



TESTIMONY IN OPPOSITION: SENATE BILL 745

Criminal Law - Wearing, Carrying, or Transporting a Handgun

TO: Members of the Senate Judicial Proceedings Committees

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

DATE: March 14, 2023

My name is Heather Warnken and I am the Executive Director of the University of Baltimore School of Law's Center for Criminal Justice Reform. The Center is dedicated to supporting community driven efforts to improve public safety and address the harm and inequity caused by the criminal legal system. In direct alignment with both pillars of this mission, we are strongly opposed to SB 745. On behalf of our center and the undersigned parties, we are grateful for the opportunity to share the reasons why.

SB 745 would eliminate exceptions for the mandatory minimum penalties for unlicensed gun possession, and increase the maximum prison term for wearing, carrying, or knowingly transporting a handgun from 3 to 5 years. This bill will exacerbate existing sentencing disparities, undermine public safety, and, counter to what some advocates have suggested regarding a similar bill, do nothing to increase the "certainty" of punishment.

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

Mandatory minimums defeat the purposes of sentencing and exacerbate racial disparities in the criminal justice system

By eliminating an exception to Md. Code, Crim. Law § 14-102, SB 745 essentially creates a mandatory minimum for first time offenders who carry an unlicensed handgun. As Judge Stephanos Bibas has explained, mandatory minimums force judges to sentence with "sledgehammers rather than scalpels."¹ By eliminating discretion, mandatory minimums prevent judges from sentencing the individual in front of them on the basis of the specific circumstances of their crime. It is a foundational principle of American justice that the punishment should fit the crime. MD 4-203 involves a misdemeanor for carrying a handgun in public without a license. One can imagine a wide range of scenarios that would satisfy the elements of the crime from the dangerous individual preparing to commit a crime of violence to the

¹ Stephanos Bibas, Plea Bargaining Outside the Shadow of Trial, 117 Harv. L. Rev. 2463, 2487 (2004).

domestic violence victim who arms herself for fear of attack or the unthinking defendant who simply holds a friend's gun for a moment. While the facts of some cases might warrant a carceral sentence, it is critically important that judges maintain their ability to tailor the sentence to the circumstances of the defendant who stands in front of them.

Moreover, despite claims that mandatory sentences would reduce racial disparities in the criminal justice system, they have, in fact, exacerbated the problem of unequal treatment. Mandatory minimums shift power away from judges to prosecutors. Prosecutors can sidestep a mandatory minimum by targeting charges or by choosing whether to meet critical notice requirements that might trigger a mandatory sentence. In fact, one study suggested that prosecutors bring mandatory minimum charges “65% more often” against Black individuals than against other defendants, all else remaining equal.²

SB 745 forces judges to saddle every defendant with a criminal conviction

SB 745 eliminates language that would allow a judge to sentence a first time gun offender to probation before judgment. As with mandatory minimums, this proposal will undermine the ability of judges to fit the consequences to the facts of the crime and the defendant. Forcing a judge to impose a criminal conviction that will burden every first time gun offender with a criminal record for life is not sound public safety policy.

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

The evidence is simply not there to support SB 745. And in fact, there is a great deal of evidence to suggest this bill will be harmful to public safety. Here's why.

Much like the United States has established itself as an outlier with gun violence, with 5% of the world's population and more than 20% of the world's prison population, the U.S. stands out by incarcerating more of its residents than any nation on earth.³ Within this context of punitive excess nationwide, Maryland holds the shameful distinction of ranking first in the nation in racial disparities through its over-incarceration of Black men and youth.⁴

In addition to establishing mandatory minimums for first time gun offenders, SB 745 increases the maximum penalty for the misdemeanor for Wearing, Carrying, or Transporting a Handgun to five years. Supporters of such an increase have downplayed its potential impact on mass incarceration. However, longer sentencing ranges that rely on prosecutorial and judicial discretion to identify who deserves greater punishment have been demonstrated to lead to harsher sentences for Black, brown and poor defendants

² See M. Marit Rehavi & Sonja B. Starr, Racial Disparity in Federal Criminal Sentences, 122 J. Pol. Econ. 1320, 1350 (2014).

³ <https://www.aclu.org/issues/smart-justice/mass-incarceration>.

