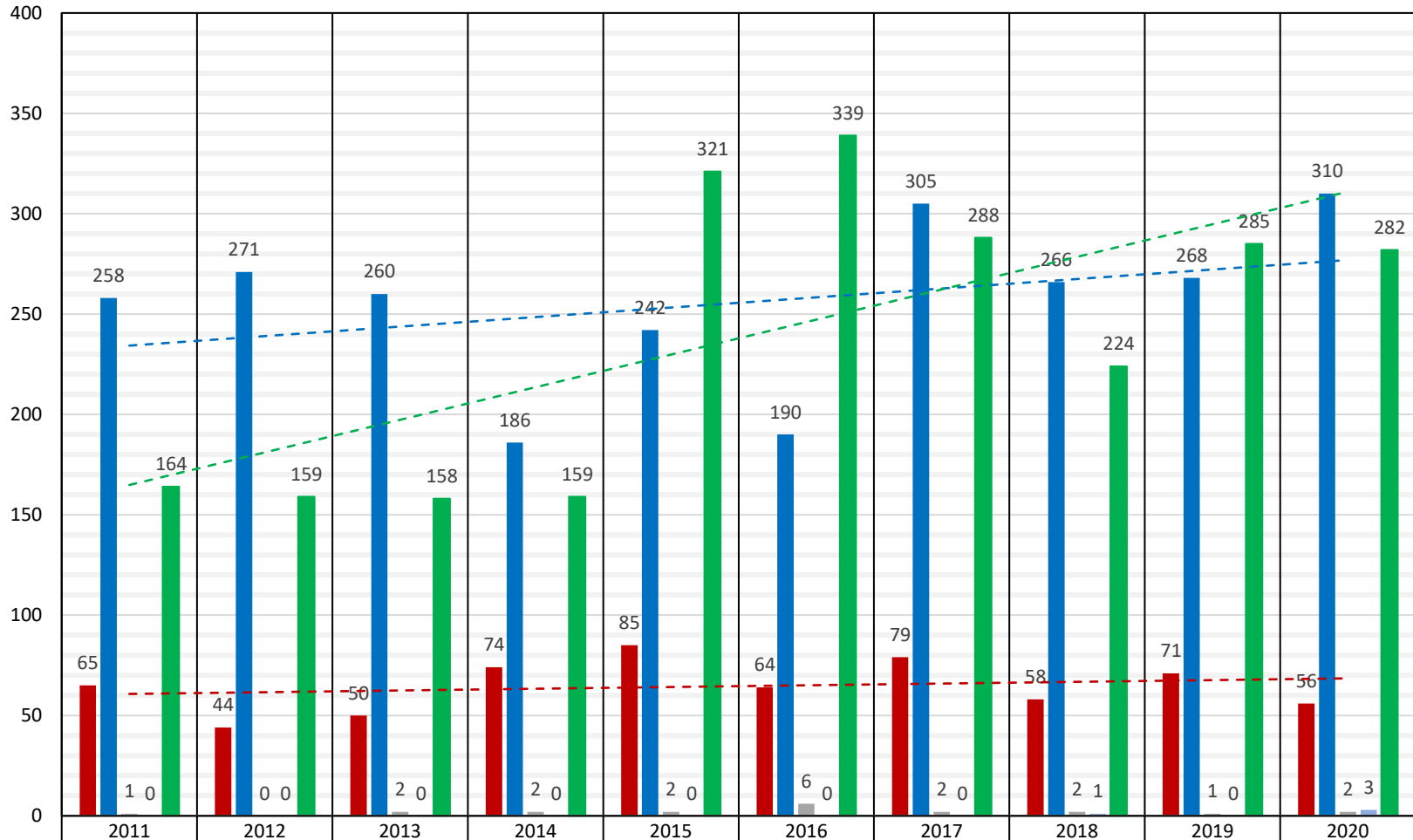


Under 18	12	15	10	16	16	16	17	20	14	18
18-21	56	57	57	38	53	55	64	41	48	53
22-29	81	70	69	76	100	90	102	64	81	83
30 and over	99	72	83	97	103	91	107	99	91	111
Unknown	240	260	251	194	378	347	384	327	394	399

■ Under 18
 ■ 18-21
 ■ 22-29
 ■ 30 and over
 ■ Unknown
- - - Linear (Under 18)
- - - Linear (18-21)
- - - Linear (22-29)
- - - Linear (30 and over)
- - - Linear (Unknown)

2A Maryland

Homicide - Offenders by Year & Race - Source: MSP Uniform Crime Reports 2011-2020



White	65	44	50	74	85	64	79	58	71	56
Black	258	271	260	186	242	190	305	266	268	310
Asian	1	0	2	2	2	6	2	2	1	2
American Indian	0	0	0	0	0	0	0	1	0	3
Unknown	164	159	158	159	321	339	288	224	285	282

■ White
 ■ Black
 ■ Asian
 ■ American Indian
 ■ Unknown
 - - - Linear (White)
 - - - Linear (Black)
 - - - Linear (Unknown)

	Federal Disqualifications		Details for applicable checks (queries)
1	Convicted of felony or misdemeanor punishable by more than 2 years	NICS INDEX/CJIS/JIS/MD Case Search	
2	Fugitive from justice	METERS NCIC	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state
3	Unlawful user of, or addicted to, CDS	METERS/CJIS/JIS	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA CJIS MAFFS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City
4	Adjudicated mental defective or committed to a mental institution	NICS/INDEX/MD Case Search	
5	Illegal or unlawful alien	METERS (IAQ)	IAQ - Criminal Alien Query (INS check)
6	Dishonorably discharged from the Armed Forces	METERS (FBI Record)	METERS - QH - obtain FBI#, QR - response from FBI
7	Has renounced US citizenship	METERS (FBI Record)	METERS - QH - obtain FBI#, QR - response from FBI
8	Subject to restraining order concerning intimate partner or child, on finding of credible threat to physical safety of same, that forbids threat or use of force	METERS NCIC/NICS INDEX	Which check in METERS are doing? What is completed for a NICS Index? (how do you run that?)
9	Convicted of misdemeanor crime of domestic violence	METERS/CJIS/JIS/MD Case Search	METERS QR - FBI Record Run FQ - Out of State SID CJIS MAFFS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City MD Case Search - Courts
10	Under indictment or information for crime punishable for term exceeding one year	under indictment – MD case search/CJIS using court case number open case - METERS/CJIS/JIS/MD Search	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA CJIS MAFFS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City MD Case Search - Courts

State law disqualifications		Details for applicable checks (queries)
1 Convicted of:		
a) Crime of Violence b) Felony c) Misdemeanor (in MD or elsewhere) punishable in MD by more than 2 years d) Common law offense and rec'd term of imprisonment exceeding 2 years	a. METERS/CJIS/JIS b. METERS/CJIS/JIS c. METERS/CJIS/JIS d. METERS/CJIS/JIS	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA CJIS MAFSS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City Same as above Same as above Same as above
2 Fugitive from justice	METERS/JIS	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City
3 Habitual drunkard	METERS/CJIS/JIS/MVA	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA CJIS MAFSS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City MVA - ID/Driving records
4 Addicted to, or habitual user of CDS	METERS/CJIS/JIS	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA CJIS MAFSS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City
5 Suffers from mental disorder and has history of violent behavior to self or others Before 10/1/13 - Has been confined to a facility for more than 30 consecutive days. After 9/30/13 - Has been involuntarily committed to a facility	DHMH/NICS CHECK (Also "Flagged" in MAFSS by FRS at request of Law Enforcement and Physicians, records kept in a Flagged file)	DHMH Mental Health Records NICS CHECK (Also "Flagged" in MAFSS by FRS at request of Law Enforcement and Physicians, records kept in a Flagged File) Explain a NICS check
6 Is a respondent on MD non-ex parte protective order if under 30 and adjudicated delinquent by juvenile court for act that would be disqualifying crime	DHMH DHMH, NICS INDEX	Explain NICS index???
7 After 9/30/13 - Found incompetent to stand trial	METERS	METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA
8 After 9/30/13 - Found not criminally responsible	DJS Assist	EXPLAIN?
9 After 9/30/13 - Voluntarily admitted to a facility for more than 30 consecutive days	NICS INDEX/CJIS/JIS/MD Case Search	CJIS MAFSS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City MD Case Search - Courts Explain NICS index????
10 After 9/30/13 - Found not criminally responsible	NICS INDEX/CJIS/JIS/MD Case Search	CJIS MAFSS, ADR/Menu, MD Index system to obtain SID, MD Raps obtain response from MD SID JIS Criminal, Warrants, Civil, 8th Circuit Ct, ORI, PFIM Central Booking Baltimore City MD Case Search - Courts Explain NICS index????
11 After 9/30/13 - Under protection of guardian for non-physical disability	DHMH	DHMH Mental Health Records
12 After 9/30/13 - Respondent on out-of-state protective order	METERS NCIC	CJIS/JIS/NICS - testing phase and will be ready for 10/1. No concrete info on which database the return will come from at this time.
		METERS Query NICS, Master query - MVA/hotfiles/wanted/P.O./gun query QH - obtain FBI#, QR - Criminal History check (response from FBI#), QWI - , IQ - obtain out of state SID, FQ - obtain out of state response, QW - wanted check, MVA

Crime_Dashboard_02-05-2023.pdf

Uploaded by: John Josselyn

Position: UNF



ALL

HOME

MARYLAND STATISTICAL ANALYSIS CENTER

GRANTS

VICTIM SERVICES

CHILDREN AND YOUTH

CRIMINAL JUSTICE PROGRAMS

RESOURCES DURING COVID-19 PANDEMIC

Crime Dashboard

<http://goccp.maryland.gov/data-dashboards/crime-dashboard/>

About the Crime Dashboard

The dashboard includes crime statistics at the county, municipal, and state level.

Data Sources

Data reflected at the county and municipal level is provided by the Maryland Department of State Police Central Records Division, through the Uniform Crime Reporting (UCR) Program which consists of all crimes reported to law enforcement agencies in Maryland. Data reflected at the state level is consistent with UCR data which is reported to the Federal Bureau of Investigation (FBI) from all law enforcement agencies in the country. Please select this [link](#) to view additional dashboards created by the Governor's Office of Crime Prevention, Youth, and Victim Services.

2A Maryland SB1, SB86, SB113, SB159

Murder

Rape

Robbery

Aggravated Assault

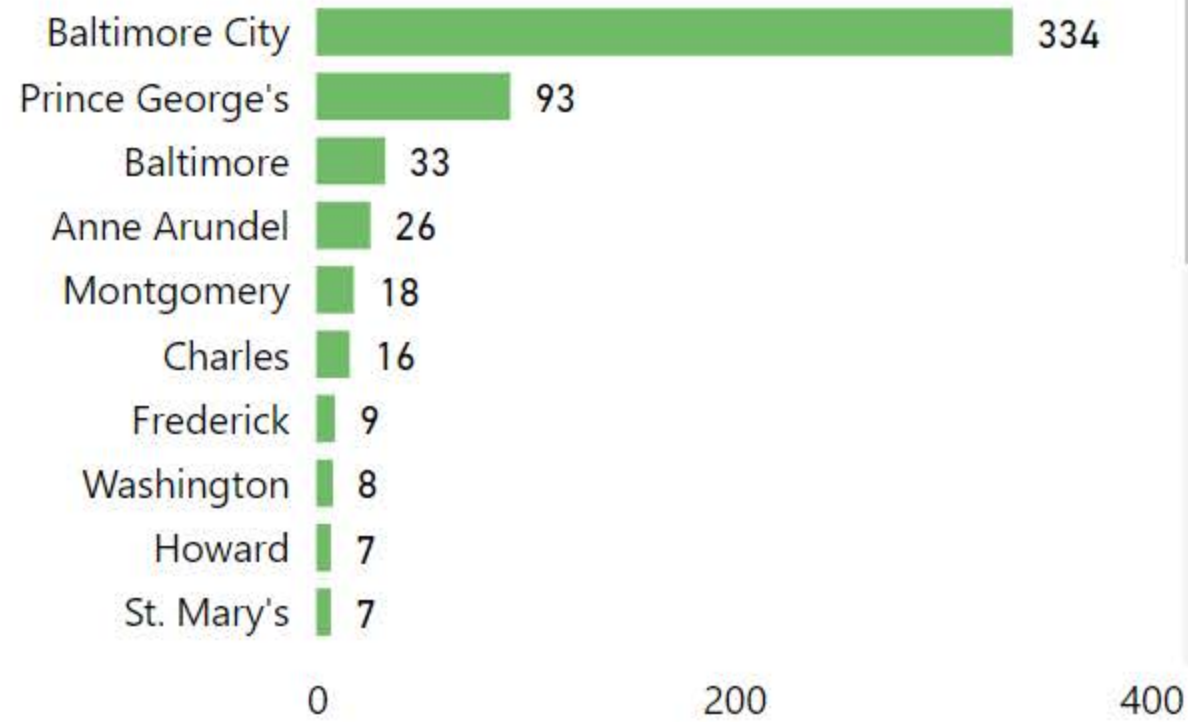
Breaking & Entering

Larceny/Theft

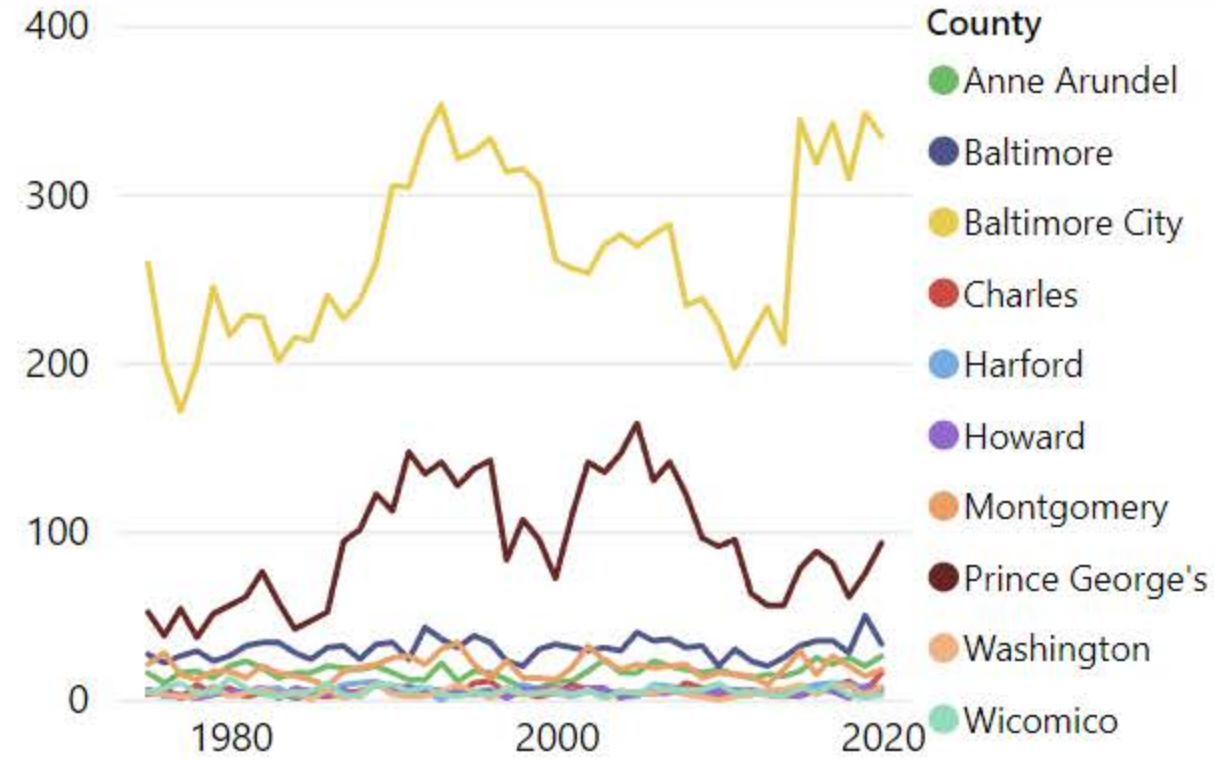
Motor Vehicle Theft

Violent Crime

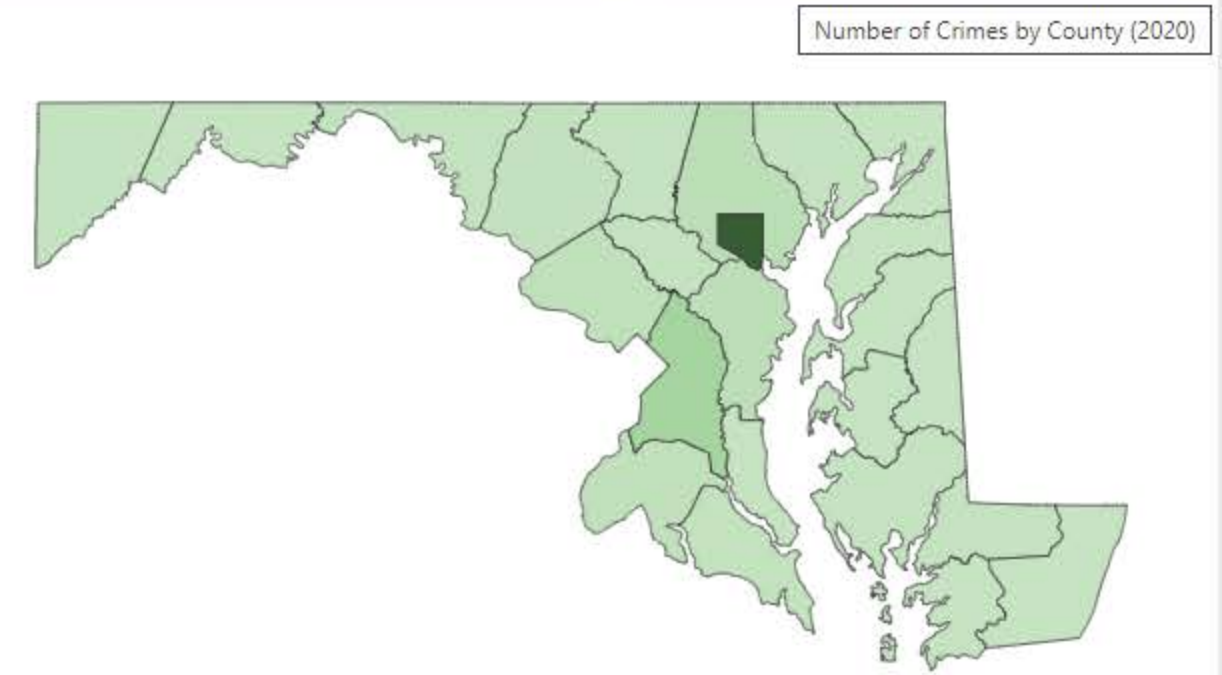
Crimes by County (2020)



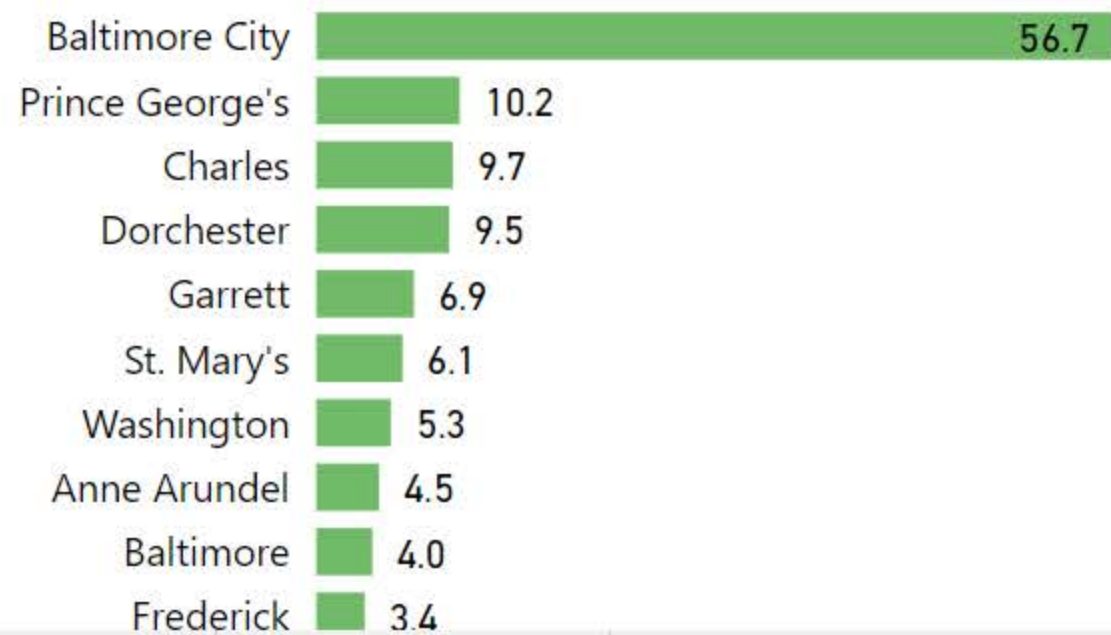
Number of Crimes by Year



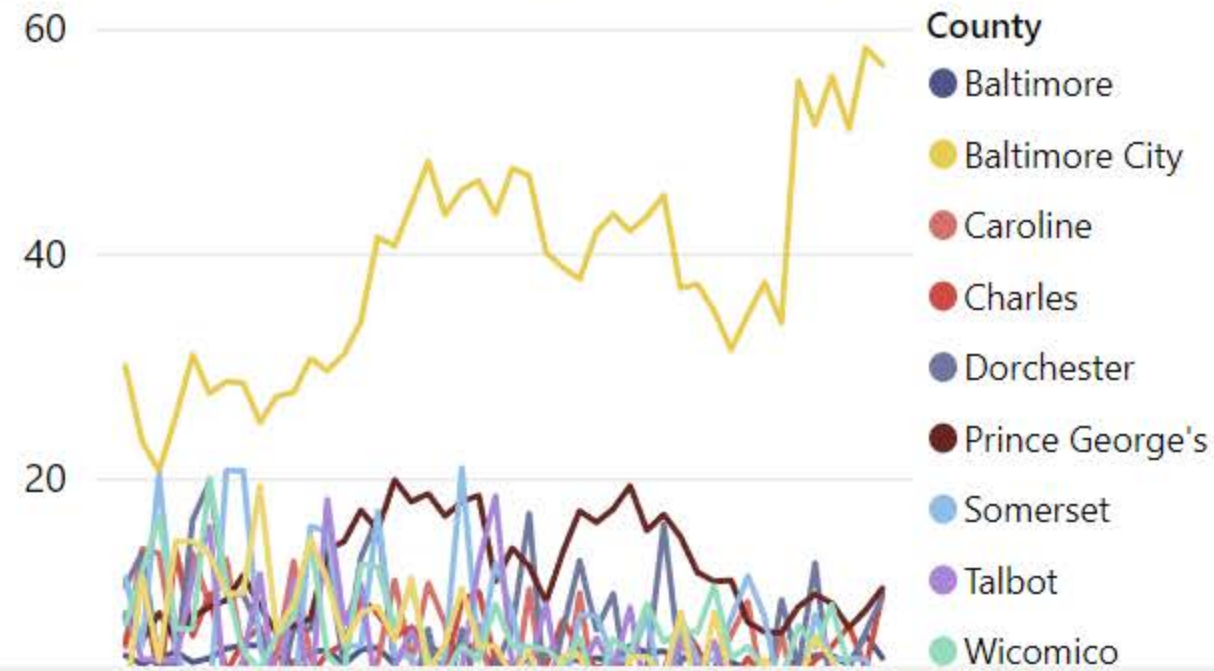
Number of Crimes by County (2020)