⁴ The Sentencing Project, The Color of Justice: Racial and Ethnic Disparities in State Prisons at 20 (2021).

than their white and wealthier counterparts.⁵ The explicit goal of this bill to increase sentences represents a return to the failed policies that led to our current mass incarceration problem.

This can be true for first time defendants, but also fueled by seemingly “objective” criteria utilized to drive decision-making; for example, an individual’s prior arrest and conviction record. Factors used when applying that discretion are often more heavily influenced by whether or not that person’s poor, Black neighborhood is hyper-surveilled than it is illegal behavior. And can be influenced by defendant characteristics such as race, gender identity, socioeconomics, and disability status, leading directly to the disparities documented across the continuum of arrests, prosecutions, convictions, and sentencing.⁶ Also relevant to predictable outcomes in sentencing if SB 745 were to raise the ceiling is the concept of “anchoring,” which research has found judges to be as susceptible to as the general population.⁷

Mandatory Minimums and Unnecessarily Longer Sentences Exact a Heavy Toll on Defendants and Their Communities

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

⁵ U.S. SENTENCING COMMISSION REPORT ON THE CONTINUING IMPACT OF UNITED STATES V. BOOKER ON FEDERAL SENTENCING 108 (2012) (finding that prison sentences of black men were nearly 20% longer than those of white men for similar crimes between 2007 and 2011); Blackness as Disability?, Kimani Paul-Emile, in *Georgetown Law Review* 2018; Chris Guthrie et al., *Blinking on the Bench: How Judges Decide Cases*, 93 *CORNELL L. REV.* 1 (2007): In this study, the researchers found the judges rely heavily on intuition in sentencing, which can lead to discriminatory results. *Id.* at 131. MIRKO BAGARIC, GABRIELLE WOLF, DANIEL MCCORD, *Nothing Seemingly Works in Sentencing, Not Mandatory Penalties; Not Discretionary Penalties - But Science Has the Answer*, at 524-26.

⁶ Blackness as Disability?, Kimani Paul-Emile, in *Georgetown Law Review* from 2018, <https://www.law.georgetown.edu/georgetown-law-journal/in-print/volume-106/volume-106-issue-2-january-2018/blackness-as-disability/>; Cauley, Erin. *The Cumulative Probability of Arrest by Age 28 Years in the United States by Disability Status, Race/Ethnicity, and Gender*, *Am J Public Health*. 2017 December; 107(12): 1977–1981, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5678390/>.

⁷ Chris Guthrie et al., *Inside the Judicial Mind*, 86 *CORNELL L. REV.* 777, 816 (2001); Forensic Science and the Judicial Conformity Problem, 51 *Seton Hall L. Rev.* 589 (2021), 610-611. As explained by University of Baltimore Law Professor Katie Kronick, “with the cognitive bias “anchoring,” if a person is asked to guess how much a pencil costs and is told that the pencil costs less than \$10,000, the person is likely to guess a higher number than a person not told about the \$10,000 limit, even though it is preposterous that a pencil would cost even close to \$10,000. People use that “anchor” of \$10,000 as a shortcut to try to determine the cost of the pencil, and some might, perhaps unconsciously, assume that if \$10,000 is mentioned, the pencil must be worth more than they otherwise would have thought.

⁸ <https://goc.maryland.gov/incarceration/>.

Claims that people need to experience prison time as opposed to local jail, where they would be incarcerated farther away from their community, in institutions such as Cumberland, Hagerstown and Jessup, are misguided. Sending a person to a state-run facility farther from home exacerbates these impacts and collateral consequences, especially the disconnection from family members, a direct contributor to risk of recidivism upon release.

Given that this is a plan to try to send people farther from home, it is also worth drawing special attention to the profound impact that will have on family members, especially children.⁹ For families with lower means, time off of work and transportation to these facilities can be especially burdensome if not impossible; stress borne by mothers, grandparents, and numerous other loved ones. A large percentage of the incarcerated population overall, and undoubtedly individuals who will be impacted by this bill, are parents. A large body of literature on children with incarcerated parents demonstrates the trauma and severe disruption parental incarceration can cause to a child's life.¹⁰ In addition to the health and wellbeing of all involved, visitation with children is also key to preserving parental rights. This bill will increase the number of children whose relationships with their parents will be legally severed forever.¹¹

Scores of reputable studies demonstrate that 1) remaining in close touch with loved ones reduces recidivism,¹² and 2) prisons too often do the opposite of rehabilitate; they cause trauma.¹³