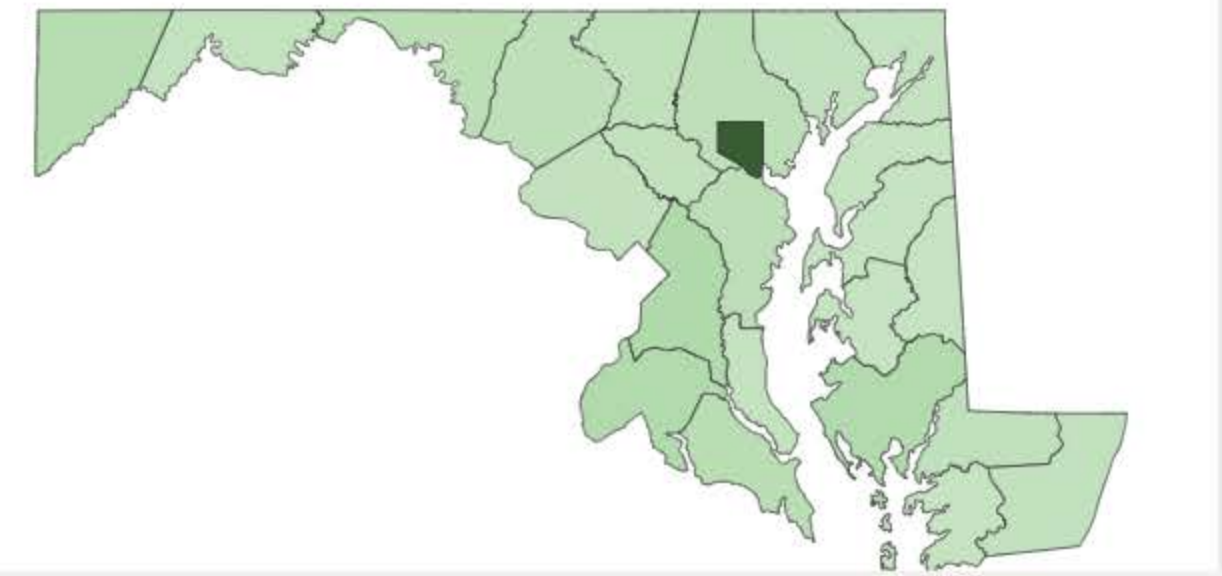
Crime Rate by County (2020)



Crime Rate per 100,000 by Year



Crime Rate by County (2020)



Murder

Rape

Robbery

Aggravated Assault

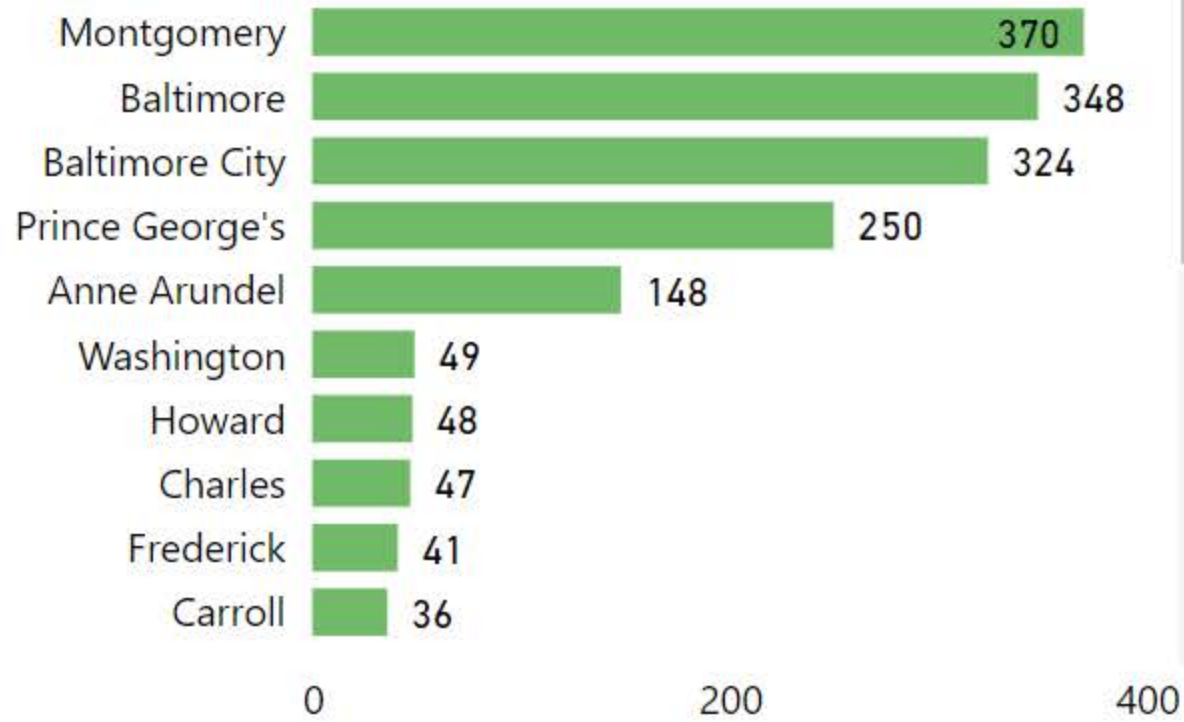
Breaking & Entering

Larceny/Theft

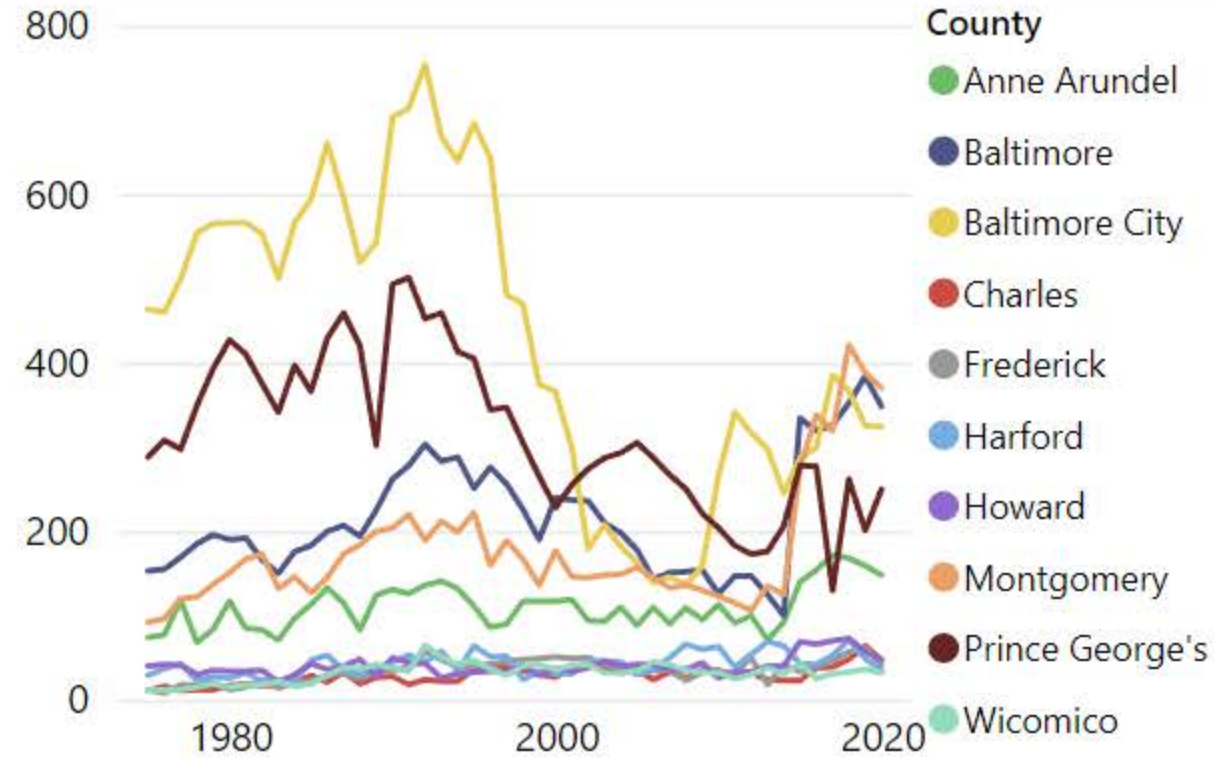
Motor Vehicle Theft

Violent Crime

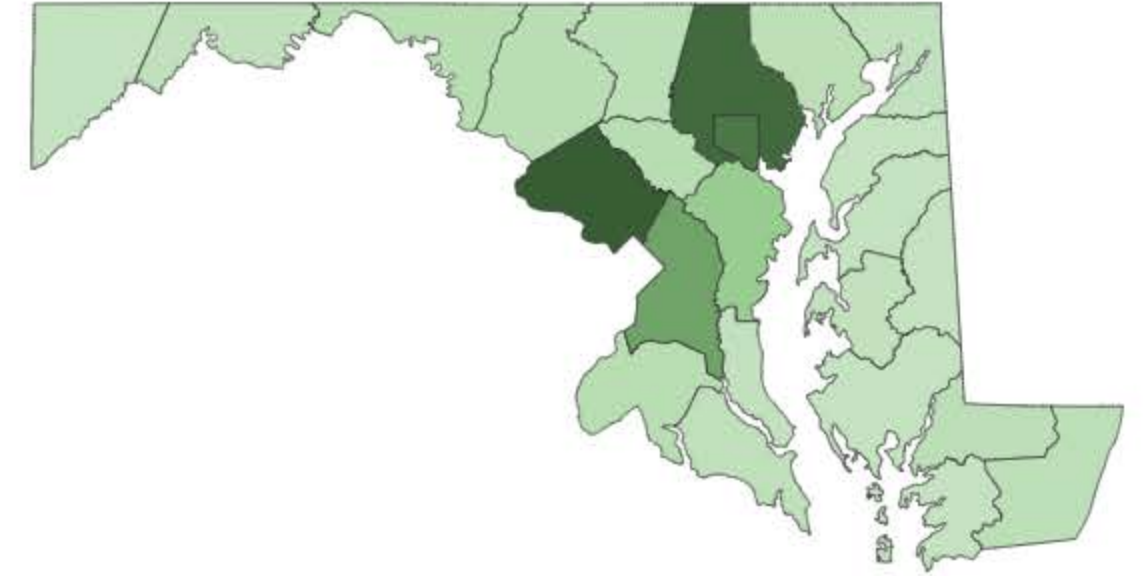
Crimes by County (2020)



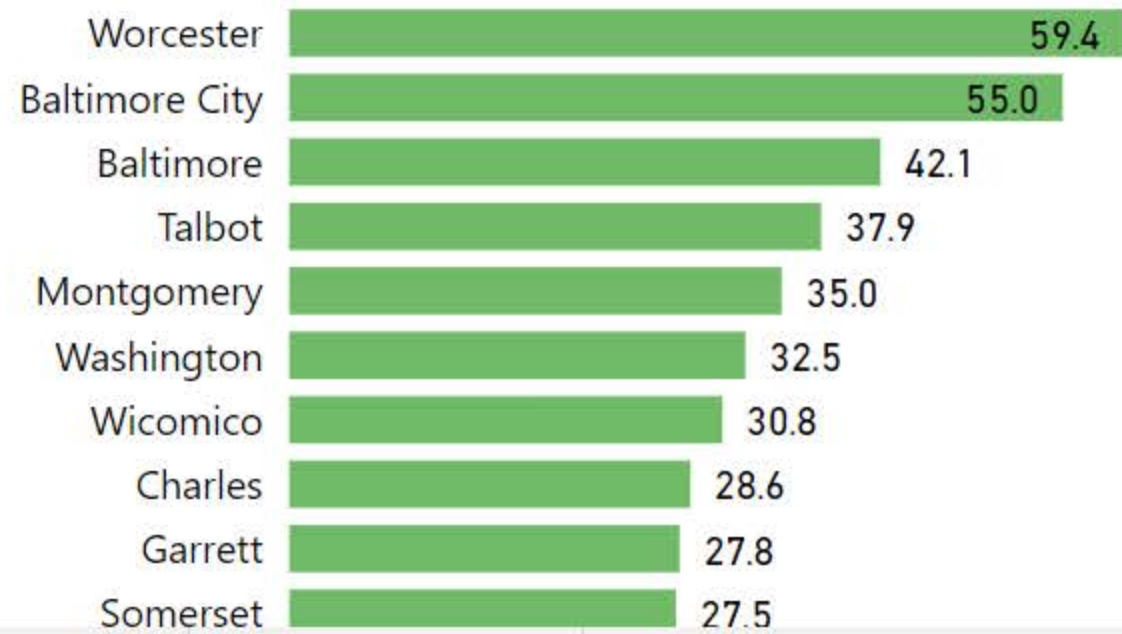
Number of Crimes by Year



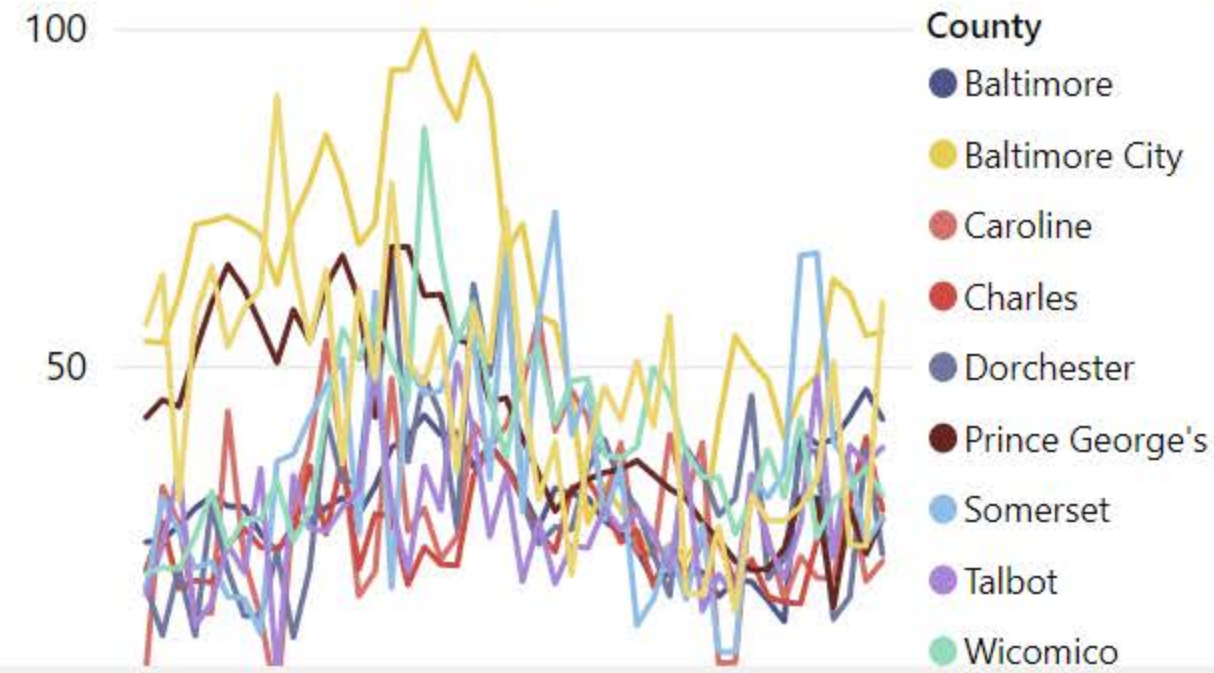
Number of Crimes by County (2020)



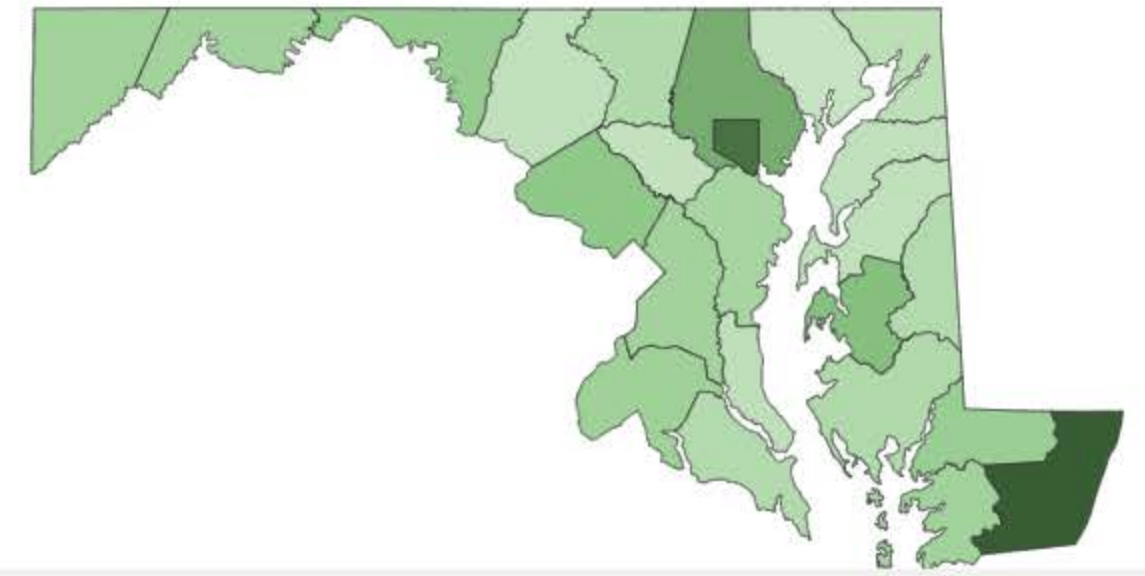
Crime Rate by County (2020)



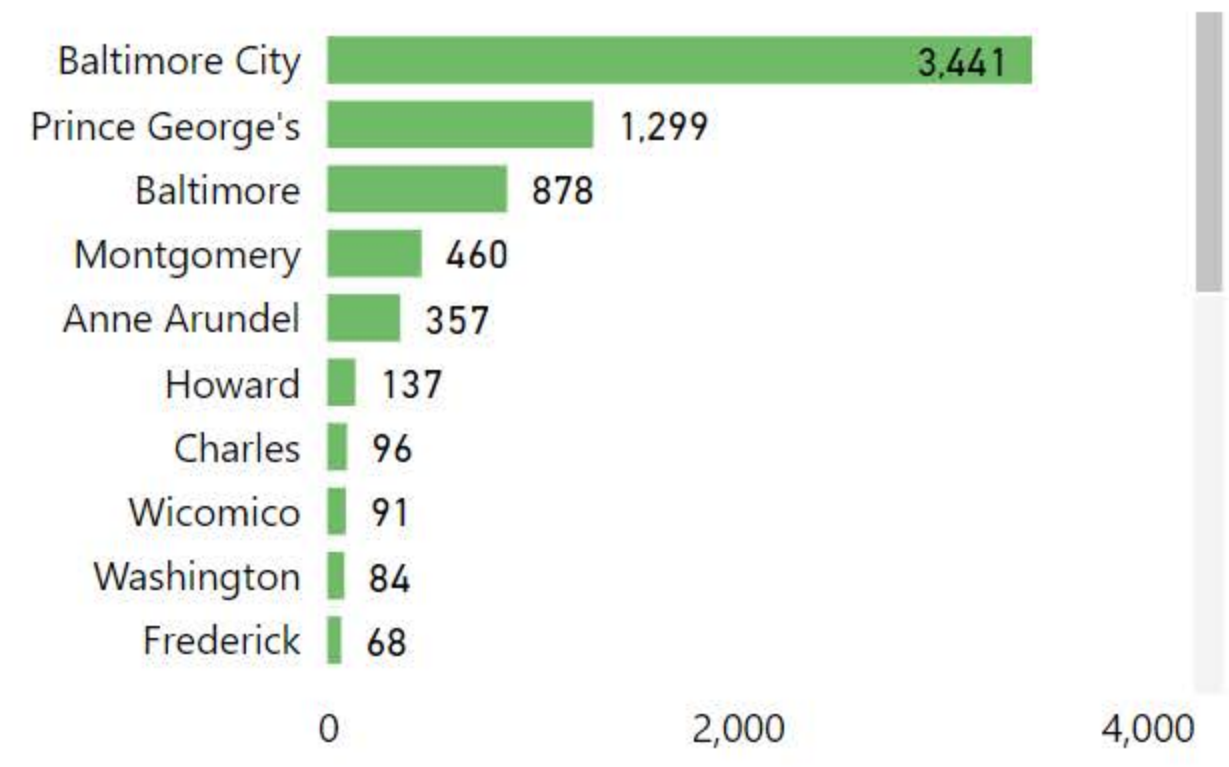
Crime Rate per 100,000 by Year



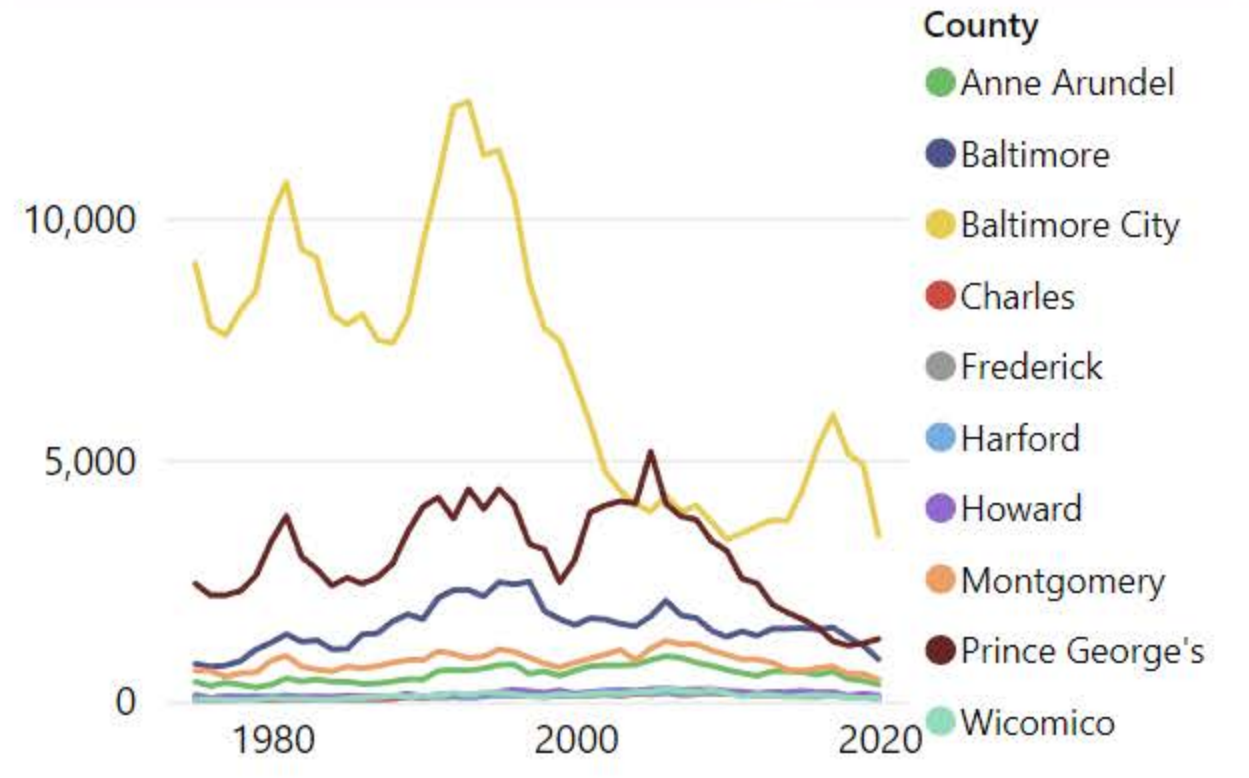
Crime Rate by County (2020)



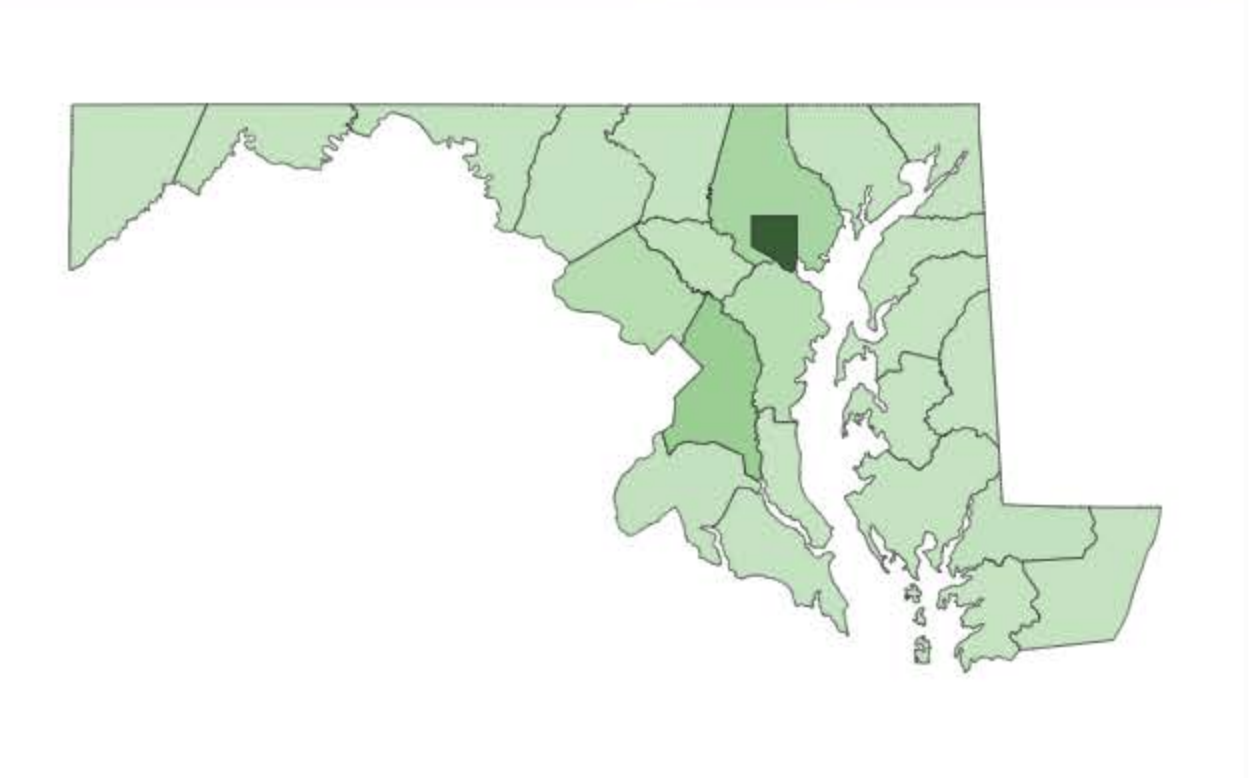
Crimes by County (2020)



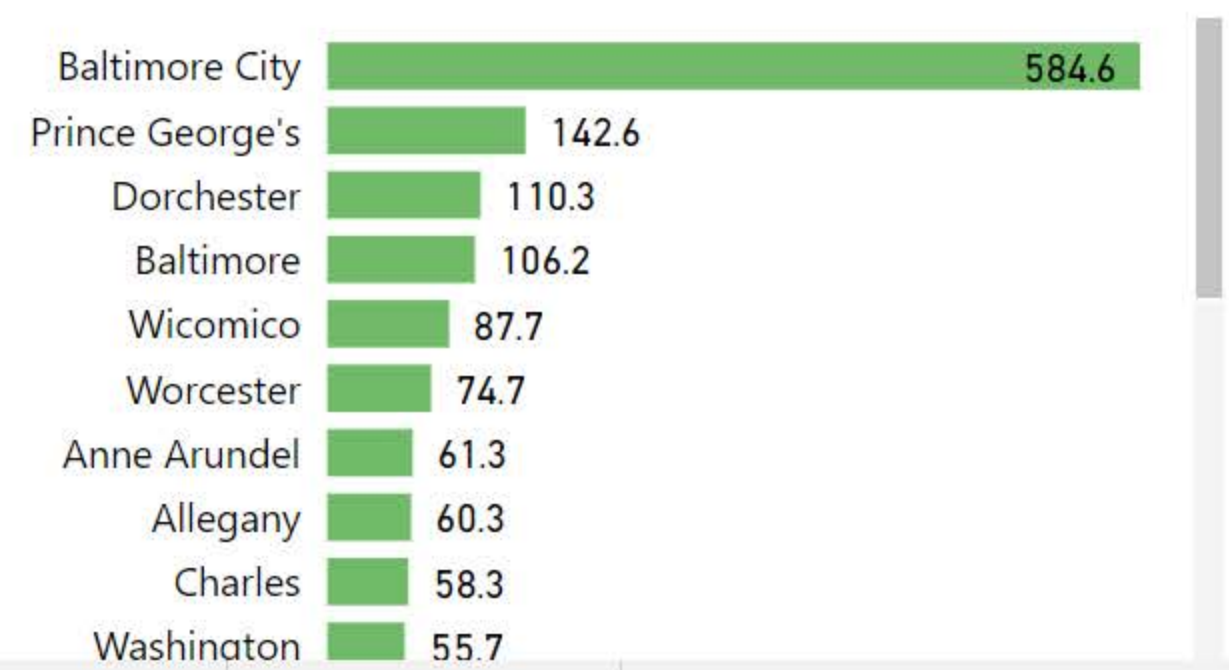
Number of Crimes by Year



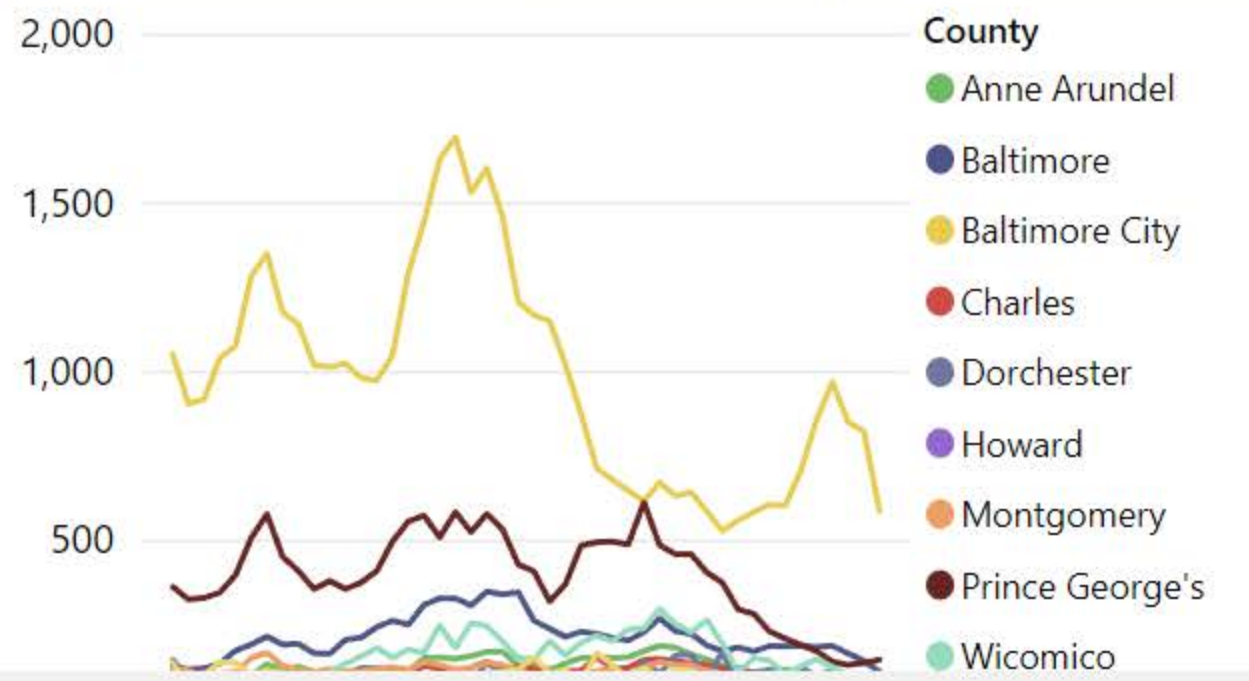
Number of Crimes by County (2020)



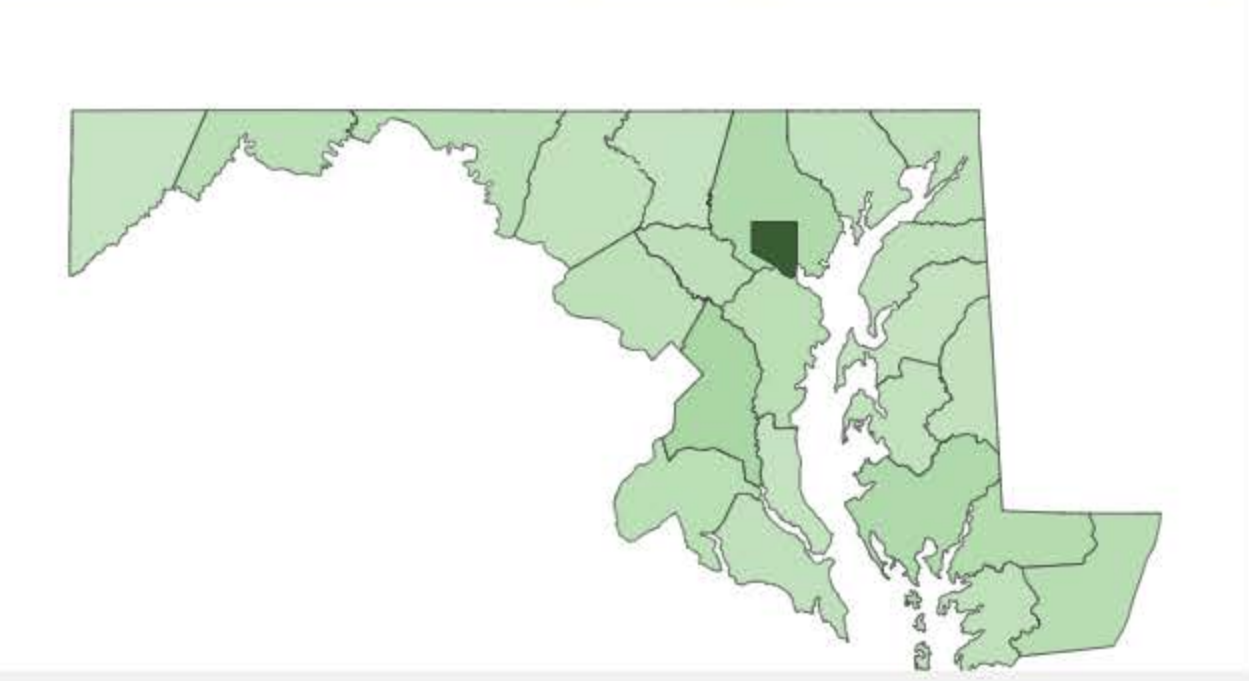
Crime Rate by County (2020)



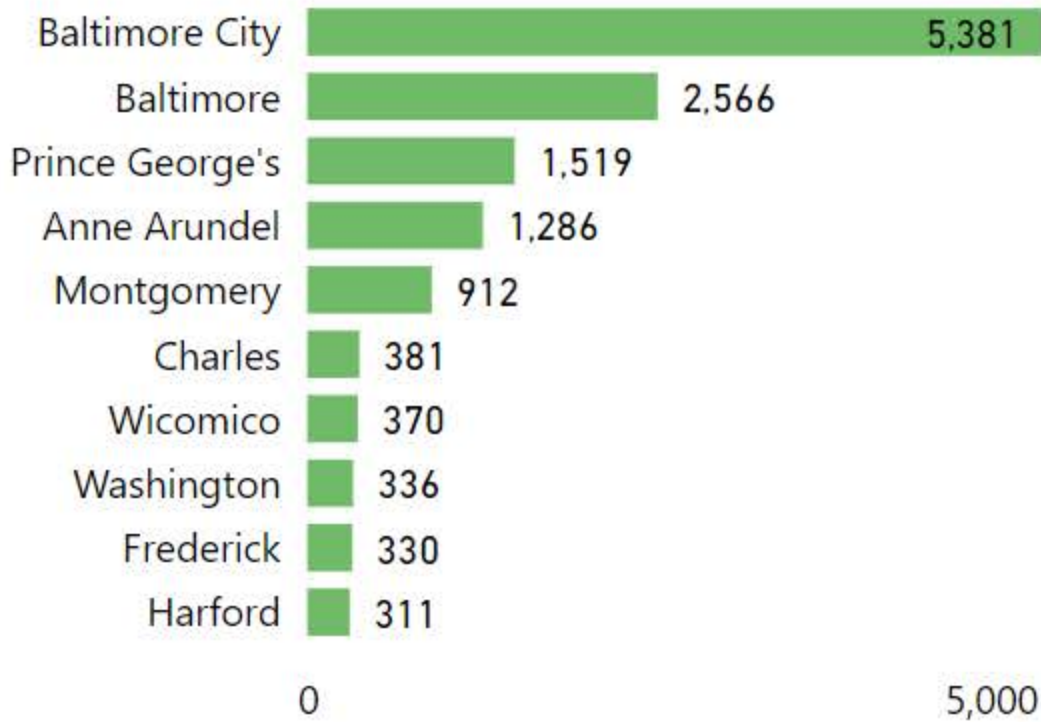
Crime Rate per 100,000 by Year



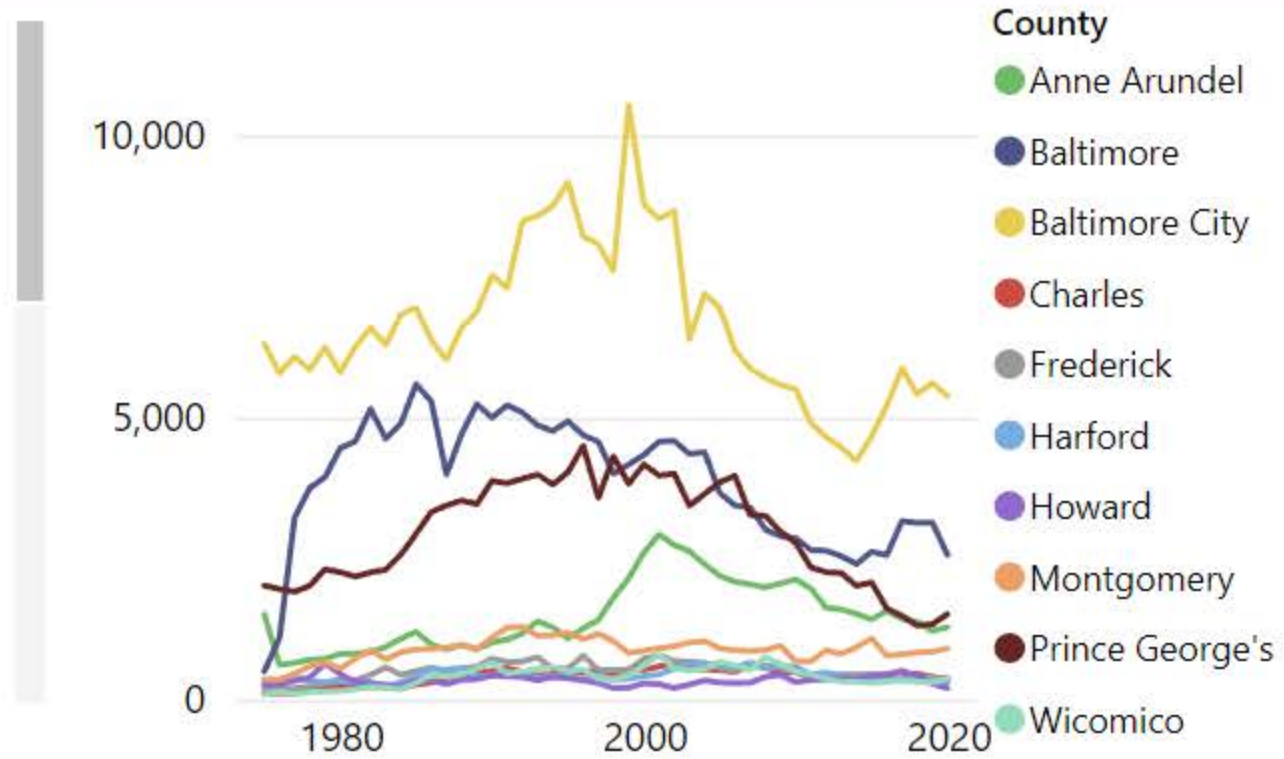
Crime Rate by County (2020)



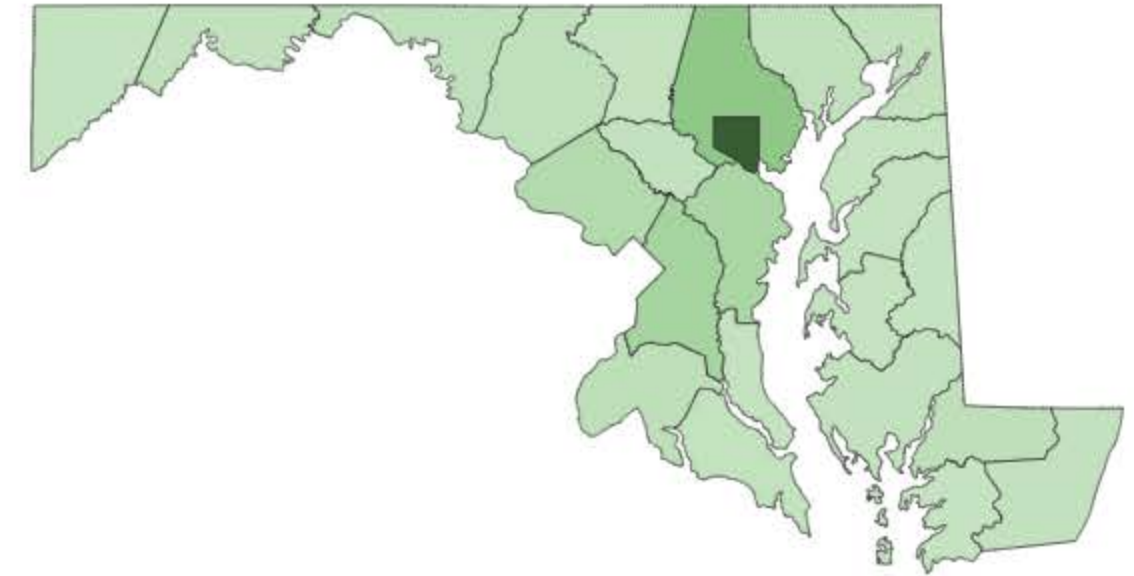
Crimes by County (2020)



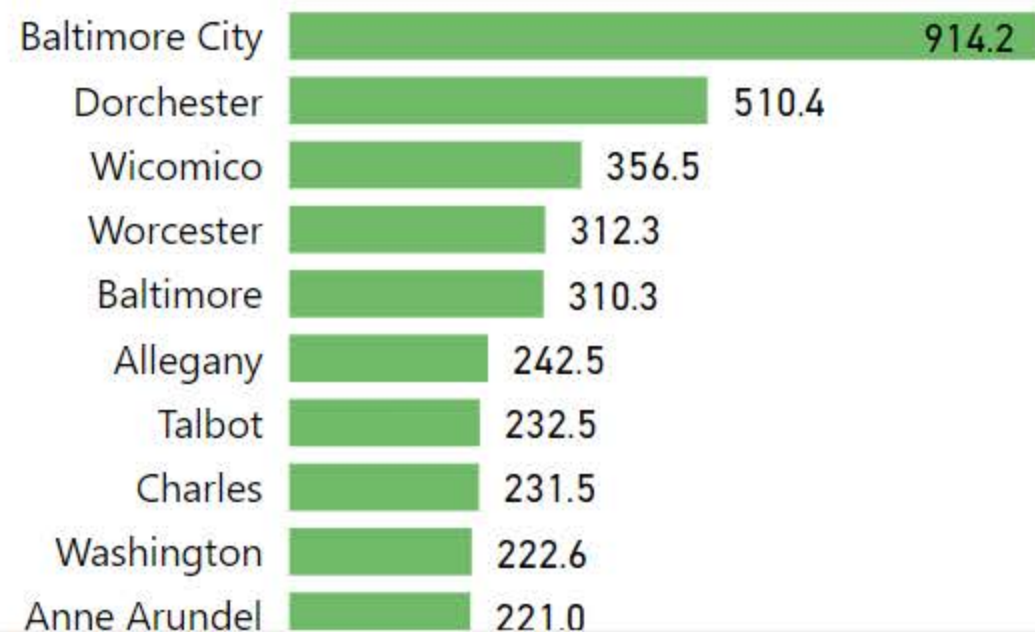
Number of Crimes by Year



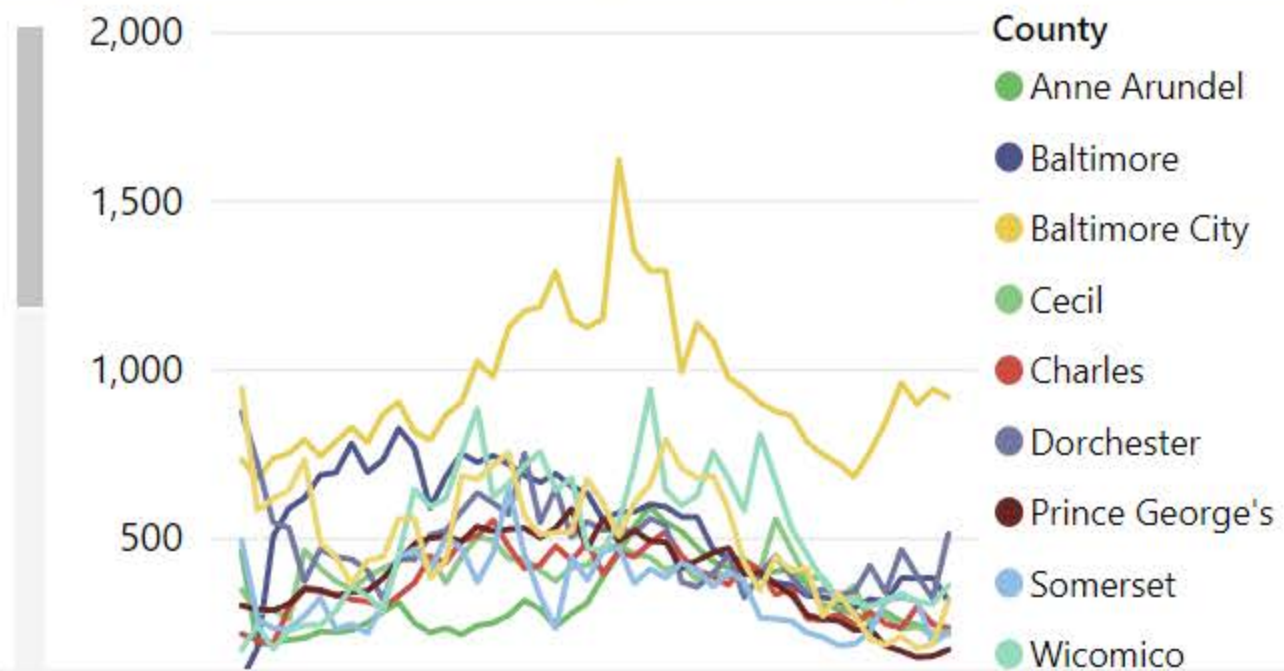
Number of Crimes by County (2020)