The alarming recent revelations surrounding the conditions of confinement in Maryland facilities, including the violence, overdoses, and other unexplained deaths in Baltimore's jails should also call these statements into question. As reported by the Baltimore Banner (not the State of Maryland), at least four deaths have occurred in Central Booking in the past four months.¹⁴ Relatedly, in August 2022, the ACLU National Prison Project published a letter following a visit to the Baltimore Central Booking and Intake Center, stating, "people in [Baltimore Central Booking and Intake Center] IMHU are held in the harshest

⁹ Eric Martin, Hidden Consequences: The Impact of Incarceration on Dependent Children, National Institute of Justice (2017).

¹⁰ Nat'l Research Council, The Growth of Incarceration in the United States: Exploring Causes and Consequences 270-73 (Jeremy Travis et al. eds., 2014), 270-273.

¹¹ <https://www.themarshallproject.org/2018/12/03/how-incarcerated-parents-are-losing-their-children-forever>; <https://law.yale.edu/yls-today/news/clinic-releases-report-preserving-parental-rights-incarcerated-parents>.

¹² Karen De Claire and Louise Dixon, The Effects of Prison Visits From Family Members on Prisoners' Well-Being, Prison Rule Breaking, and Recidivism: A Review of Research Since 1991, Trauma, Violence and Abuse (2017).

¹³ Benjamin Hattem, Carceral Trauma and Disability Law, Stanford Law Review (2020) (summarizing studies on experiences of trauma during incarceration).

¹⁴ www.thebaltimorebanner.com/community/criminal-justice/deandre-whitehead-jail-death-W2UHGCYAJJGEJO4SMUJ7QR4SIU/;

<https://www.thebaltimorebanner.com/community/criminal-justice/death-baltimore-central-booking-3GSA2X7OWREJJJA6TZVNZMWF4/>;

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

and most depraved conditions we have ever encountered in any prison or jail in the United States, including in death row and ‘supermax’ units.”¹⁵

The truth about deterrence

The evidence suggests that deterrent effects from longer prison sentences are minimal to nonexistent, and any minimal effect is severely costly - financially to the state, and to the stability of that person’s life.¹⁶ This is often bad for public safety, with studies demonstrating that unnecessary incarceration, especially when compared to more cost effective non-custodial responses such as programming or probation, “does not prevent reoffending and has a criminogenic effect on those who are imprisoned.”¹⁷

B 745 also relies on a conflation of the difference between “certainty” versus “severity” of consequences. The research is clear that certainty of apprehension and response for committing gun offenses is more important and cost-effective in reducing crime than increasing the length of sentences.¹⁸ Furthermore, incarceration for unlicensed gun carrying is described in the research as both unjust and counter to public safety, due to the ways unnecessary incarceration infringe on residents’ liberty and make individuals more - not less - likely to commit crimes.

Although our center posits that by far the greatest return on investment in reducing gun violence will come in the form of a long list of currently under-invested health and healing oriented strategies in disinvested communities, currently the criminal legal consequences for illegal gun possession are not certain at all, due to many systemic deficiencies surrounding how illegal gun possession is policed and prosecuted.¹⁹ A 2020 report from the Johns Hopkins University Center for Gun Violence Policy and Research cites a long list of factors impacting case outcomes that are in the purview of the State’s Attorney’s Office, including the need for better data sharing and transparency with government partners, improved quality and maintenance of evidence, improving relationships needed to work with community in the course of prosecution, and working to curb illegal police stops and searches that create evidentiary issues in court.²⁰

¹⁵ www.aclu.org/cases/duvall-v-hogan?document=duvall-v-hogan-report-plaintiffs-counsel-august-2-3-2022-jail-visit.

¹⁶ Webster et al, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research. Nagin, *Deterrence in the Twenty-First Century*, Crime and Justice Vol. 42 No. 1, August 2013. One study limited to the Federal System, titled, “Length of Incarceration and Recidivism” did challenge the claim that longer sentences did not reduce recidivism. However, that study specifically found that increasing a sentence from 3 to 5 years as proposed by SB 751 would not improve public safety by decreasing recidivism. See USSC, Length of Incarceration and Recidivism (Apr. 29, 2020), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/researchpublications/2020/20200429_Recidivism-SentLength.pdf (“USSC Report”).