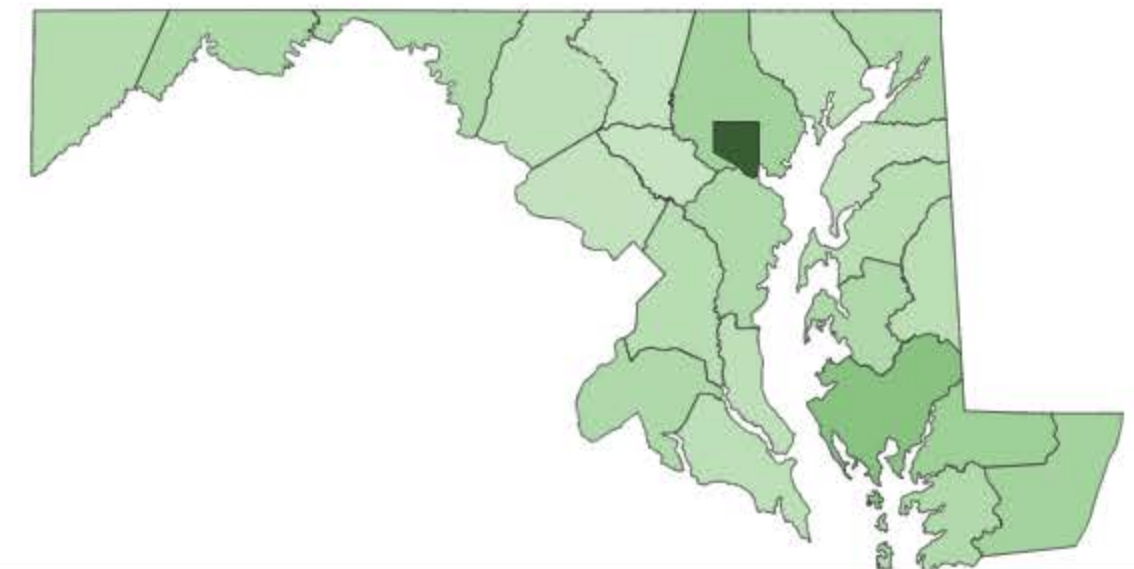
Crime Rate by County (2020)



Crime Rate per 100,000 by Year



Crime Rate by County (2020)



Murder

Rape

Robbery

Aggravated Assault

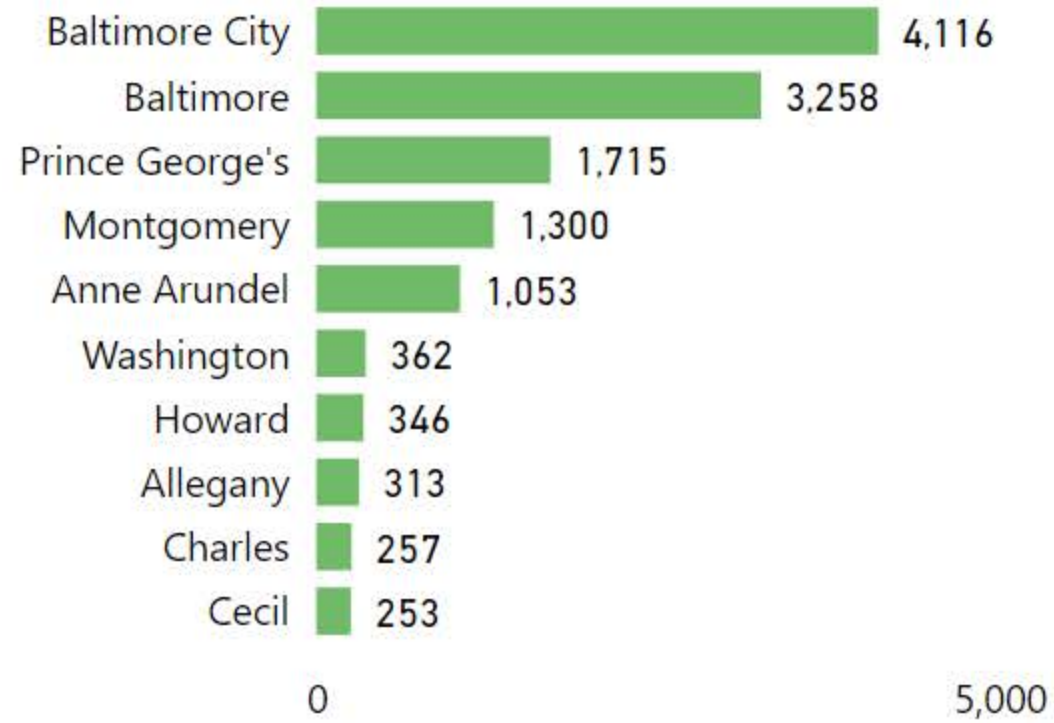
Breaking & Entering

Larceny/Theft

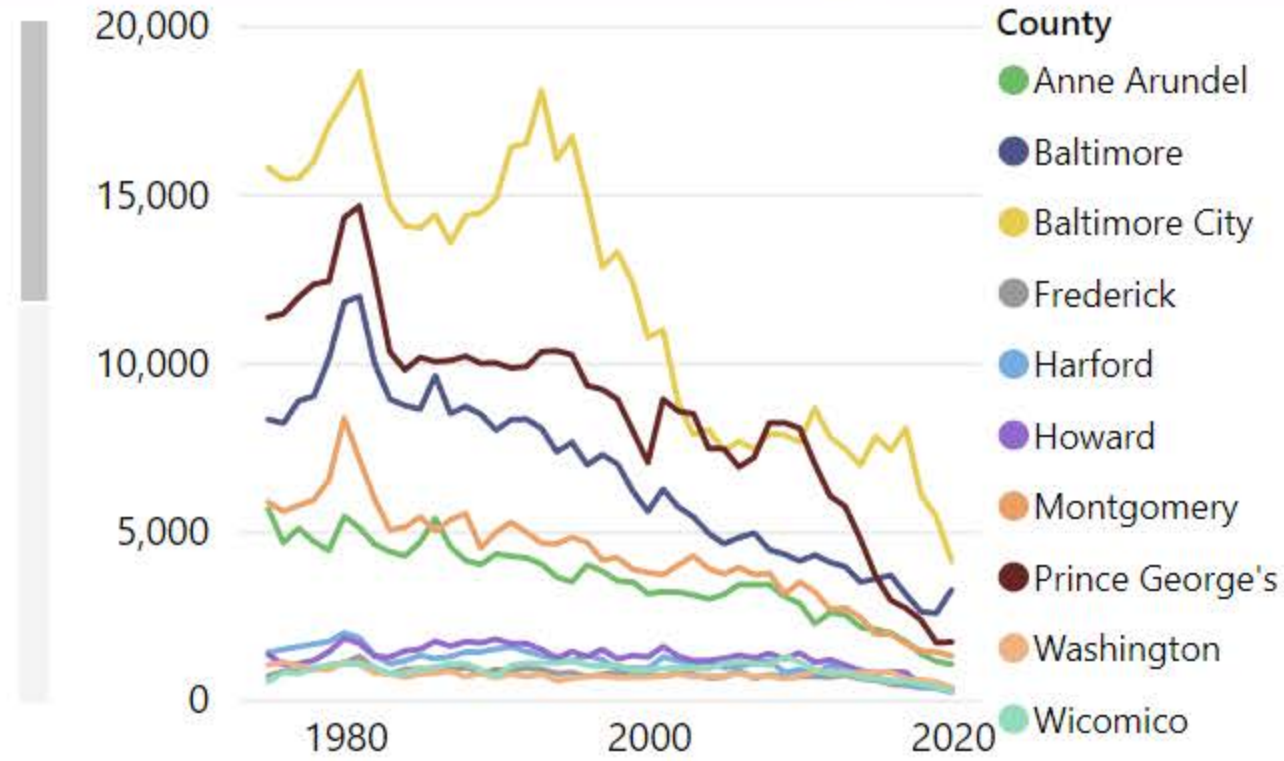
Motor Vehicle Theft

Property Crime

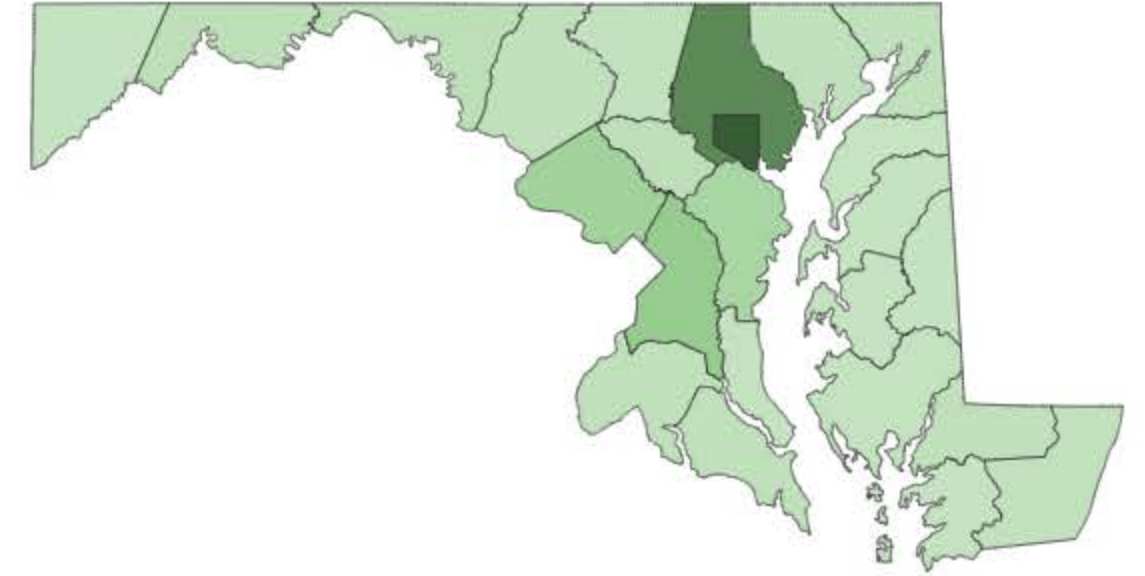
Crimes by County (2020)



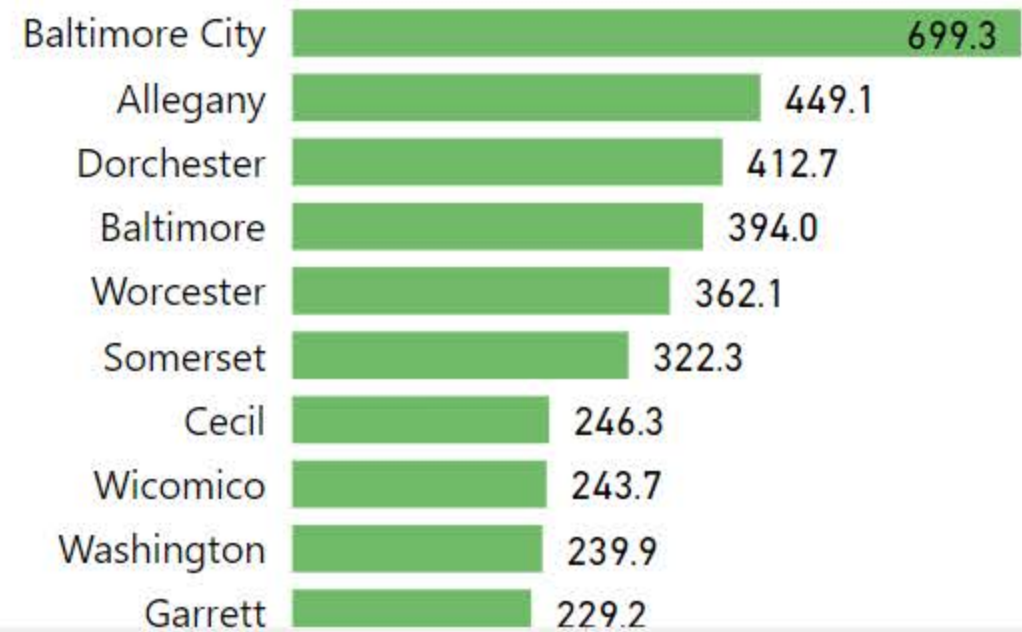
Number of Crimes by Year



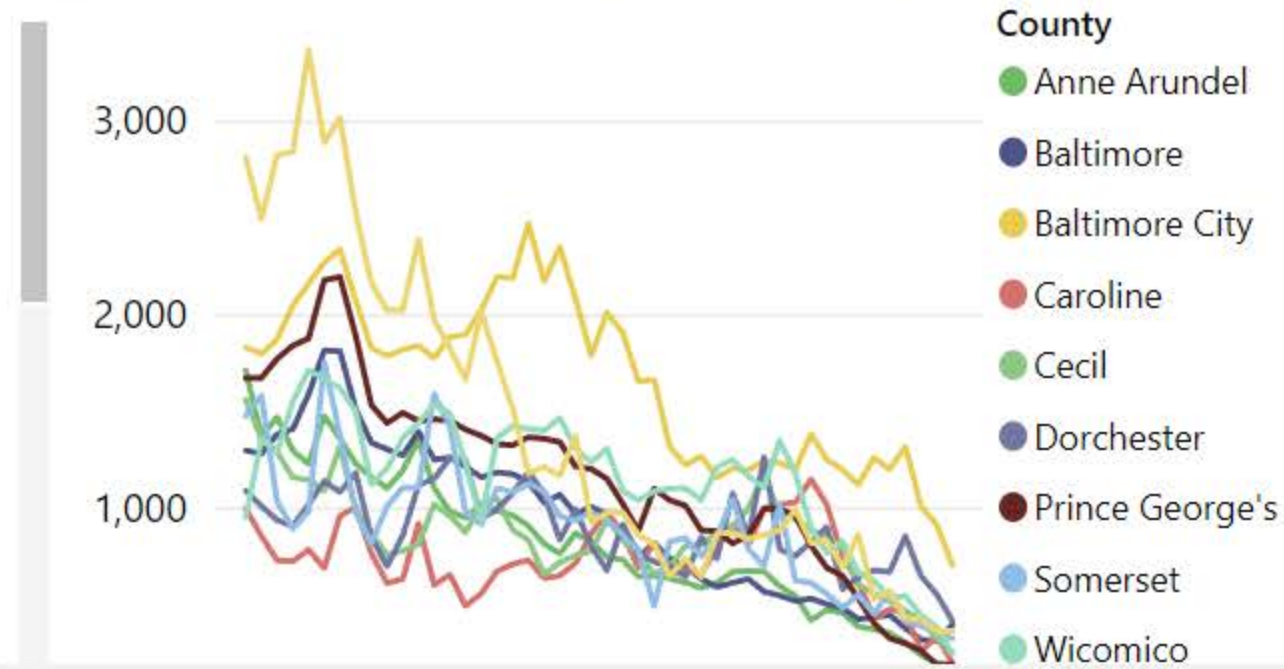
Number of Crimes by County (2020)



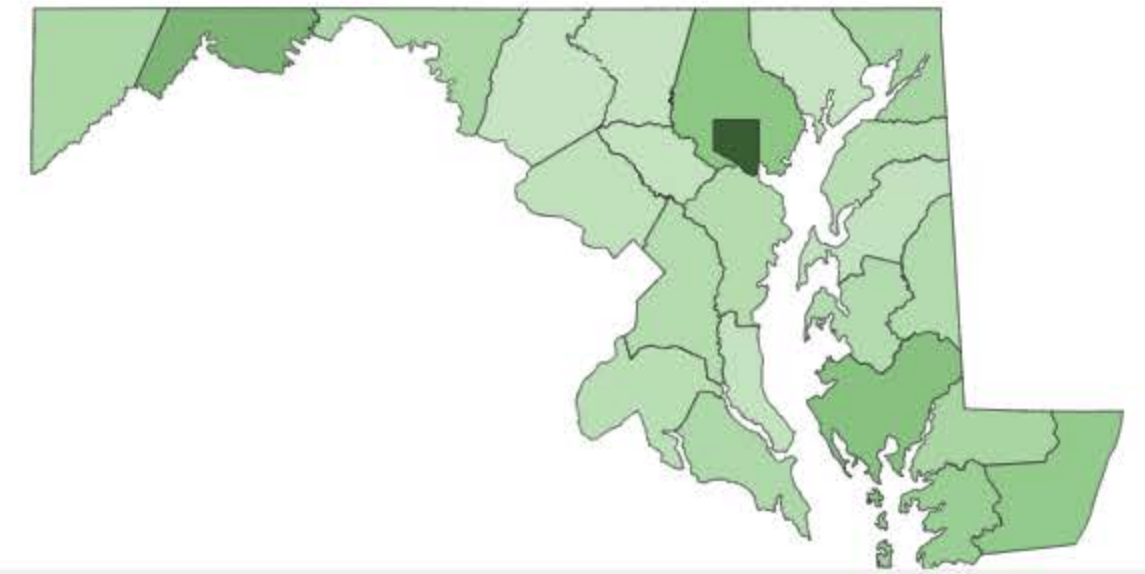
Crime Rate by County (2020)



Crime Rate per 100,000 by Year



Crime Rate by County (2020)



Murder

Rape

Robbery

Aggravated Assault

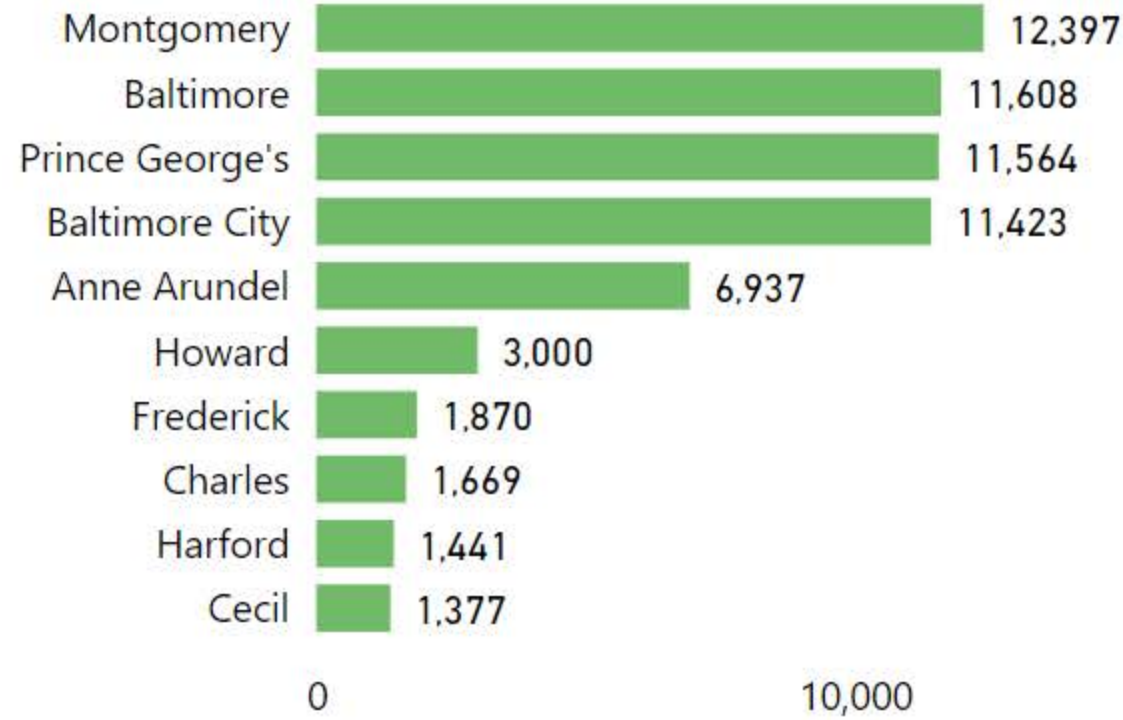
Breaking & Entering

Larceny/Theft

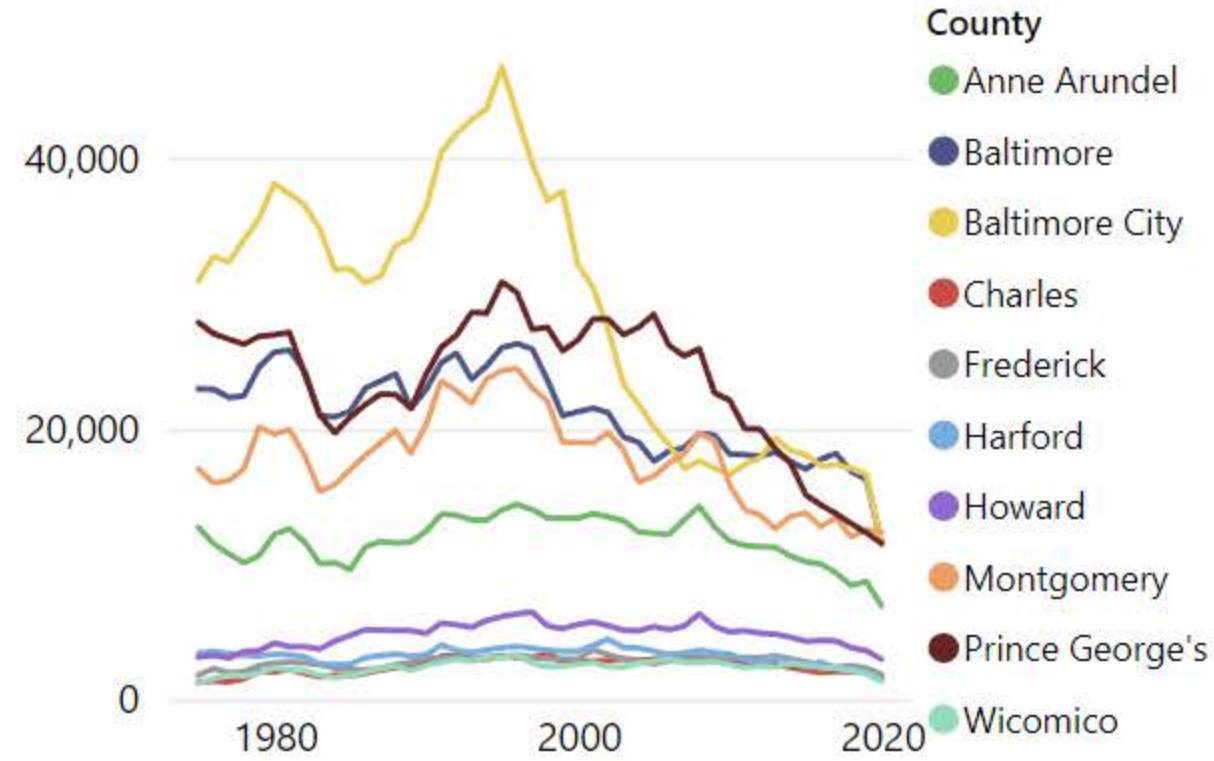
Motor Vehicle Theft

Property Crime

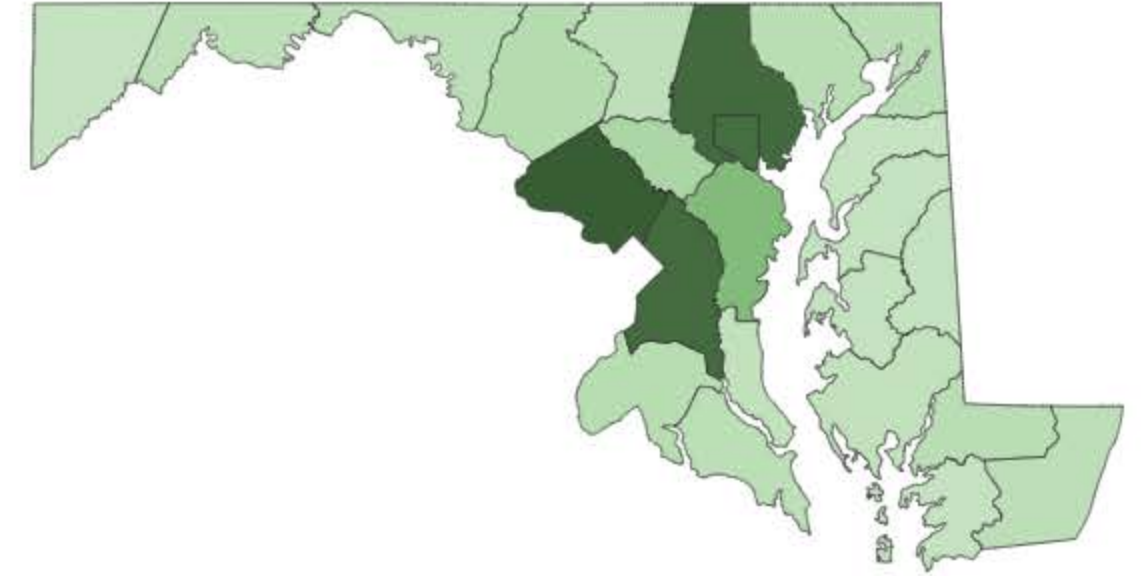
Crimes by County (2020)