¹⁷ Webster et al, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pp. 24. Nagin, *Deterrence in the Twenty-First Century*, Crime and Justice Vol. 42 No. 1, August 2013.

¹⁸ Id.

¹⁹ Id. pg. 4

²⁰ Id. pg. 21-22.

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

The prevalence of illegal guns in our communities is indeed a serious problem, and directly contributes to the high rates of homicide and nonfatal shootings in Baltimore City and too many other parts of the state. However, this bill does not address the real problems we are trying to solve, including the factors that lead too many residents to carry and use those guns to commit violence in the first place. As discussed above, the destabilizing impacts of incarceration, collateral consequences and disenfranchisement that follow a conviction, combined with lack of sufficient rehabilitative and reentry programming,²¹ lead the overwhelming percentage of incarcerated people to return home to their communities more vulnerable than they were before.

In other words, SB 745 will make these problems worse. For individuals with a history of experiencing violence in their community or in prison, fear of being victimized is a powerful motivator for carrying a firearm.²² For far too many people who have not accessed meaningful support services, this runs deep.²³

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

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

An ever-growing body of research on trauma is critical for informing more effective policy solutions to the gun violence epidemic we are trying to address. It promotes opportunities to ask better questions about what people actually need to heal and feel safe, guided by a more evidence-based incorporation of the historical, systemic, and individual trauma the highest risk population using and disproportionately dying by these firearms face. Trauma reactions vary across individuals, cultures and experiences, but there is often an underlying element of fear which motivates behavior, especially when untreated.²⁵ A survivor's nightmares after victimization represent a trauma reaction, just as another survivor deciding to carry a weapon also may represent a trauma reaction. Fight, flight, freeze, and fawn responses are occurring in

²¹ Maryland Reentry Resource Center, 2022 Reentry Impact Report, <https://mdrrc.org/>.

²² Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, 2022.

²³ Warnken et al, *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021.

²⁴ Smith, J. R. "Unequal Burdens of Loss: Examining the Frequency and Timing of Homicide Deaths Experienced by Young Black Men Across the Life Course." *American Journal of Public Health*, 105(S3), (2015): 483–490.

²⁵ Warnken et al, *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021

the body. Those internal body responses to threats not only impact decision making, but can have long-term health outcomes for survivors (e.g., sleep disturbance, hypertension, early death).²⁶ In fact, there are striking differences in average life expectancy across certain Baltimore zip codes with the highest rates of gun violence, concentrated poverty, and other stressors compared to more affluent communities well-documented in the data, i.e., 84 years in Homeland compared to within the 60s in Clifton-Berea, Greenmount East, Upton/Druid Heights and more, despite their close geographic proximity within the same city.²⁷

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

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

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

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

Beyond questioning the responsiveness of law enforcement in the aftermath of victimization, many downright fear or resent the police. Police violence and mistreatment is exponentially more prevalent for Black, brown, and low income residents,²⁸ and when combined with other forms of low confidence in government systems, leads too many residents to view gun carrying as a necessary means of self

²⁶ Id.

²⁷ “Neighborhood Health Profile Reports.”, *Baltimore City Health Department*, 9 Jun. 2017, health.baltimorecity.gov/neighborhood-health-profile-reports.

²⁸ <https://mappingpoliceviolence.us/>.

defense.²⁹ The recent horrific killing of Tyre Nichols and recurring incidents throughout the country create a steady pace of tragic reminders that we have not fully reckoned with prevalent abuse of power and violence at the hands of police. Until we improve trust and legitimacy of the legal system in the eyes of those making decisions about how to keep themselves safe, we can continue to expect high rates of illegal gun possession.

Even the nightmare of Baltimore's Gun Trace Task Force (whose purported focus at one point was arresting individuals illegally possessing guns) is not past but present, still playing out in Maryland's courts. Hundreds of cases involving those officers have since been dropped or vacated, and if the latest settlement payment to those victimized by the unit is approved, it will bring the total payouts by the city connected to GTTF to \$22 million.³⁰ Given the tremendous amount of work still needed to improve trust and legitimacy of police and other actors in the system, there are many policy solutions that would better convince those most fearful of calling the police that they should put down their guns.