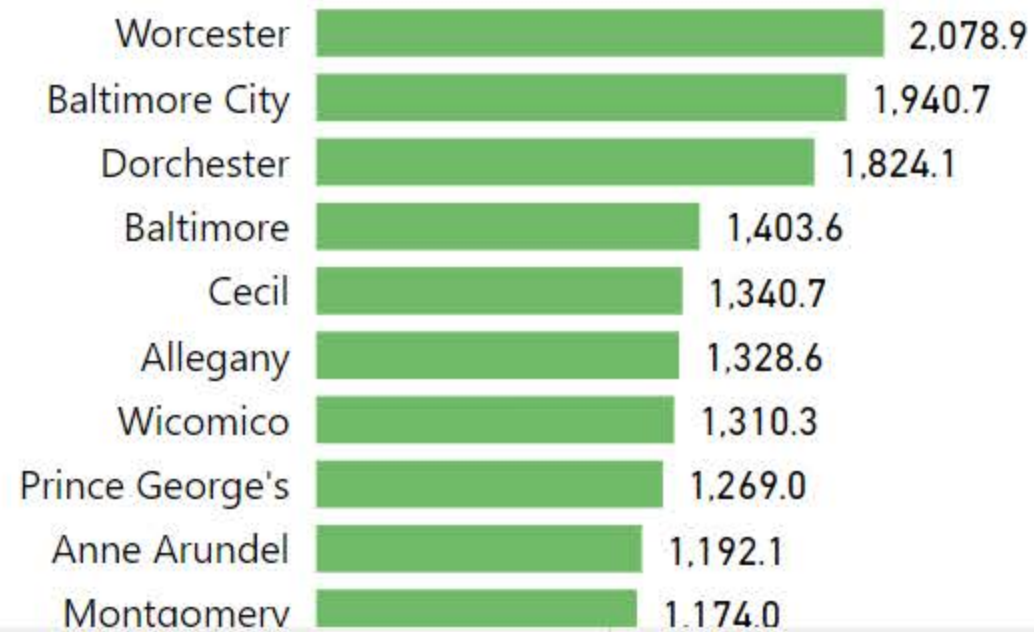
Number of Crimes by Year



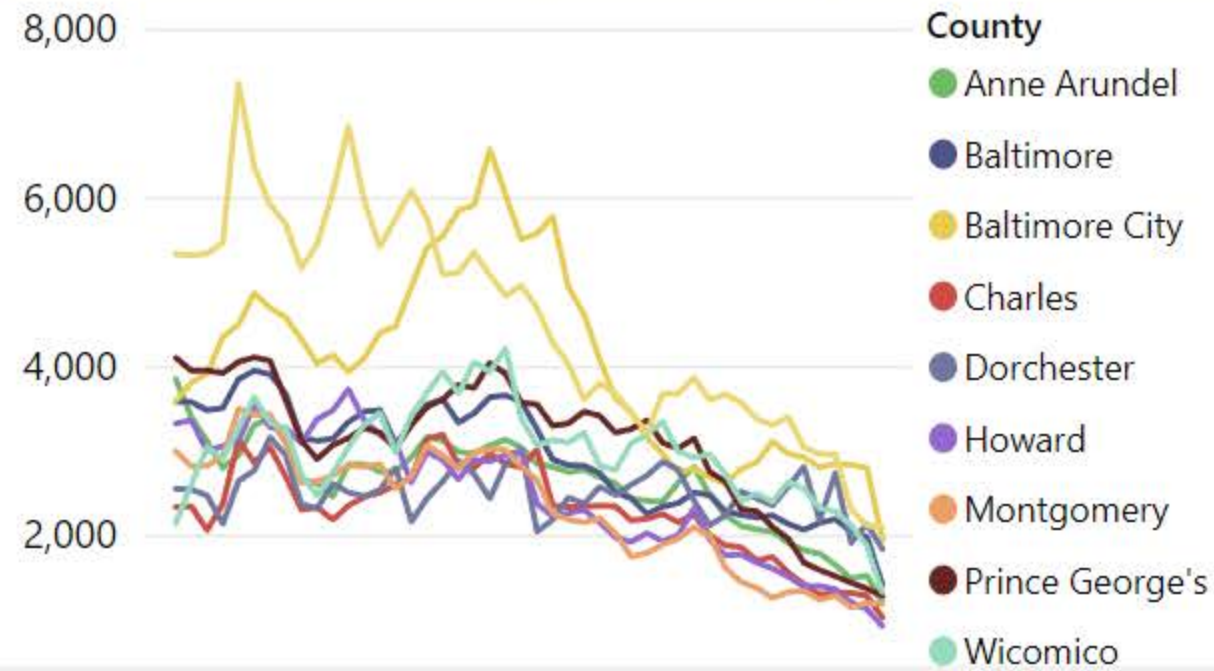
Number of Crimes by County (2020)



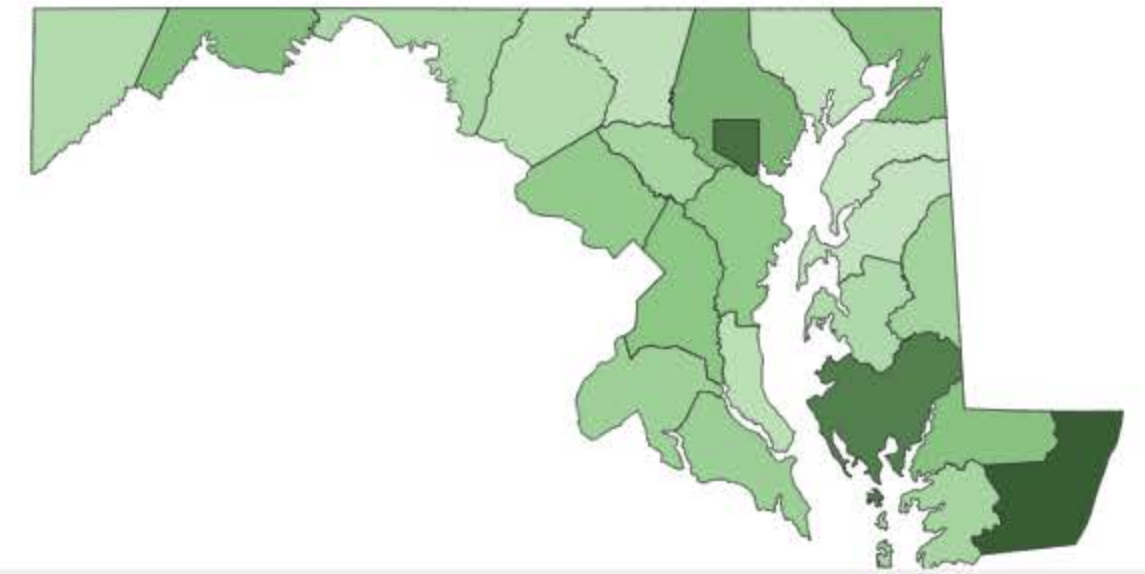
Crime Rate by County (2020)



Crime Rate per 100,000 by Year



Crime Rate by County (2020)



Murder

Rape

Robbery

Aggravated Assault

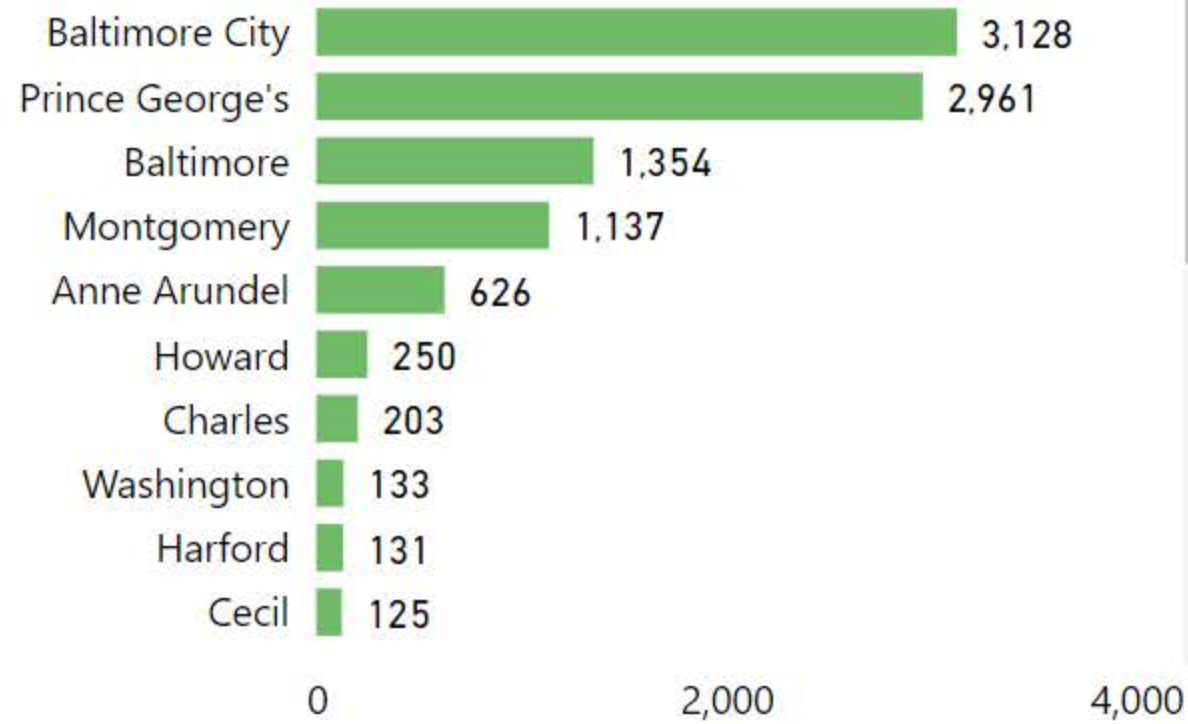
Breaking & Entering

Larceny/Theft

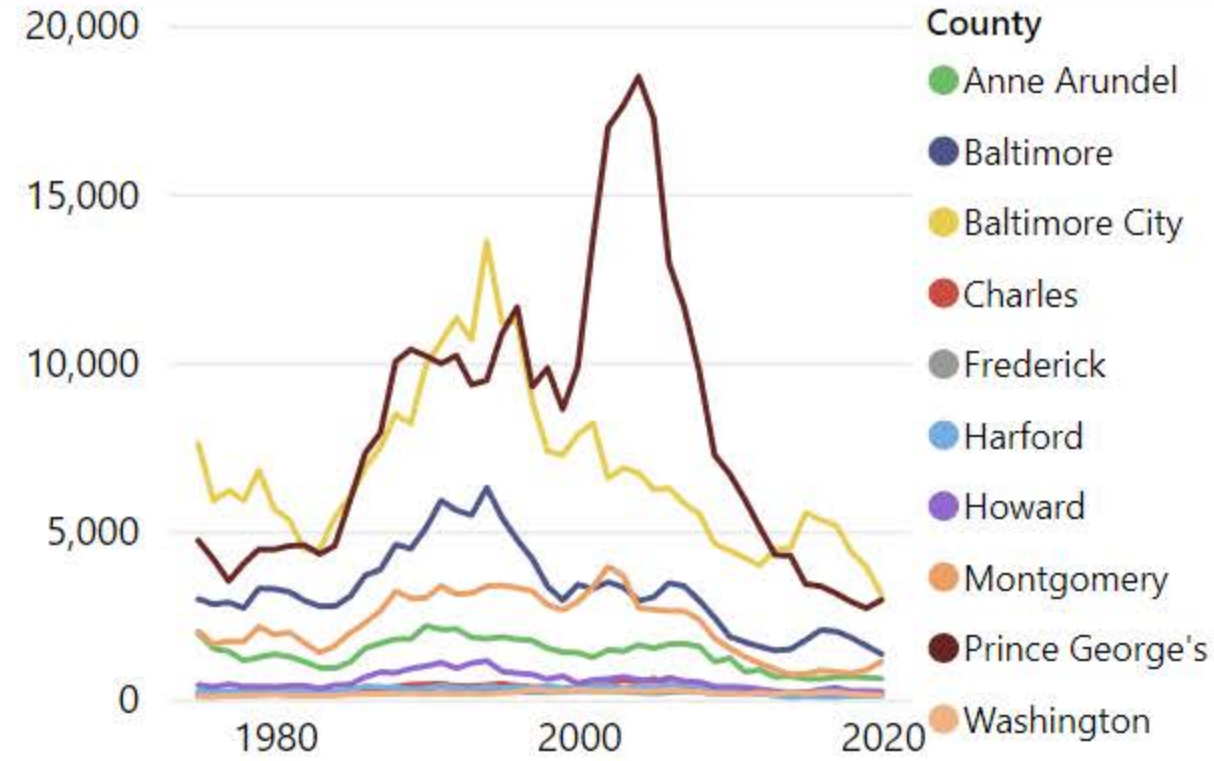
Motor Vehicle Theft

Property Crime

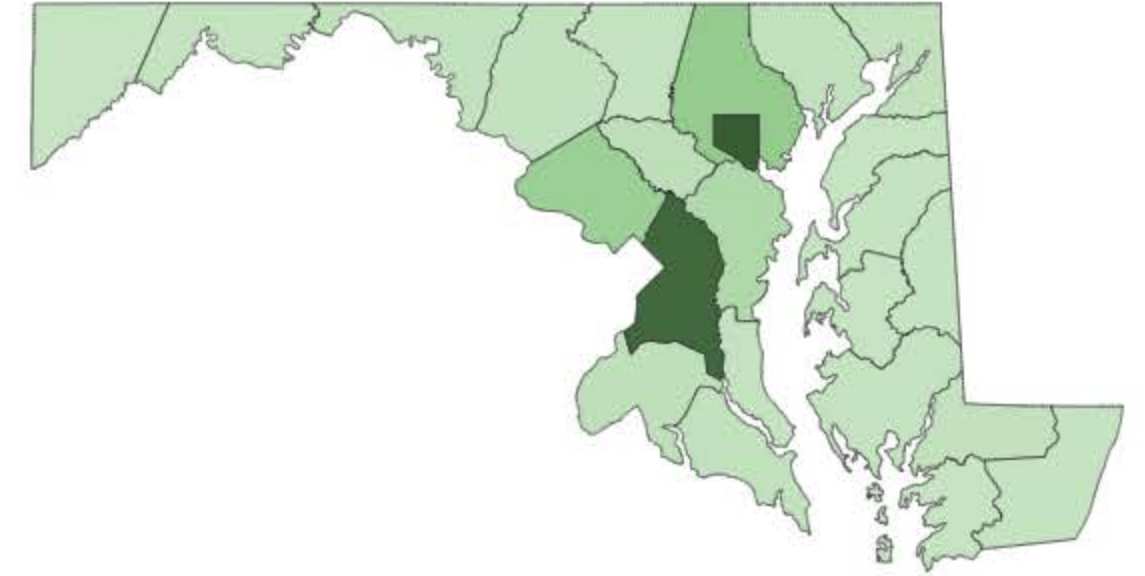
Crimes by County (2020)



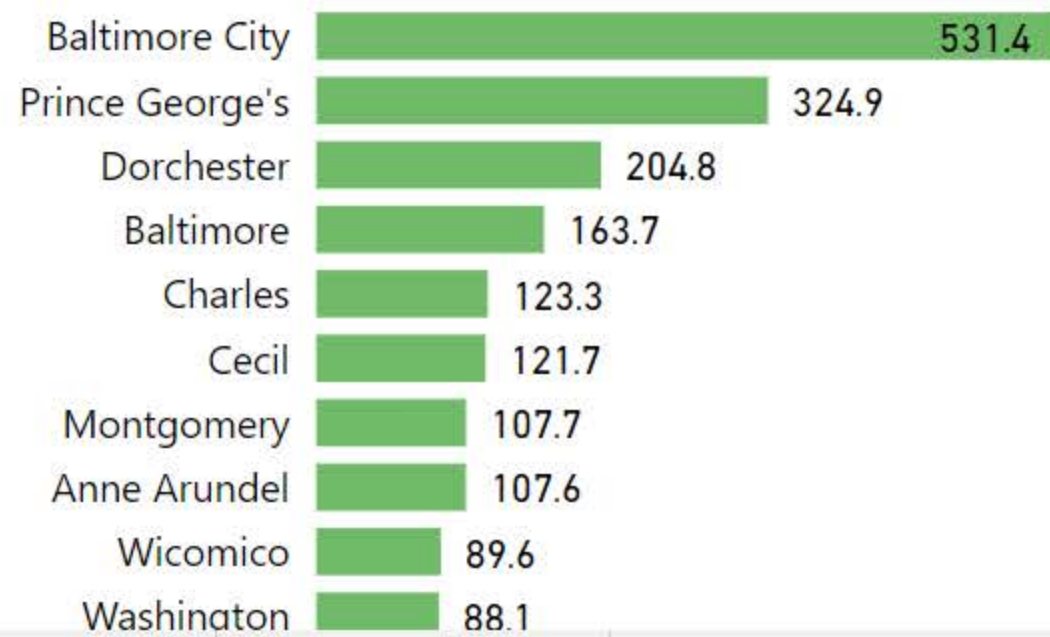
Number of Crimes by Year



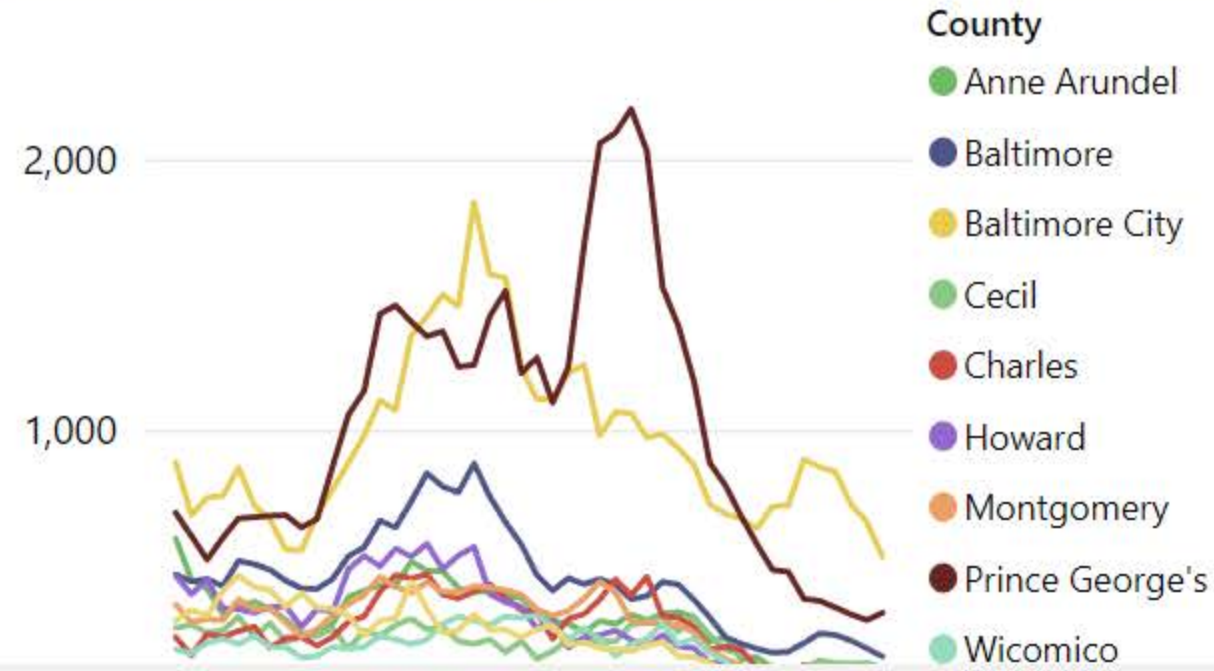
Number of Crimes by County (2020)



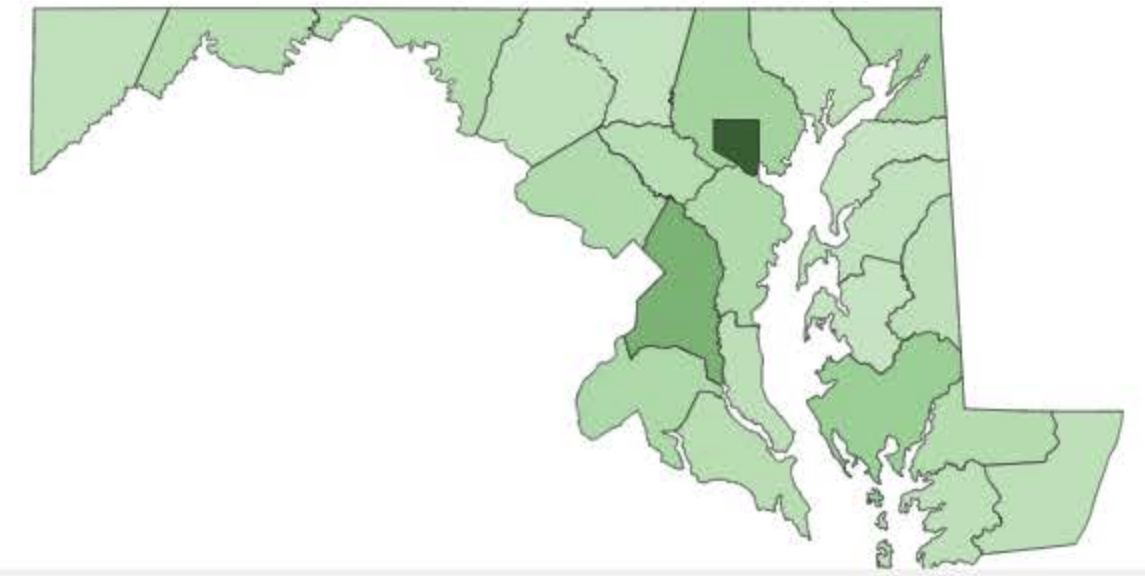
Crime Rate by County (2020)



Crime Rate per 100,000 by Year



Crime Rate by County (2020)



SB0113_Testimony_2A_Maryland.pdf

Uploaded by: John Josselyn

Position: UNF



2A Maryland

2A@2AMaryland.org

Senate Bill 0113
Civil Actions – Public Nuisances – Firearm Industry Members
(Gun Industry Accountability Act of 2023)

UNFAVORABLE

This Bill has nothing to do with public safety or crime prevention, or a reduction in the illegal possession and use of firearms in criminal activity. It is an unjustified and blatant economic attack on the legal firearms industry as a whole and by extension those law-abiding citizens who enjoy the legitimate use of firearms.

Violence is behavior, not technology. It is a deep-rooted social problem for which there is no technological solution. Destroying the firearms industry through a barrage of groundless civil actions will not enhance public safety. However, it would spawn a black market manufacturing and distribution industry similar to bootleg alcohol as happened during Prohibition a century ago.

"For every complex problem there is an answer that is clear, simple, and wrong."

– H. L. Mencken

"Those who cannot remember the past are condemned to repeat it."

– George Santayana, *The Life of Reason*, 1905.

The firearms industry is one of the most heavily regulated industries in the nation. These regulations extend from the manufacturer through the distribution to the licensed dealers and ultimately to the consumers.

To understand the full extent and breadth of this Bill it is necessary to understand how many and varied items are included under the definitions. On page 2, §3-2301 (A) thru (E) define the persons, entities and items which fall within the scope of this Bill. Firearms top the list followed by "firearm accessories" which are broadly defined:

3–2301 (2) "FIREARM" INCLUDES AN ANTIQUE FIREARM AS DEFINED IN §4–201 OF THE CRIMINAL LAW ARTICLE.

Antique firearms are not classified as firearms under Federal law and are thus not eligible for background checks via the Federal NICS system and its use is limited to firearms background checks only. To use NICS for a background check on an antique firearm is a Federal crime.

§3-2301 (C) “FIREARM ACCESSORY” MEANS AN ITEM THAT IS SOLD, MANUFACTURED, DISTRIBUTED, IMPORTED, OR MARKETED TO BE ATTACHED TO A FIREARM.

“Firearm Accessories” as defined under §3-2301 (C) are then included under the definitions of “Firearm Related Product:”

§3-2301 (E) “FIREARM-RELATED PRODUCT” MEANS A FIREARM, AMMUNITION, A COMPONENT OR PART OF A FIREARM, OR A FIREARM ACCESSORY THAT IS:

- (1) SOLD, MANUFACTURED, DISTRIBUTED, OR MARKETED IN THE STATE; OR**
- (2) INTENDED TO BE SOLD, MANUFACTURED, DISTRIBUTED, OR MARKETED IN THE STATE; OR**
- (3) POSSESSED IN THE STATE, IF IT WAS REASONABLY FORESEEABLE THAT POSSESSION WOULD OCCUR IN THE STATE.**

An ever broader net is cast under the definition of “Firearm Industry Member:”

§3-2301 (D) “FIREARM INDUSTRY MEMBER” MEANS A PERSON ENGAGED IN THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT.

Pictured below is a cable safety lock of the type supplied free of charge by the National Shooting Sports Foundation (NSSF) and available to the public at thousands of police stations across the Nation. The lock depicted was obtained from the Parkville Precinct of the Baltimore County Police Department. Under the provision of SB 113, the following apply to this safety device:



- It is a “Firearm Accessory” because it was designed for use on a firearm or attached to a firearm. **§3-2301 (C)**
- It is a “Firearm-Related Product” under the definitions in **§3-2301 (E)** because it is a “Firearm Accessory” as defined by **§3-2301 (C)**
- Because it is a “Firearm-Related Product” as defined by **§3-2301 (E)**, the following organizations and persons are “Firearm Industry Members” per **§3-2301 (D)**:
 - Leapers , Inc. who manufactured the safety lock.
 - The distributor who shipped the safety lock
 - The common carrier who delivered the safety lock, e.g. FedEx, United Parcel Service, United States Postal Service, Amazon, or similar entity
 - The police officer who gave the safety lock to the citizen
 - The Baltimore County Police Department who employed the officer
 - Any citizen who in turn transfers the safety lock to a another person.

The manufacture, distribution, market or sale of the following and similar non-regulated parts defines a person as a **“Firearm Industry Member”** and a potential target for nuisance lawsuits.



Front Sight



Rubber Muzzle Caps



Web Sling for Rifle



Sling Mounting Bracket & Sling Loop



Rubber Lens Covers for Optical Sight



Trigger Guard for Rifle



Sight Mounting Bracket



Rifle Butt Plate – including Screws

Despite all the existing state and federal regulations, SB 0113 creates an array of parallel regulations that must be followed creating a scenario primed for abuse. Anyone who decides that in their personal opinion, some member of the industry failed to be clairvoyant and foresee some possible outcome that person is then empowered to file a lawsuit against the “Firearm Industry Member or Members.” Not only empowered but legally required and presumably entitled to assistance from the Attorney General.

§3-2303 (B)(3)(I) PERSON WHO BRINGS AN ACTION UNDER THIS SUBSECTION SHALL NOTIFY THE ATTORNEY GENERAL THAT THE PERSON HAS BROUGHT THE ACTION WITHIN 5 DAYS AFTER FILING THE COMPLAINT.

(II) THE PERSON SHALL PROVIDE THE ATTORNEY GENERAL WITH A COPY OF THE COMPLAINT AND ANY OTHER DOCUMENTS OR PLEADINGS FILED WITH THE COMPLAINT.

The Fiscal and Policy Note confirms the intent of the bill is to include the Attorney General of Maryland in any lawsuit brought, no matter how frivolous. Additionally, the Attorney General becomes a for profit entity in the same manner as thousands of other lawyers seeking to profit from the awards in so-called product liability and negligence lawsuit industry.

***State/Local Fiscal Effect:** OAG advises the need for two assistant Attorney Generals and one part-time support staff to file civil actions as contemplated under the bill, with estimated general fund expenditures of \$352,788 in fiscal 2024 (which assumes a hiring date of October 1, 2023), and at least \$423,000 annually thereafter. However, OAG did not provide details regarding how it derived its estimate and, without experience under the bill, the Department of Legislative Services (DLS) advises it is unable to reliably predict the extent to which civil actions may be filed (and the corresponding need for any additional staff). It is likely that a small number of additional actions can be accommodated without hiring new staff; however, to the extent that OAG uses its authority under the bill to pursue more robust enforcement of violations, general fund expenditures increase. For illustrative purposes only, general fund expenditures associated with the hiring of one assistant Attorney General are a minimum of \$120,000 annually. Although the bill takes effect June 1, 2023, it is assumed that any potential expenditures are not incurred until fiscal 2024.*

Although the bill may result in additional civil actions filed, the bill is not anticipated to materially impact the workloads of the circuit courts and the District Court.

Because OAG may seek specified relief under the bill, including compensatory and punitive damages and reasonable attorney’s fees and costs, general fund revenues may increase to the extent that such relief is awarded by the courts and allocated to the State. However, DLS is unable

to reliably estimate the magnitude of any potential revenues in advance. This analysis does not account for how (or if) any such awards received by the State may be further directed to other entities.

The Fiscal and Policy Note further confirms the intent of the bill is to produce a chilling economic effect on any businesses involved in the lawful commerce of legal and in some instances, highly regulated products.

Small Business Effect: *The bill has a potential meaningful effect on small businesses that encounter additional litigation, liability, and potential increased costs for insurance coverage as a result of the bill's provisions.*

Unlike existing statutes which contain a “mens rea” provision, this Bill permits anyone to bring a lawsuit even when the industry member acted in good faith and compliance with the current statutes. In essence, the legal action is borne of “you are guilty and liable because I say you are guilty.” In keeping with the punitive nature of this Bill, there is no provision protecting the firearms industry by holding the plaintiff liable for damages for frivolous legal actions.

Sections §3-2302 (A) and §3-2303 (C) contain conflicting language. While §3-2302 (A) reflects existing statutes, §3-2302 (A) negates the “mens rea” provisions.

§3-2302 (A) A FIREARM INDUSTRY MEMBER MAY NOT KNOWINGLY (emphasis added) OR RECKLESSLY CREATE, MAINTAIN, OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS:

§3-2303 (C) A PARTY SEEKING RELIEF UNDER THIS SECTION IS NOT REQUIRED TO PROVE THAT A FIREARM INDUSTRY MEMBER ACTED WITH THE INTENT TO VIOLATE THIS SUBTITLE (emphasis added).

SB 113 is a vindictive Bill directed at everything and everyone except the criminals.

We strongly urge an unfavorable report.

John H. Josselyn, Director
2A Maryland

SB 113 - Public Nuisance - NSSF Opposition Letter.

Uploaded by: John Pica

Position: UNF



TREVOR W. SANTOS

Director, Government Relations - State Affairs

tsantos@nssf.org | 202-220-1340 x205 | nssf.org

February 2, 2023

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

SENATE BILL 113 OPPOSE

Re: Senate Bill 113 - Public Safety – Firearm Industry Members – Public Nuisance

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

On behalf of the National Shooting Sports Foundation (“NSSF”), and our industry members located throughout the state of Maryland, I write today to express our opposition to Senate Bill 113 (“SB 113”), the so-called “Gun Industry Accountability Act of 2023.” SB 113 seeks to gut the federal Protection of Lawful Commerce in Arms Act (“PLCAA”) and hold firearm industry members liable for the criminal misuse of firearms.

BACKGROUND ON NSSF

As the trade association for America’s firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation (“NSSF”) seeks to promote, protect, and preserve hunting and the shooting sports. NSSF represents more than 10,000 members which include federally licensed manufacturers, wholesale distributors and retailers of firearms, ammunition and related goods and accessories, as well as public and private shooting ranges, sportsmen’s clubs, and endemic media, including close to 100 businesses located in Maryland, such as Beretta USA, Benelli USA and its family of brands, and LWRC International. Nationally, our industry contributes close to \$70.5 billion dollars annually to the economy creating over 345,000 good paying jobs and paying over \$7.8 billion dollars in taxes. Our industry has a \$890.70 million dollar impact on the Maryland economy, creating more than 4,200 jobs paying over \$287 million in wages and nearly \$109 million dollars in taxes.

Members of the firearm industry are proud of their longstanding cooperative relationship with law enforcement. For example, on behalf of our industry members, for over two decades NSSF has partnered with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) on an anti-straw purchasing campaign called *Don’t Lie for the Other Guy* (www.dontlie.org). This joint effort assists ATF in training licensed retailers to be better able to identify potential illegal straw purchases and avoid those transaction. Don’t Lie also provides public service announcements to educate the public that it is a serious crime to illegally straw purchase a firearm for which you can be sentenced to up to ten years in prison and fined of up to \$250,000.

Another example is *Operation Secure Store* (www.operationsecurestore.org), a joint ATF/NSSF initiative providing licensed retailers with education on solutions and services that enhance operational security and aid in identifying potential risks, protecting interests, and limiting the disruption of operations. The mission is to deter and prevent thefts from retailers and enhance public safety.

NSSF also provides significant compliance resources and educational opportunities to members of the industry. See <https://www.nssf.org/retailers/ffl-compliance/>.

OPPOSITION TO SB 113

NSSF is strongly opposed to SB 113 for several reasons. First and foremost, the bill seeks to subject members of the heavily regulated firearm industry to civil lawsuits for the criminal misuse or unlawful possession of firearms in Maryland. SB 113 is trying to use the threat of crushing liability to coerce out-of-state businesses to adopt sales practices and procedures not required by Congress or the law of the state where they operate. The Constitution reserves the power to regulate interstate commerce solely to Congress. This law interferes with the sovereignty of other states to make policy choices about how firearms should be sold in their state, subject only to the Second Amendment and federal law.

As proposed, SB 113 would permit lawsuits by victims of criminal acts and citizens claiming they have been harmed by an alleged public nuisance in Maryland. It also allows lawsuits by the State and any local government. Cities around the country were part of a wave of similar lawsuits filed over twenty years ago that led to Congress passing the bipartisan PLCAA in 2005.

The PLCAA codified a bedrock legal principle. Manufacturers and retailers are not responsible for the subsequent criminal misuse or illegal possession of their lawfully sold, non-defective products by remote third parties – criminals – over whom they have no control. Firearm industry members are not legally responsible for illegal shootings any more than a cookware manufacturer is responsible if a criminal misuses a sharp kitchen knife to stab someone.

This bill seeks to impose liability on law abiding firearms business for the criminal misuse of firearms. This is contrary to the will of Congress which, in enacting the PLCAA found –

Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition products that have been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully

competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

15 U.S.C. § 790(a)(5),(6).

Congress' purposes in enacting the PLCAA included -

To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful of firearm products or ammunition products by others when the product functioned as designed and intended.

To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

To preserve and protect the Separation of Powers doctrine and important principles of federalism, State sovereignty and comity between sister States.

15 U.S.C. § 790(b)(1),(4),(6).

The logic underlying this bill is seriously flawed. It seeks to impose liability on members of the firearm industry for the “lawful design, manufacture, marketing, distribution, importation, [and] sale” of firearms in compliance with all federal, state, and local laws, when those firearms are subsequently obtained by third parties¹ over whom the industry member has no ability to control and later illegally find their way into Maryland and are criminally misused. This is tantamount to declaring drunk driving a public nuisance and then imposing liability on Ford for lawfully designing, make and selling a car later used by a drunk driver who causes an accident. Selling a legal, non-defective product in compliance with all laws and regulations – especially a heavily regulated product – does not “create, maintain or contribute to a condition in the State that endangers the safety or health of the public...” and is not a public nuisance under American jurisprudence. The bill goes further, it declares that the lawful business practices are “constitute a proximate cause of the public nuisance.... notwithstanding any intervening actions, including but not limited to criminal actions by third parties.”

The U.S. Supreme Court held that the Second Amendment protects the right of individuals to keep and bear arms and that the Second Amendment applies to the States. *See e.g., District of Columbia v. Heller*, 128 S.Ct. 2783 (2008), *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010). The courts have since held that the Second Amendment includes the right to acquire firearms *See e.g., Ezell v. City of Chicago*, 651 F.3d 684 (7th Cir. 2011), *Jackson v City and County of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2011); *Ill. Ass'n of Firearms Retailers v City of Chicago*, 961 F.Supp.2d 928, 930 (N.D. Ill. 2014); *See also, Andrews v State*, 50 Tenn.

¹ According to the U.S. Department of Justice studies, most (>80%) firearms used in crime are stolen, borrowed from friends and family members, or obtained on the black market.

165, 178 (1871). The Second Amendment protects the lawful commerce in firearms because that “[c]ommerce in firearms is a necessary prerequisite to keeping and possessing arms for self-defense...” *Teixeira v. City. of Alameda*, 873 F.3d 670, 682 (9th Cir. 2017).

If enacted, businesses in the firearm industry will abandon the Maryland market to avoid a tidal wave of vexatious “regulation through litigation” the bill is intended to bring about. Maryland residents will no longer be able to exercise their Second Amendment right to purchase firearms. The bill will undermine and diminish, if not violate, the Second Amendment rights of Maryland resident.

The bills own findings demonstrate that this legislation will not make Maryland safer. The conduct complained of arises from the actions of criminals who misuse firearms to perpetrate their crimes. It does not arise from lawful, heavily regulated commerce.

CONCLUSION

It is for these reasons, the National Shooting Sports Foundation opposes this ill-advised and ill-considered bill that will not improve public safety but will force result in vexatious litigation and drive business out of Maryland and diminish the ability of law abiding residents of Maryland to acquire firearms for lawful purposes. We would respectfully request an “Unfavorable Report” for Senate Bill 113 from the Senate Judicial Proceedings Committee.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. W. Santos', written in a cursive style.

Trevor W. Santos

Opposition to bills SB 1 SB 118 SB 86 SB 113.pd

Uploaded by: Jonathan Norris

Position: UNF

Jonathan Norris Jr. 1110 Mandarin Dr. Upper Marlboro MD 20774 3012520239 Jonnynorris@comcast.net

Honorable Senators and Delegates

Hello my name is Jonathan Norris Jr,

I am originally from Baltimore Maryland I currently reside in upper Marlboro and I am a Howard University alumnus. As someone who supports lawful and license concealed carriers I want to go on record with my opposition to these bills. I still don't understand how these things get created as if people who break the law would actually follow these laws and the people who do everything they can to comply with them should be penalized even more for being compliant. If it is your right to protect your family yourself your business those of us that have high level clearances. Why is it now that the state of Maryland decide that we should be vulnerable in public.

I would also like to add that being from Baltimore I have survived more than one gun related crime in my lifetime. I can tell you that at least one of those instances that happened to be someone else with a firearm that came to my aid and all of these were before I reached the age of 19 years old.

Law abiding citizens aren't out here committing gun violence but they deserve to defend themselves from the violence has been committed.

I can also remember in my digital forensics class speaking with federal law enforcement and local telling me that with the response time that things would happen and go down before they could even be on the scene it would be Over.

I am 100% opposed to : SB 1; SB 118; SB 86 & SB 113

Thank you

Jonathan Norris Jr.

Former Producer 96.3 FM radio DC

Manager Fleet Tv

Digital Forensics and Cyber Security Contractor to the Federal Government

Former AEAN US NAVY Reserve

Graduate Howard university

Father to a young son

SB0001, SB0086, SB113.pdf

Uploaded by: Karla Mooney

Position: UNF

Judiciary Committee and the Honorable Senator Smith,

I am sending in a written testimony and wish to speak as well on Tuesday February 7th regarding the bills being heard at the Judicial proceedings.

First SB0001 Criminal Law – Wearing, Carrying, or Transporting Firearms- Restrictions (Gun Safety Act 2023)

When I read what this bill says, the determination that now all public places and private places are gun free zones I begin to realize that this law is to say that all citizens who follow the law do not matter. As you can imagine criminals do not follow the law so they will be very happy to have free reign to go where ever they please to use their illegal guns to commit crimes and go unpunished while doing so.

A call to the police when a criminal is pointing a gun at a law abiding citizen could be answered in 20 minutes or so if the police have the staff to do so. But think of the terror of a Mother with her children being held at gunpoint and being robbed or beaten, or worse just so a criminal can get what every they want. Then if the mother survives, she will know that the criminal might get a slap on the wrist and be out of jail in hours if caught.

The number of Concealed Carry holder in this state is up substantially because it has become a scary place to live, not because the people just want to freely carry a gun. So many of the students I have taught are truly grateful to be able to provide the first response to a threat, rather than wait 20 minutes for some one to come when the threat has done what ever harm they want and is free on the streets to continue going after the unarmed. Everyone's lives matter, not just the criminals' lives.

I request an unfavorable review on SB0001

Second SB 0086 Rifles and Shotguns- Possession- Age Requirements. (Raise the Age Act of 2023)

This bill will definitely end Youth hunting. Maryland has a long tradition of hunting and to limit the possession of log guns to this age group will stop youth hunting completely. This will also stop any of the Youth shooting sports competitions in Maryland. Once again, I see the Legislation written to affect law abiding citizens. This bill is not even a factor in our state. Hunting for food has been passed down for generation – this bill will completely stop it. Please do not pass such a bill in Maryland.

I request an unfavorable review on SB0086

Next SB113 Civil Actions- Public Nuisances – Firearms Industry Members (Gun Industry Accountability Act 2023)

This bill seeks to undermine the Protection of Lawful Commerce in Arms Act (PLCAA), a federal law that shields firearms industry members from frivolous civil lawsuits. Criminals use a firearm is a criminal act – why would you blame someone who follows a huge amount of laws and regulations to participate in legal commerce with the acts perpetrated by a criminal violating the law. Convict criminals whose intention is to break the law – not the law-abiding citizen.

I request an unfavorable report on SB113.

Karla Mooney 21175 Marigold St Leonardtown MD 20650 Maryland State Leader of The DC Project

Maryland State Leader of Armed Woman of America, NRA Multi-discipline Firearms Instructor

Katie_Novotny_UNF_SB113.pdf

Uploaded by: Katie Novotny

Position: UNF

WRITTEN TESTIMONY OF KATIE NOVOTNY IN OPPOSITION OF
SB113

February 7, 2023

This bill is a misguided attempt to punish manufacturers for the actions of third parties. We do not sue Ford, Chevy, or Dodge when someone is killed by a drunk driver operating their products. We don't sue Budweiser or Jim Beam for those deaths either. It makes absolutely no sense to sue a manufacturer for something a third party does. Firearms manufacturers do not even sell to the public. They sell to distributors, who sell to retail establishments, who then sell to the public according to federal and state laws. Simply not liking a particular product, or even wishing they did not exist, in this case, firearms, does not mean you may sue that industry out of existence. Particularly when ownership, and therefore acquisition, is protected by the Bill of Rights.

There are a multitude of legal issues with this bill as well, which I am sure others will address much more eloquently than I am able to. The bottom line is we must hold individuals accountable for their actions, not the manufacturer of an item used illegally.

I request an unfavorable report.

Respectfully,

Katie Novotny

District 35A

Katie.novotny@hotmail.com

443-617-7568

MSI testimony on SB 113 and HB 259 PCLAA FINAL.pdf

Uploaded by: Mark Pennak

Position: UNF



President
Mark W. Pennak

February 7, 2023

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO SB 113 and HB 259

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan, non-profit organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia and the Bar of Maryland. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland Firearms Law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home, muzzle loading, as well as a range safety officer. I appear today in opposition to SB 113 and its cross-file, HB 259 (collectively referred to herein as “the Bill” or “this Bill”).

The Bill: This Bill defines a new offense of “public nuisance” and is designed to negate the Protection of Lawful Commerce in Arms Act, 15 U.S.C. § 7901, *et seq.* (“PLCAA”). It provides a new duty of care on a “firearm industry member” a term that is defined by the bill to include “A PERSON ENGAGED IN THE SALE, MANUFACTURING, DISTRIBUTION, IMPORTING, OR MARKETING” of any “a “firearm-related product,” a term that is defined to include all firearms and ammunition, including mere “COMPONENTS” of firearms and ammunition.

The Bill provides that “A FIREARM INDUSTRY MEMBER MAY NOT KNOWINGLY OR RECKLESSLY CREATE, MAINTAIN, OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS: (1) UNLAWFUL; OR (2) UNREASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES.” The bill does not define “components.” Nor does the bill attempt to define “reasonable under the totality of the circumstances.”

The Bill then provides, in a separate provision, that “A FIREARM INDUSTRY MEMBER SHALL ESTABLISH AND IMPLEMENT REASONABLE CONTROLS REGARDING THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, MARKETING, POSSESSION, AND USE OF THE FIREARM INDUSTRY MEMBER’S FIREARM-RELATED PRODUCTS.” A violation of either one of these provisions is declared to be “A PUBLIC NUISANCE.” It further provides that

“NOTWITHSTANDING ANY INTERVENING ACTIONS, INCLUDING A CRIMINAL ACTION BY A THIRD PARTY, THE CONDUCT OF A FIREARM INDUSTRY MEMBER IS A PROXIMATE CAUSE OF HARM TO THE PUBLIC IF THE HARM IS A REASONABLY FORESEEABLE EFFECT OF THE CONDUCT.”

In a separate section, the Bill then creates new causes of action, providing that the Attorney General of the State may bring a suit against any such industry member for any violation of the “public nuisance” created by the Bill. Likewise, the Bill provides that a civil suit may be brought against such industry member by “FOR INJURY OR LOSS SUSTAINED AS A RESULT OF A 18 VIOLATION” of the “nuisance” provisions. The Attorney General “may seek (I) INJUNCTIVE RELIEF. (II) RESTITUTION; (III) COMPENSATORY AND PUNITIVE DAMAGES; (IV) REASONABLE ATTORNEY’S FEES AND COSTS; AND (V) ANY OTHER APPROPRIATE RELIEF.” The private plaintiff likewise “may seek and be awarded” the same relief (except for “any other appropriate relief”). Under the Bill, neither the private plaintiff nor the Attorney General need prove that any industry member acted with “any intent to violate” these provisions.