Since the death of Freddie Gray in 2015, homicides in Baltimore have exceeded 300 per year. Many residents of color living in the hardest hit communities across the city have experienced a sense of both over and under-policing, i.e., high rates of arrest for minor offenses their white, wealthy counterparts engage in routinely with impunity (e.g., drug use), and abysmally low arrest and clearance rates for serious violent crime,³¹ which has further exacerbated their sense of vulnerability and lack of trust in police and city government. The increase in gun carrying is reflective of the culture of fear throughout this country that has resulted in record surge of gun purchasing since the onset of the Covid-19 pandemic.

Research ties this unfinished work of repair and trust-building as vital to gains in public safety in numerous ways.³² Eroded police legitimacy can actually decrease compliance with the law, and significantly impacts the willingness of community members to share information with law enforcement officials trying to solve or prosecute cases.³³ We are not talking enough about the crisis of clearance rates throughout the state, which in Baltimore dropped again last year for homicides to 36% (lower for nonfatal

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

³⁰www.baltimoresun.com/politics/bs-md-ci-baltimore-settlement-gttf-burley-johnson-20230208-bv4rxn6rrfrfpwz5tv7w07k4-story.html.

³¹ Professor David Kennedy of John Jay College of Criminal Justice, Director of the National Network of Safe Communities described this phenomenon in the LA Times as, "what families in stressed black neighborhoods have experienced, very high rates of arrest for minor offenses white folks routinely get away with, and shockingly low arrest rates for serious violent crime. The cause of the latter is not as simple as deliberate police withdrawal - it's a toxic mix of a terrible history of exactly that, and a nearly as toxic present of mistrust, broken relationships and bad behavior on both sides - but the result is the same. Being overpoliced for the small stuff, and under-policed for the important stuff, alienates the community, undercuts cooperation and fuels private violence: which itself often then drives even more intrusive policing, more alienation, lower clearance rates, and still more violence."
<https://www.latimes.com/opinion/bookclub/la-reading-los-angeles-kennedy-ghettoside-20150404-story.html>.

³²Warnken et al., *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021; Webster, Crifasi, Williams, Booty, Buggs, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 9, 2022.

³³Id.

shootings), which *includes* cases where any arrest was made or the case was “cleared by other means,” such as the suspect is subsequently murdered. To say we have work to do is an understatement. None of this is fixed, and is likely made worse, by this bill.

A more promising policy agenda for reducing gun violence

Though there is little research evidence to support this bill, the good news is there are many highly promising strategies for reducing gun violence that we have yet to fully embrace.

A recent report I co-authored on the response to victims of violence in Baltimore in my previous role, as part of the U.S. Department of Justice Public Safety Partnership Program (PSP), focused on those who are so often most harmed yet least helped by our systems of support - Black and brown victims of gun violence. The report details the prevalence of mistreatment by the criminal legal system, numerous barriers and gaps in services, and the implications of this.

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

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

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

The work starts with respect for human dignity. It depends on collaboration across community and government toward a more holistic set of public safety goals. The work requires repair and investment in

our long-divested communities - the same communities bearing the brunt of gun violence, which research now directly ties to their history of being redlined.³⁴ We have not reckoned with this intergenerational exclusion. We have continued it through a fiscally and morally unsustainable overreliance on incarceration, rather than scaling an evidence-based infrastructure of opportunity and care.

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

The promising work of Maryland’s hospital based violence intervention programs is also far from realized. Some program staff feel as though they are “bailing water out of the ocean with a thimble”; under-capacity for meeting the needs of victims, and facing too many headwinds protecting the rights and dignity of their patients from ongoing criminalization of those patients by law enforcement to have yet been given a real chance to succeed.³⁵

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

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

³⁴ Warnken, *A Vision for Equity in Victim Services: What Do the Data Tell Us About the Work Ahead*, noting recent analysis examining the enduring impact of redlining, the pattern of deliberate disinvestment widely practiced from the 1930s onward. In particular, this study looked at Census Tracts placed within red zones in 1937 and found that they now have more than eight times the amount of gun violence than those places that had been previously placed in the green. In other words, the same places imagined to be “unworthy of economic investment” due to residents’ race and ethnicity are the places where gun violence is most common today. <https://ovc.ojp.gov/media/video/12971>. Currie, *A Peculiar Indifference: The Neglected Tool of Violence in Black America*, Metropolitan Books, 2020.

³⁵Warnken et al., *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021; Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 9, 2022.



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

For these reasons, we urge an unfavorable report on Senate Bill 745.

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