The Bill Is Unconstitutionally Vague:

Article 24 of the Maryland Declaration of Rights prohibits the enactment or enforcement of vague legislation. Under Article 24, “[t]he void-for-vagueness doctrine as applied to the analysis of penal statutes requires that the statute be “sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties.” *Galloway v. State*, 365 Md. 599, 614, 781 A.2d 851 (2001). A statute must provide “legally fixed standards and adequate guidelines for police ... and others whose obligation it is to enforce, apply, and administer [it]” and “must eschew arbitrary enforcement in addition to being intelligible to the reasonable person.” (Id. at 615). Under this test, a statute must be struck down if it is “so broad as to be susceptible to irrational and selective patterns of enforcement.” (Id. at 616). See also *Pizza di Joey, LLC v. Mayor of Baltimore*, 470 Md. 308, 343-44, 235 A.3d 873 (2020)

The void for vagueness doctrine applies to laws imposing civil penalties as well as to laws imposing criminal penalties. *Madison Park North Apartments, L.P. v. Commissioner of Housing and Community Development*, 211 Md. App. 676, 66 A.3d 93 (2013), appeal dismissed, 439 Md. 327, 96 A.3d 143 (2014). See also *Parker v. State*, 189 Md. App. 474, 985 A.2d 72 (2009) (“the criteria for measuring the validity of a statute under the vagueness doctrine are the same as in a non-First Amendment context: fair warning and adequate guidelines”); *Neutron Products, Inc. v. Department Of The Environment*, 166 Md.App. 549, 609, 890 A.2d 858 (2006) (“Maryland courts have applied the void for vagueness doctrine to civil penalties”) (citing *Finucan v. Md. Bd. of Physician Quality Assurance*, 380 Md. 577, 591, 846 A.2d 377, cert. denied, 543 U.S. 862 (2004) (applying the void for vagueness analysis to regulations imposing sanctions on physicians);

This Bill fails under Article 24 in multiple ways. First, the duty of care created by the bill bars conduct that is not only “unlawful,” but also imposes liability on an industry member who “KNOWINGLY OR RECKLESSLY CREATE, MAINTAIN,

OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS: (1) UNLAWFUL; OR (2) UNREASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES.” That standard is hopelessly vague as the bill does not define “UNREASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES.” There is simply no feasible way for a dealer or other industry member to know, ahead of time, what conduct is “unreasonable” under this standard. Likewise, the Bill allows enforcement for any “harm to the public” but never defines that term. Under this Bill, conduct that is entirely lawful could nonetheless be deemed “unreasonable” and thus constitute a “public nuisance.” The Bill does not even define what constitutes a “firearm-related product.” That term could include paper targets, spotting scopes, hunting clothing, and a whole host of products sold at gun stores. The risk of arbitrary and discriminatory enforcement is apparent, as the bill provides no “guidelines” for enforcement. The potential for unforeseeable liability under this duty is virtually limitless. Such a Bill will not survive judicial review.

The Bill’s requirement that the conduct be “knowingly” or “reckless” is meaningless here. The requirement of “knowingly” means that person knows that the conduct is illegal and does it anyway. See, e.g., *Chow v. State*, 393 Md. 431 (2006) (holding that a knowing violation of a Maryland statute making it unlawful for a person who is not a regulated gun owner to sell, rent, transfer, or purchase any regulated firearm without complying with the application process and seven-day waiting period requires that a defendant knows that the activity they are engaging in is illegal). See also *Rehaif v. United States*, 139 S.Ct. 2191 (2019) (holding that the “knowingly” requirement on the federal ban on possession of a firearm by an illegal alien required proof that the alien actually knew that he was illegally in the United States).

Here, it is virtually impossible to “knowingly” engage in the prohibited conduct where the Bill sanctions not only “unlawful” conduct, but also bans utterly undefined “unreasonable” conduct. The Bill does not even set forth any criteria by which “unreasonable” conduct is measured. For the same reason, it is equally impossible to be “reckless” about such conduct where the Bill establishes no standards by which “recklessness” can be assessed ahead of time. There are also no enforcement “guidelines” as required by Article 24. *Compare* MD Code Criminal Law § 2-210 (punishing “death of another as the result of the person's driving, operating, or controlling a vehicle or vessel in a criminally negligent manner” and defining criminally negligent as occurring where “(1) the person should be aware, but fails to perceive, that the person's conduct creates a substantial and unjustifiable risk that such a result will occur; and (2) the failure to perceive constitutes a gross deviation from the standard of care that would be exercised by a reasonable person”), sustained against a vagueness challenge in *Bettie v. State*, 216 Md. App. 667, 682, 88 A.3d 906 (2014). The dealer is left to guess. The potential liability is limitless and there is simply no way to guard against it.

The same vagueness permeates the Bill’s requirement that an industry member “SHALL ESTABLISH AND IMPLEMENT REASONABLE CONTROLS REGARDING THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION,

MARKETING, POSSESSION, AND USE OF THE FIREARM INDUSTRY MEMBER'S FIREARM-RELATED PRODUCTS." The Bill has no definition of what constitutes "reasonable controls." The Bill does not even provide any criteria by which "reasonableness" can be assessed. Nor does the Bill even specify the meaning of "controls." This bill thus does not purport to incorporate specific standards, such as set out in MD Code, Commercial Law, § 13-301, a provision that bans the use of "deceptive trade practices," as specifically defined in that provision. See *American Home Products Corp. v. FTC*, 695 F.2d 681, 710 (3d Cir. 1982) (setting aside a FTC unfair practices order as "excessively vague and overbroad"). The industry member is thus left completely at sea concerning the scope of this provision and its meaning and is thus threatened with potentially enormous litigation burdens. The discretion of the enforcing official is virtually unlimited. Again, there are simply no enforcement "guidelines" required by Article 24. Courts may "not uphold an unconstitutional statute merely because the Government promised to use it responsibly." *United States v. Stevens*, 559 U.S. 460, 480 (2010). See also *McDonnell v. United States*, 579 U.S. 550, 576 (2106) (same); *Legend Night Club v. Miller*, 637 F.3d 291, 301 (4th Cir. 2011) (same).

Unlike the New York legislation from which this Bill was obviously copied in part, N.Y. Gen. Bus. Law §§ 898-b, the vagueness of this Bill is not alleviated by any existing Maryland general "public nuisance" statute or other statutes containing the same language. Compare MD Code, Alcoholic Beverages, § 29-2612 and MD Code, Alcoholic Beverages, § 32-2614 and MD Code, Alcoholic Beverages, § 27-2616 (public nuisance associated with the illegal sale of alcohol). See generally *In re Expungement Petition of Meagan H.*, 2022 WL 3153968 (Ct. of Sp. Appeals 2022) (listing public nuisance crimes for discreet and clear misconduct). Indeed, the rule in Maryland is that "[w]hile a private party may seek an injunction against a public nuisance, it must have an interest in property injured by the nuisance and have suffered damage distinct from that experienced by other citizens." *Brady v. Walmart Inc.*, 2022 WL 2987078 at *17 (D. Md 2022) (applying Maryland law). This Bill would permit a private recovery and injunctive relief for any "harm to the public" and thus dissolves the requirement that the plaintiff must have suffered "damage distinct" from that of other citizens.

Moreover, unlike in New York, where there was long-standing statutory and case law that provided definitions and clarity to the virtually identical language used in the New York gun legislation, there is no comparable body of Maryland law addressing these terms. Compare *NSSF v. James*, 2022 WL 1659192 *11-*12 (N.D.N.Y. 2022) (holding that Section 898 was not void for vagueness because it tracked other New York law dating back to 1965 which provided explicit definitions, in the statute or in the case law, for the same terms). Indeed, the New York statute is narrower than this Bill, as it declared to be a nuisance only that conduct that "endangers the safety or health of the public." Here, this Bill bans any conduct that merely contributes "to harm to the public." See N.Y. Gen. Bus. Law §§ 898-c, declaring a violation of N.Y. Gen. Bus. Law §§ 898-b, to be a public nuisance.

Only New Jersey has enacted such an extreme law, N.J.S.A. 2C:58-35, and that law became effective only as of July 5, 2022. This law was immediately successfully challenged by the National Shooting Sports Foundation ("NSSF") in *NSSF v.*

Platkin, No. 22-6646, 2023 WL 1380388 (D.N.J. Jan. 31, 2023). The federal district court held that the New Jersey statute violated PLCAA. The court ruled that the New Jersey law “would subject manufacturers, distributors, dealers, and importers of firearms or ammunition products and their trade associations to civil liability for the harm solely caused by the criminal or unlawful misuse of firearm or ammunition products by others.” Slip op. at 13. The court concluded that that result was “in direct conflict with the PLCAA’s purpose” and thus preempted by PLCAA. Slip op. at 13-14. These Bills suffer from exactly the same flaw and will likewise not survive judicial review. The court in *NSSF* awarded preliminary injunctive relief, finding that the plaintiffs and its members would suffer immediate irreparable injury. PLCAA is discussed in detailed below. Suffice it to say at this point that this Bill suffers from the same vagueness concerns that lead to the preliminary injunction in *NSSF v. Platkin*. See *NSSF* at 14, 17.

Moreover, Maryland is not New Jersey and Maryland traditionally has never sought to copy such extreme laws in enacting firearms legislation. And, of course, the constitutionality of any Maryland statute must be assessed under Article 24 of the Maryland Declaration of Rights which, as explained above, imposes very specific standards that statutes must meet to satisfy the Maryland prohibition on the enactment of a vague statute.

Such vagueness is particularly intolerable because this Bill affects the exercise of rights under the Second Amendment to the Constitution. See, e.g., *City of Chicago v. Morales*, 527 U.S. 41, 53 (1999) (striking down a vague ordinance on grounds it affected a liberty interest protected by the Due Process Clause). Specifically, under *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. Chicago*, 561 U.S. 742, 750 (2010), the Second Amendment protects the right of a law-abiding citizen to acquire firearms, including handguns. *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011). That right to acquire a firearm has already been recognized in Maryland in the HQL litigation. See *MSI v. Hogan*, 566 F.Supp. 3d. 404, 424 (D.Md. 2021), *appeal pending*, *MSI v. Hogan*, No. 21-2107 (4th Cir.) (“The requirements for the purchase of a handgun, as set out in the HQL law, undoubtedly burden this core Second Amendment right because they ‘make it considerably more difficult for a person lawfully to acquire and keep a firearm ... for the purpose of self-defense in the home.’”), quoting *Heller v. District of Columbia*, 670 F.3d 1244,1255 (D.C. Cir. 2011).

Firearm dealers have an ancillary Second Amendment right to sell firearms to law-abiding citizens. See, e.g., *Teixeira v. County of Alameda*, 873 F.3d 670, 676-78 (9th Cir. 2017) (en banc), *cert. denied*, 138 S.Ct. 1988 (2018). Under this precedent, any law that “meaningfully constrain[s]” a customer from having “access” to a dealer is actionable under the Second Amendment. 873 F.3d at 680. See also *Maryland Shall Issue, Inc. v. Hogan*, 971 F.3d 199, 216 (4th Cir. 2020) (holding that a firearms dealer had Second Amendment standing to challenge Maryland’s HQL statute and may sue on its own behalf and had third party standing to sue on behalf of its “customers and other similarly situated persons”). Regulation of dealer operations and that of other “industry members” is thus imbued with constitutional concerns. Such infringements of this right to access to a dealer are open to challenge under the June 2022 decision of the Supreme Court in *New York State Rifle & Pistol*

Association, Inc. v. Bruen, 142 S.Ct. 2111, 2126-27 (2022), where the Court established a new text, history, and tradition test for assessing Second Amendment challenges. See *Pizza di Joey*, 470 Md. at 904 (“a person may assert a facial vagueness challenge if the challenged statute implicates the First Amendment *or another fundamental right*”) (emphasis added). This Bill will likely drive many if not most dealers out of business. Any intent or desire to thus regulate dealers to the point of near extinction is constitutionally illegitimate. The Bill is, and is obviously designed to be, extremely punitive. If enacted as written, it will undoubtedly be challenged in court.

The Bill Is Contrary To The PLCAA:

The PLCAA: As enacted by Congress, the PLCAA expressly provides that a “**qualified civil liability action may not be brought in any Federal or State court.**” 15 U.S.C. § 7902(a). A “qualified liability act” is defined by the PLCAA to mean “a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party....” 15 U.S.C. § 7903(5)(A). This ban on suits expressly covers all “qualified products” which are defined to mean any “firearm” or “ammunition or any “component part of a firearm or ammunition.” 15 U.S.C. § 7903(4). “Congress enacted the PLCAA upon finding that manufacturers and sellers of firearms “are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products ... that function as designed and intended.” *Prescott v. Slide Fire Solutions, LP*, 341 F.Supp.3d 1175, 1187 (D. Nev. 2018), quoting *Ileto v. Glock, Inc.*, 565 F.3d 1126, 1135 (9th Cir. 2009), (quoting 15 U.S.C. § 7901(a)(5)).

Congress intended to ban suits in which liability where harm was caused by “the criminal or unlawful” use of a firearm by another, finding that sellers and manufacturers of firearms “are not and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.” 15 U.S.C. § 7901(a)(5). Congress further found that suits based on harm caused by third parties would represent an improper “expansion of liability” that “would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.” 15 U.S.C. § 7901(a)(7). See generally, *Ileto v. Glock, Inc.*, 565 F.3d 1126 (9th Cir. 2009), *cert. denied*, 560 U.S. 924 (2010) (discussing the purposes of the PLCAA); *City of New York v. Beretta*, 524 F.3d 384 (2d Cir. 2008), *cert. denied*, 556 U.S. 1104 (2009) (same).

Congress carved out a few types of suits that are not prohibited by the PLCAA. Such suits include:

[A]n action in which a manufacturer or seller of a qualified product ***knowingly violated*** a State or Federal statute applicable to the sale or marketing of the product, **and the violation was a proximate cause of the harm for which relief is sought**, including--

(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under Federal or State law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of Title 18.

15 U.S.C. § 7903(A)(5)(iii) (emphasis added).

Congress likewise permitted suits for “physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, *except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage.*” 15 U.S.C. § 7903(5)(A)(v) (emphasis added). Other types of suits are similarly permitted, such as suits for breach of warranty or contract (§7903(A)(5)(iv)), or where suit is brought against a transferor convicted of illegally selling a qualified product under 18 U.S.C. § 924(h) (punishing a person who “knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)...”). 15 U.S.C. § 7903((5)(A)(i). Congress likewise permitted suits for “negligent entrustment or negligence per se.” (Section 7903((5)(A)(ii).

The Bill’s “Proximate Cause” Provision Is Preempted by the PLCAA: As noted, the PLCAA flatly bans any suit where the harm results “from the criminal or unlawful misuse of a qualified product by the person or a third party.” This Bill expressly allows such suits as it allows suits for any violation of the bill’s requirements, providing that “NOTWITHSTANDING ANY INTERVENING ACTIONS, INCLUDING A CRIMINAL ACTION BY A THIRD PARTY, THE CONDUCT OF A FIREARM INDUSTRY MEMBER IS A PROXIMATE CAUSE OF HARM TO THE PUBLIC IF THE HARM IS A REASONABLY FORESEEABLE EFFECT OF THE CONDUCT. This provision of the Bill obviously allows liability to be imposed “notwithstanding” the criminal acts of a third party if the “harm is a reasonable foreseeable effect of the conduct.” The Bill’s proximate cause provision would thus impose liability even though the harm arose from the criminal acts of third parties. That is **precisely** the type of suit banned by the PLCAA in Section 7702 and Section 7903(a)(5)(ii).

As noted above, Congress has also expressly banned suits where the harm results “from the criminal or unlawful misuse of a qualified product by the person or a third party.” On its face, that language precludes the Bill’s attempt to impose liability notwithstanding “THE INTERVENING ACTIONS, INCLUDING CRIMINAL

ACTIONS BY THIRD PARTIES.” Nor does the bill fall within any of the exceptions to preemption set out in the PLCAA. The PLCAA’s exceptions to this ban are narrow. Specifically, Section 7903(5)(A)(iii) allows suits for a knowing violation of “a State or Federal statute applicable to the sale or marketing of the product,” but **only** where the violation “**was the proximate cause of the harm for which relief is sought.**” (Emphasis added). This Bill allows the imposition of liability not only for “unlawful” conduct but also for conduct that was “unreasonable under the totality of the circumstances.”

Similarly, in Section 7903(5)(A)(v), the PLCAA allows suits for a “defect in design or manufacture,” but provides that “where the discharge of the product was caused by a volitional act that constituted a criminal offense, **then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage.**” (Emphasis added). The Bill allows much broader liability. The concept of “proximate causation” under the common law is at the heart of these exceptions to the ban otherwise imposed by PLCAA. In this state, as in virtually all other states, the common law is that “proximate cause” is a factual question presented to the finder of fact on a case-by-case basis. See, e.g., *Pittway Corp. v. Collins*, 409 Md. 218, 242-46, 973 A.2d 771 (2009) (explaining that “[i]t is a basic principle that [n]egligence is not actionable unless it is a proximate cause of the harm alleged,” citing *Stone v. Chicago Title Ins.*, 330 Md. 329, 337, 624 A.2d 496, 500 (1993)). That point applies equally to questions of superseding or intervening causes as such causes negate the presence of “proximate cause.” (Id. at 252). This Bill takes the proximate cause element away from the trier of fact by providing that intervening causes are irrelevant. That result is contrary to the common law.

Moreover, the Bill would impose legal liability on industry members and thereby creates a duty to the public **notwithstanding** the presence of an intervening cause. Again, as noted, Section 7903(5)(A)(iii) allows suits for a knowing violation of “a State or Federal statute applicable to the sale or marketing of the product,” but only where the violation “was the proximate cause of the harm for which relief is sought.” A violation of the State statute is not enough. Rather, the violation must have been the proximate cause of the harm. Proximate causation is a matter of common law.

The common law rule in Maryland, like other states, is that a criminal act of a third party is an intervening or superseding cause that prevents liability from being assigned to the defendant **as a matter of law**. See generally, W.P. Keeton, Prosser and Keeton on the Law of Torts § 44, at 305 (5th ed. 1984); Restatement (Second) of Torts § 448 (1965). Thus, in *Valentine v. On Target, Inc.*, 353 Md. 544, 727 A.2d 947 (1999), the Maryland Court of Appeals (now renamed as the “Supreme Court of Maryland”) expressly rejected the claim brought against a firearms dealer by the estate and survivors of a victim who was shot and killed by an unknown assailant and who used a gun stolen from the dealer. The court held that it did not “discern in the common law the existence of a third party common law duty that would apply to these facts.” 353 Md. at 553. As stated in *Valentine*, “[o]ne cannot be expected to owe a duty to the world at large to protect it against the actions of third parties, which is why the common law distinguishes different types of relationships when determining if a duty exists.” *Valentine*, 353 Md. at 553, 727 A.2d at 951. The Court of Appeals reached the same result in *Warr v. JMGM Group, LLC* 433 Md. 170, 71

A.3d 347 (2013), where the court applied *Valentine* to hold that a bar owner owed no duty to third parties or to the public when an intoxicated bar patron caused an accident after leaving the bar.

Both *Valentine* and *Warr* apply the general common law that establishes a bright line rule that this lack of a duty obtains **regardless** of whether the harm was “foreseeable.” *Valentine*, 353 Md. at 556 (“although the inherent nature of guns suggests that their use may likely result in serious personal injury or death to another this does not create a duty of gun dealers to all persons who may be subject of the harm”); *Warr*, 433 Md. at 183 (“When the harm is caused by a third party, rather than the first person, as is the case here, our inquiry **is not whether the harm was foreseeable**, but, rather, whether the person or entity sued had control over the conduct of the third party who caused the harm by virtue of some special relationship”). (Emphasis added). In short, *Valentine* and *Warr* applied the common law, and the common law plainly rejects the Bill’s reliance on mere foreseeability as sufficient, alone, to establish proximate causation. See also *Ford v. Edmondson Village Shopping Center Holdings, LLC*, 251 Md.App. 335, 254 A.3d 138 (2021) (discussing *Valentine*). The Bill’s attempt to impose a legal duty on industry members to the public at large without regard to intervening causes is directly contrary to the common law, as these cases make plain.

Congress relied expressly upon this general common law in enacting the PLCAA. For example, under Section 7901, Congress declared that “[t]he liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups and others are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law.” See *Ileto*, 565 F.3d at 1135. Thus, by requiring proximate cause in crafting the limited exceptions to the ban, Congress made clear its intent to ban a suit where the harm is **not** the proximate cause of the injury or harm **under the common law**, as construed throughout the United States. See, e.g., *District of Columbia v. Beretta USA, Corp.*, 940 A.2d 163, 171 (2008) (noting that “the predicate exception requires proof that, despite the misuse of the firearm by a third person, ‘the [statutory] violation was a proximate cause of the harm for which relief is sought’”), quoting § 7903(5)(A)(iii); *Soto v. Bushmaster Firearms International, LLC*, 331 Conn. 53, 98, 202 A.3d 262 (2019), *cert. denied*, 140 S.Ct. 513 (2019) (noting that “[p]roving such a causal link at trial may prove to be a Herculean task”).

Because the PLCAA is a federal preemption statute, the State is not free to redefine what constitutes “proximate cause” for purposes of the preemption imposed by the PLCAA. As explained above, the Bill’s proximate causation provision eliminates any “intervening” criminal act as a proximate cause and thus is, and was intended to be, **an abrogation** of the common law for suits brought under this Bill. The State is not free to abrogate part of a federal statute that otherwise expressly preempts State law. As the Supreme Court recently noted, “[t]he Supremacy Clause provides that ‘the Judges in every State shall be bound’ by the Federal Constitution, ‘any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.’” *Espinoza v. Montana Depart. of Revenue*, 140 S.Ct. 2246, 2262 (2020). Thus, the Supremacy Clause “‘creates a rule of decision’ directing state courts that they ‘must

not give effect to state laws that conflict with federal law[.]” Id., quoting *Armstrong v. Exceptional Child Center, Inc.*, 575 U.S. 320, 324 (2015). The Bill’s “proximate causation” provision is contrary to the common law *as that term is used in the PCLAA*. It is thus preempted.

The Bill Likewise Is Preempted By The PLCAA In Other Ways: The bill conflicts with the PLCAA in other ways. First, this bill provides that an industry member is subject to liability if the industry member knowingly or recklessly engages in the MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING of firearm-related products and that conduct that is “unlawful” or merely “unreasonable.” That broad liability is inconsistent with the PLCAA, which allows liability if the “manufacturer or seller” (and only these members of the industry) knowingly violated “a State or Federal statute **applicable to the sale or marketing of the product.**” (Emphasis added). This Bill is broader as it imposes liability not only on the “manufacturer or seller” it also imposes liability on any “firearm industry member” who is defined to include any “PERSON ENGAGED IN THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT.” The PCLAA preempts the Bill’s attempt to regulate more broadly the MARKETING, DISTRIBUTION, IMPORTATION of these products.

The Bill impermissibly allows liability for “reckless” conduct. The narrow exceptions carved out by Section 7903(5)(A)(iii) require a “knowing” violation of a record keeping requirement or a “knowing” violation of a State or Federal statute “applicable to the sale or marketing of the product.” The Supreme Court has held that “in order to establish a ‘willful’ violation of a statute, ‘the Government must prove that the defendant **acted with knowledge that his conduct was unlawful.**” *Bryan v. United States*, 524 U.S. 814, 191-92 (1998), quoting *Ratzlaf v. United States*, 510 U.S. 135, 137 (1994) (emphasis added). The same point applies to “knowing.” See *Rehaif v. United States*, 139 S.Ct. 2191 (2019) (holding that the “knowingly” requirement on the federal ban on possession of a firearm by an illegal alien required proof that the alien actually knew that he was illegally in the United States). In contrast, this bill imposes liability where the industry member “recklessly” engaged in conduct. Nothing in these provisions of the PLCAA permit liability for “reckless” conduct. “Recklessness” is a deliberate indifference to the risk of harm, while “knowingly” requires that the actor actually know that the conduct is illegal. See *County of Sacramento v. Lewis*, 523 U.S. 833, 850-51 (1998). Any liability under the bill for “reckless” conduct is thus preempted.

Third, as noted above, this bill also imposes liability for conduct that is merely “UNREASONABLE.” Because this element is undefined and incredibly vague, it is impossible to “know” whether a particular conduct is illegal under this amorphous standard and thus “knowingly” violate it. In any event, the PLCAA also sharply limits a State’s authority to impose liability for third party conduct for “unreasonable” conduct. Section 7903(5)(A)(iii)(II), allows suits where the “the manufacturer or seller” knew or had “reasonable cause to believe that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition **under subsection (g) or (n) of section 922 of Title 18.**” (Emphasis added). Subsection (g) bans possession of a modern firearm or modern ammunition

by a prohibited person and subsection (n) bans such possession by a person under indictment for a crime punishable by more than one year.

This provision of the PLCAA requires that the violation involve these two sections of the U.S. Code. This exception to preemption in the PLCAA is thus far narrower in scope than the potentially massive liabilities for “UNREASONABLE” conduct or conduct that is unlawful in **other** ways. The liability imposed by this Bill goes far beyond any such sales, as it imposes liability for any “unlawful” conduct and any “unreasonable” conduct. That provision of the Bill and the Bill’s application to all firearms industry members are thus preempted. Another exception to the preemption ban involving “reasonableness” is set out in Section 7903(5)(A)(v), which allows suits where the harm “resulting directly from a defect in **design or manufacture of the product**, when used as intended or in a **reasonably foreseeable manner.**” (Emphasis added). The liability allowed by this Bill is not limited to harm caused by a defect in design or manufacture. Rather it sanctions “unreasonable” conduct and is thus preempted.

Fourth, Section 7903(5)(A)(ii) allows actions against “a seller” (and only a “seller”) for “negligent entrustment or negligence per se.” Since this provision is limited to a “seller” it does not authorize any suit against any other “industry member.” Moreover, the term “negligent entrustment” is defined by Section 79003(5)(B) as meaning “the supplying of a qualified product by a seller for use by another person when the seller **knows, or reasonably should know**, the person to whom the product is supplied **is likely to, and does, use the product** in a manner involving unreasonable risk of physical injury to the person or others.” This definition is a limitation on the exception and the exception thus reaches only conduct where the product is both “likely” to be used and **is in fact** used in a manner involving an “unreasonable risk of physical injury.” It does not allow suits for any “UNREASONABLE” conduct as this bill does. This additional liability imposed by the bill goes beyond that allowed by the PLCAA and is thus preempted.

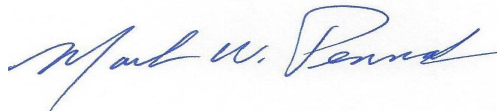
Indeed, Maryland’s law of negligent entrustment is still narrower as, under Maryland law, “the doctrine of negligent entrustment is generally limited to those situations in which the chattel is under the control of the supplier at the time of the accident” and that “without the right to permit or prohibit use of the chattel at the time of the accident, an individual cannot be liable for negligent entrustment.” *Broadwater v. Dorsey*, 344 Md. 548, 558, 688 A.2d 436 (1997). That is the common law and thus, as explained above, Maryland is not free to abrogate the common law to expand liability to escape preemption under the PCLAA. In this regard, the PLCAA does not create any cause of action and incorporates the common law on what constitutes “negligent entrustment,” as limited by the PLCAA. See Section 7903(5)(C) (providing “no provision of this [statute] shall be construed to create a public or private cause of action”). That means no suit for negligent entrustment would be available under Maryland common law unless the “industry member” had the right to control the use of the “qualified product” **at the time of the incident** that caused the harm of which the plaintiff complains. Even then, under the PLCAA, the use must cause a cognizable **harm** to a person, not merely be “unlawful” or “unreasonable” and cause “harm to the public” (whatever that means). Suits, such as those by the Attorney General authorized in the Bill, are not permissible under

this section of the PLCAA in the absence of any harm to an individual. This Bill allows such suits for “harm to the public,” a term that is wholly nebulous and undefined.

Fifth, the PLCAA’s carve out for suits alleging “negligence per se” is even narrower. It is well established at common law that such negligence requires a violation of a specific statute, that the person alleging the negligence is within the class of persons sought to be protected, and that the harm suffered is of a kind which the statute was intended, in general, to prevent. *Polakoff v. Turner*, 385 Md. 467, 479, 869 A.2d 837 (2005). Thus, “a violation of a statute or regulation would, at most, establish evidence of ordinary negligence, not gross negligence or negligence per se.” *Johnson v. Lee*, 2019 WL 3283301 at *6 (Md Ct.Sp.App. 2019). Nothing in this bill would satisfy the “negligence per se” exception to the preemption imposed by the PLCAA.

If this Bill becomes law, Maryland dealers will either go out of business or move across State laws and service Maryland customers from such locations. Such dealers would then be beyond the ability of Maryland to regulate at all. The only dealers left in Maryland would those few who would be willing to do transfers from such out of state dealers, as permitted by federal law. Such in-state dealers would be entirely unnecessary for long guns. Federal law allows dealers to sell long guns to out of state residents if such sales are conducted face-to-face at the dealer’s shop. See 18 U.S.C. § 922(b)(3). Maryland residents will simply buy firearms in Virginia, West Virginia and Pennsylvania. For all the foregoing reasons, we urge an unfavorable report.

Sincerely,



Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org

SB 113 MLFDA Testimony .pdf

Uploaded by: Mark Schneider

Position: UNF

SB113 Testimony

2/6/2023

My name is Mark Schneider, Vice President of the Maryland Licensed Firearms Dealers Association.

I oppose SB113 as it threatens our ability to stay in business.

There are many problems with this Bill. Data does not support the claim that Maryland Licensed Firearms Dealers are the source of the reckless, illegal actions of criminals.

We are a highly regulated industry abiding by both federal and state statutes governing the sale of our products. No licensed dealer knowingly sells to the criminal market as Federal and state law already prohibits this with severe civil and criminal penalties.

Vague Terms such as “reasonable controls”, or “unreasonable under the totality of the circumstances”, are not defined and thus unacceptable. There also needs clarification on what is meant by reckless or unlawful marketing. And the idea that a party does not need to provide proof that a firearm industry member acted with the intent to violate this bill is absurd.

This Bill would open every licensed dealer to frivolous, punitive litigation and if enacted into law would make it impossible to obtain insurance. Without insurance no dealer could stay in business.

Dealers should not be held liable for the legal and lawful sale of firearms. Those who commit illegal acts with firearms should. And we support stricter penalties for those who illegally use firearms.

I Request an Unfavorable Report

testimony.pdf

Uploaded by: Mathew Kyser

Position: UNF

Mathew Kyser

908 S Pine Ridge Ct

Bel Air, MD 21014

Mat@thekyserfamily.com

Hello, I am writing to voice my opposition to this bill. I am an IT professional with a wife and children that have lived in Maryland their whole lives. I believe our second amendment rights should not be infringed and this bill, and bills like it, will only inflict harm on law abiding citizens.

Criminals are going to disregard this bill like they do the laws currently in affect. We don't need more laws that inhibit the freedom of law-abiding citizens. We need to prosecute habitual criminals who are already breaking laws with impunity.

Thank you,
Mathew Kyser

2023 SB113_Public Nuisance_Beretta Opposition.pdf

Uploaded by: Matthew Pica

Position: UNF

**OPPOSITION FROM BERETTA U.S.A. CORP., BENELLI U.S.A. CORPORATION
AND
STOEGER INDUSTRIES, INC. TO SENATE BILL 113**

Beretta U.S.A. Corp., with its headquarters located in Accokeek, Maryland (Prince George's County), Benelli U.S.A. Corporation and its subsidiary Stoeger Industries, Inc., also with headquarters in Accokeek but including their warehouse and distribution center in Pocomoke City, Maryland, are in adamant opposition to passage of Maryland Senate Bill 113. SB 113 seeks to circumvent the federal Protection of Lawful Commerce in Arms Act (PLCAA), passed in 2005 by a majority of Democrats and Republicans in both houses of Congress.

These three companies employ around 120 people in their Maryland facilities and in aggregate pay a significant amount in state taxes per year. All three companies are also important importers and distributors of firearms to law enforcement and civilian customers throughout the United States. Beretta U.S.A. is also an important manufacturer of firearms sold not only in the U.S. but to the U.S. Armed Forces and to international customers as well.

The PLCAA was passed by Congress to correct abuse of the judicial system that began in 1998, when 31 cities and counties and one state started filing lawsuits that sought to blame firearm manufacturers, distributors and dealers for crimes that involved firearms committed within those jurisdictions. All of those cases but one (a suit filed by Gary, Indiana has seen little activity since 2004 but remains open) were dismissed, either for legal reasons or because, after extensive fact discovery, the jurisdiction filing the suit voluntarily withdrew it or, in other

instances, because courts found no evidence demonstrating liability by the firearm company defendants for any of the crimes committed in the plaintiff's jurisdiction.

Notwithstanding this record of litigious failure, gun control advocates called for more lawsuits against the firearm industry in an effort to blame firearm makers and distributors for crimes committed, not by them or as a consequence of their actions, but by criminals over whom none of the defendants had any control. This abuse invited the correction in the form of the PLCAA.

SB 113 seeks to circumvent the PLCAA by creating a Maryland-based statute based on factual and legal error that is devoid of balanced due process and is unconstitutionally vague. Rather than respect legal precedents, SB 113 seeks to sweep them aside by creating a type of star chamber run by the Attorney General or, even less controllably, by private individuals throughout the state. As the lawsuits that led to passage of the PLCAA proved, such suits achieved only the result of expenditure of millions of dollars in legal fees, including by Beretta U.S.A. No suit resulted in the ends allegedly sought by plaintiffs. The real risk, then, that SB 113 creates is the risk of the bankruptcy of defendants, including the three Maryland employers submitting this opposition to SB 113, while also imperiling the availability of firearms (designated as a critical infrastructure essential business by the U.S. Government and by numerous states, including Maryland, Connecticut, Hawaii, New Hampshire, Ohio and Rhode Island during the COVID-19 pandemic) to government and consumer customers throughout the United States.

SB 113 invites a flood of baseless lawsuits by private individuals and would transform one official (the State's Attorney General) into a one-person judge and jury, even going so far as

to vest the Attorney General with power to prosecute—in a manner reminiscent of the science fiction story and movie “Minority Report”—alleged violations of the public nuisance laws in Maryland that have yet to happen.

SB 113 also does this by empowering private citizens and government officials with the authority to file suits based on advertisements that are “misleading in a material respect” or based on conduct that is unreasonable under the totality of the circumstances. What those terms mean is left undefined but is certainly open to broad and speculative interpretation. The Bill also seeks to create liability if the firearm industry member fails to establish and use “reasonable controls and procedures” to prevent firearms or their component parts and accessories from being unlawfully possessed in the state, not taking into account the existing fact that no firearm can be sold by a licensed manufacturer, distributor or dealer without the customer being approved by the FBI to acquire the firearm through a background check performed prior to the transfer of possession.

SB 113 creates liability in these circumstances even if the alleged public nuisance conduct (or alleged absence of conduct) by the defendant had nothing to do with how a criminal obtained a given firearm. Thus, for example, if a plaintiff decided that a firearm manufacturer engaged in false advertising because the manufacturer advertised their products as being useful for self-defense (part of the basis for designating the firearm industry as essential business during the pandemic, by the way) or decided that selling a firearm with a high capacity magazine—even if the magazine was sold in a state that allows such products—or if a plaintiff believes that the manufacture and sale of firearms, in and of itself, was a conduct that endangered public health, a lawsuit could be filed against a firearm maker or distributor

even if the criminal who obtained a product never saw any such advertisement or if the firearm and/or magazine was lawfully made and sold because the votes of citizens and their elected representatives in the state in which the firearm was first sold wanted it that way.

Passage of SB 113 would send the wrong signal to Beretta U.S.A. and to its sister companies Benelli U.S.A. and Stoeger (which recently completed construction of a major expansion of their storage and shipping center on the Eastern Shore) about the worthiness of continued investment in this state.

oppose SB113.pdf

Uploaded by: Michelle Klein

Position: UNF



I respectfully request you vote to OPPOSE on my behalf on bill SB113 / HB259 . My name is Michelle Klein, and I am a mom, woman of color small business owner, mom, licensed instructor who volunteers, and a woman's shooting chapter co-leader in Maryland. I am writing to you today through the lens of all these, but especially as a woman of color business owner.

With utmost respect I do understand the issue of crime in our state. No one should ever have to live in fear of their life with nothing to protect themselves with. Please, support the abused and victimized by allowing them to protect their lives. Please, vote yes on this bill so that these women I know and love, the millions we will never meet, will never be hurt again! Their stories are below.

Unfortunately, women are often targets of violent crime by strangers, but also by those we love and trust. Our status, culture of acceptance are taken advantage of. Women are abused slowly and over time so that their psyche is permanently altered. They come to believe, by way of the abuser, that there's no one out there to help. They are told that they should be ashamed for what has happened, and that they deserved it. Then, when a women is able to get the resources she needs to break free, she is often further abused and in some cases - murdered. How many lost women have we seen on the news over the last 10 years?

Unfortunately, this bill will do nothing to stop this. Will we enact a law to sue Cutco because they make knives? Will we enact a law to sue automobile manufacturers because they made cars that someone used against an innocent? This is legislation that will do nothing to prevent the next crime but do everything to harm women like me. For example, did you know that anywhere between 60,000 to 2.5 million lives are saved every year by citizens that use a firearm in a defensive situation? Much like I might have had to do that horrible day when my family was threatened. That data comes from the Center for Disease Control and Prevention; that data was obtained by studies from the CDC's scientists themselves; a source we are told to trust.

With utmost respect I urge you, oppose this bill on behalf of women like me.

Thank you so very much for your time!

Oppose SB-113.pdf

Uploaded by: Nicholas Andraka

Position: UNF

I oppose SB-113, as it exist.

SB-113 is nothing short of a deflection of the blame for the current high crime rate.

Firearms manufactures and sellers are not responsible for repeat violent felons and their wave of gun violence.

I would support SB-113 if it was amended to include the ability to sue legislators whom refuse to support keeping those who use guns in crimes in jail where they belong.

I would also support SB-113 if it included the ability to sue prosecutors who refuse to aggressively pursue felons who use guns in their crimes .

I would support SB-113 if it included the ability to hold judges who do not impose the maximum sentence on repeat violent offenders whom use guns in their crimes.

As it exist, I oppose SB-113

Nicholas Andraka

5725 Saint Johns Chapel Rd

Owings, MD 20736

SB0113_Nicholas_DeTello.pdf

Uploaded by: Nicholas DeTello

Position: UNF

Nicholas DeTello

SB0113 - Firearm Industry Members (Gun Industry Accountability Act of 2023)

Unfavorable

2/6/2023

As a Maryland constituent, I am concerned with the viability as well as the effects caused by SB0113. As written, this bill provides no guidelines for enforcement of what appear to be arbitrary and vague requirements. It is virtually impossible to “knowingly” engage in the bill’s undefined “unreasonable” and/or “reckless” conduct. Without any sort of legible criteria to abide by, dealers must close up shop, or risk breaking the law by simply carrying business as usual.

Clearly the authors of this bill are not acting in good faith and their motives should be questioned. The bill is deceptive and purposely so; muddying the waters to squelch small businesses in Maryland while actively diverging from existing Federal law prohibiting such targeted behavior in State law (please read Maryland Shall Issue’s explanation of how this bill is contrary to the PLCAA).

For these reasons I urge an unfavorable report of Senate Bill 0113.

A handwritten signature in black ink that reads "Nicholas DeTello". The signature is written in a cursive, slightly slanted style.

Nicholas DeTello

District 44B

ndetello@hotmail.com

Senate Hearing.pdf

Uploaded by: Randall Morris

Position: UNF

SB1 Restricting Wear and Carry

I am not in favor of this bill as it is unconstitutional to its core and goes against everything that came out of the Bruen Case heard before the Supreme Court.

SB86 Restricting Adults from 18 to under 20

I am not in favor of this bill, this bill is so clearly unconstitutional and an intentional violation of the rights of adults 18 to 20 years ago in that it totally denies them the right to buy any firearm to protect themselves, their families and ability to obtain food through lawful hunting. This bill would not even be before this committee if it took away their right to vote and I want this committee to think about this bill if it were, because it is taking away a Constitutional Right

SB113

I am not in favor of this bill, this bill is absurd and would force FFL dealers to shutdown or have to pay ridiculous insurance that would be passed onto lawful customers. It would seem that the intent of this bill is only to such that.

Would this committee even consider this bill if it was holding car companies, car dealerships and car salesman accountable if a buyer got into an accident intentionally or not.

SB118

I am not in favor of this bill, those that carry legally should not be restricted to what places of business or homes that don't like firearms, the permit holder should be under no obligation to inform anyone of the general public of whether or not they are carrying, nor should any anti-2nd Amendment Policy be enforced by State Law that would clearly be unconstitutional as per the Bruen case heard before the Supreme Court.

SB 185

Unfavourable as it was just found to be unconstitutional

Testimony SB0013.pdf

Uploaded by: Richard Rosa

Position: UNF

The firearms industry should not be held accountable for the unlawful acts incurred by criminals. This bill is a way to scare the firearms industry out of Maryland. Beretta left Maryland a few years ago because of attacks on the firearms industry such as this bill.

This bill requires that the firearms manufacturers be clairvoyant and foresee how their products will be used after they leave the factory. It is an outright attack aimed at the destruction of the firearms industry via economic warfare.

If this unconstitutional bill becomes law, it will be challenged in court, and Maryland resident's tax dollars should not be wasted in defending this bill/law.

SB0113(HB0259)_Aughenbaugh.pdf

Uploaded by: Ron Aughenbaugh

Position: UNF

Senate Bill 0113 (HB 0259)
Civil Actions - Public Nuisances - Firearm Industry
Members (Gun Industry Accountability Act of 2023)
Oppose

Mr. Chairman and members of the Judicial Proceedings Committee,

I have thoroughly read the proposed bill.

Federal Firearm License (FFL) dealers are already required to abide by the “guidelines” outlined in this proposed bill. Where is your proposed bill to penalize car dealers for selling cars to known drunk drivers who kill more persons yearly than firearms?

Where is the state's responsibility for issuing a Handgun Qualification License (HQL) to the persons to which the General Assembly is trying to punish the FFL for selling to?

I OPPOSE SB0113. Vote UN-FAVORABLE to this proposed bill.

Ronald Lee Aughenbaugh II (D, 7A)

6 Nickel Court

Middle River, Md. 21220

301-338-8300

02/04/2023

SB113 UNFAVORABLE - Stephen Johnston.pdf

Uploaded by: Stephen Johnston

Position: UNF

Stephen Johnston

1003 Tasker Ln.
Arnold MD 21012
SteveJohnston93@gmail.com

February 7, 2023

SB113 – Civil Actions – Public Nuisances – Firearm Industry Members
Unfavorable

I am a defense contractor whose current and prior employers include one of the top research laboratories in the United States and one of the leading aerospace corporations in the world. In my spare time I enjoy shooting sports, volunteering in the community, watchmaking, and woodworking. I write in opposition to SB113, a bill that directly contradicts and attempts to undermine a federal law, the Protection of Lawful Commerce in Arms Act.

The name of this bill shows the intent, to connect the entire firearms industry to “public nuisances.” Further, the text of the bill seeks to connect the willful misuse or illegal use of a firearm in a crime to everybody from the firearm manufacturer to the gun dealer, or even the lawful owner of the firearm if it was stolen from their safe and later used in a crime. I feel these connections are disingenuous at best. For the same reason I cannot sue a liquor manufacturer or liquor dealer if a person were to purchase alcohol in a sober state, go home, drink to great excess, get behind the wheel, and injure me, a firearm manufacturer or dealer cannot be responsible for the rare criminal misuse of their products by a third party. Especially if the firearm is stolen from the original owner or firearm dealer.

Maryland’s own Supreme Court ruled that in the case of a stolen firearm that was used in a homicide, the family of the victim could not sue the gun store that was the victim of the theft of the firearm used in the homicide. *Valentine v. On Target, Inc.*, 353 Md. 544, 727 A.2d 947 (1999) The court held that it did not “discern in the common law the existence of a third party common law duty that would apply to these facts.” and “[o]ne cannot be expected to owe a duty to the world at large to protect it against the actions of third parties, which is why the common law distinguishes different types of relationships when determining if a duty exists.” *Valentine*, 353 Md. at 553, 727 A.2d at 951.

An unintended consequence of this bill would be that after all firearm and ammunition manufacturers were driven out of the state under the threat of lawsuits, law enforcement in the state of Maryland would no longer be able to obtain firearms or replacement parts for service weapons within the state of Maryland. While long guns can be purchased from a federally licensed dealer in another state under federal law (as long as the long guns are legal in both the selling state and state of

residence of the buyer), all handgun purchases must go through a federally licensed dealer within the state of residence of the buyer. Similarly, no company would wish to sell firearms, ammunition, or parts to police in the state of Maryland under fear that the misuse or accidental death caused by an officer would make them liable to a deluge of lawsuits resulting from this bill. Similarly, if an officer misused their firearm, or it was stolen from the officer's vehicle or residence, this bill would open up the police department and possibly even the State of Maryland to suit by an injured party given how broadly this bill defines a "firearm industry member" and how the police department issues firearms and accessories such as holsters and weapon mounted lights to officers to support their duties.

For these reasons, I must urge you give an unfavorable report to this bill. This bill would not only hurt Maryland businesses, but also cause Maryland gun dealers to move their businesses (and related tax revenue) across state lines and provide gunsmithing services outside of the state where this bill would not have nearly as much reach over them.

Sincerely yours,



Stephen Johnston
1003 Tasker Ln.
Arnold MD 21012
SteveJohnston93@gmail.com

01.31.23 LOO SB 0113 Joint.pdf

Uploaded by: Terry Hale

Position: UNF

Danielle Hornberger
County Executive

Steven Overbay
Acting Director of Administration

Office: 410.996.5202
Email: dhornberger@ccgov.org



Jackie Gregory
Council President

Robert Meffley
Vice President

Office: 410.996.5201
Email: council@ccgov.org

CECIL COUNTY GOVERNMENT
Cecil County Administration Building
200 Chesapeake Boulevard, Elkton, MD 21921

January 30, 2023

The Honorable William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

RE: SB 0113 Civil Actions – Public Nuisances – Firearms Industry Members (Gun Industry Accountability Act of 2023)
Letter of Opposition

Dear Chairman Smith and Members of the Senate Judicial Proceedings Committee:

The County Council and the County Executive of Cecil County unanimously opposes SB 0113 Civil Actions – Public Nuisances – Firearms Industry Members (Gun Industry Accountability Act of 2023). The hearing on this legislation is scheduled on February 7, 2023.

It is our understanding that this legislation prohibits firearm industry members from knowingly or recklessly creating, maintaining, or contributing to a public nuisance through the sale, manufacture, distribution, importation or marketing of a firearm-related product under certain circumstances; requiring a firearm industry member to establish and implement certain reasonable controls regarding the sale, manufacture, distribution, importation, marketing, possession or use of certain firearm related products and authorizing certain civil action for violations of the act.

Cecil County strongly opposes any bill that penalizes any company or individual that is legally operating a firearm business for the actions of others. In addition, it is our opinion that this legislation is in conflict with the Protection of Lawful Commerce in Arms Act (PLCAA) and needs to be defeated.

The County Executive and County Council of Cecil County respectfully requests that the Judicial Proceedings Committee send an unfavorable report on SB 0113.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hornberger".

Danielle Hornberger
County Executive

A handwritten signature in blue ink, appearing to read "Jackie Gregory".

Jackie Gregory
President of County Council

kasuba_sb0113_2023.pdf

Uploaded by: Thomas Kasuba

Position: UNF

Please **OPPOSE** SB113
Civil Actions – Public Nuisances – Firearm Industry Members
(Gun Industry Accountability Act of 2023)

Does one think of Bass Pro in the Arundel Mills mall when you say "Firearm Industry Member" because they WILL be included in the definition given this bill. Let's play "change the noun" and switch the merchandise from "gun" to ANY other item and you will viscerally feel that this bill is just plain wrong. There really has to be some limit to the stigmatizing of honest citizens and perfectly legitimate industries; they are NOT the bad guys. Driving businesses out of business will not solve whatever problem this bill purports to solve.

Thomas J. Kasuba (registered Democrat)
2917 Rosemar Drive
Ellicott City, MD 21043-3332
tomkasubamd@netscape.net
301-688-8543 (day)
February 7, 2023