



POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 567 - Criminal Procedure – District Court Commissioners

FROM: Maryland Equitable Justice Collaborative (MEJC)

POSITION: Informational (SUPPORT IN CONCEPT)

DATE: February 5, 2025

The Maryland Equitable Justice Collaborative (MEJC) submits this testimony supporting Senate Bill 567 in concept as a strategy for addressing the systemic racial disparities that have long plagued Maryland’s pretrial detention process. Senate Bill 567 offers an important opportunity for reform by introducing a more structured, standardized approach for the civil complaint process.

About the Maryland Equitable Justice Collaborative

The Maryland Equitable Justice Collaborative (MEJC) was established by the Office of the Attorney General (OAG) and the Office of the Public Defender (OPD) to address racial disparities in mass incarceration in Maryland. This initiative is the first of its kind. It was developed based on listening sessions held by the Attorney General and Public Defender with impacted people, advocates, and other community members. Academic partners, including the Judge Alexander Williams Center for Education, Justice & Ethics at the University of Maryland at College Park and the Bowie State University Institute for Restorative Justice, were brought in to ensure the work is evidence-based and data-driven statewide.

The MEJC comprises over 40 representatives from state agencies, community groups, subject matter experts, and people directly impacted by the system. Its initiatives are organized into workgroups focusing on various factors influencing incarceration rates. Each workgroup is led by a staff member from the Office of the Attorney General, a staff member from the Office of the Public Defender, and a community advocate with relevant expertise. Community voices and public input have shaped the recommendations developed by the workgroups of the MEJC. In December 2024, the MEJC approved 18 recommendations for legislative and agency reforms, program development, data collection, and other measures designed to reduce the mass incarceration of Black men and women and other marginalized groups in Maryland prisons and jails. Recommendation No. 6 from MEJC states, in part, to reduce unnecessary pretrial confinement by establishing a uniform civilian complaint review process across all State’s Attorney’s Offices.

Current Status of the Civil Complaint Process

The civilian complaint process significantly contributes to the rise in pretrial incarceration rates for individuals who often end up neither prosecuted nor convicted. In Maryland, anyone can accuse another person of a crime simply by filling out and signing an application or statement of charges before a District Court Commissioner.¹ This process can be initiated without any corroborating documentation or prior scrutiny by a prosecutor or judge, creating a situation where mere allegations can lead to serious legal consequences. Furthermore, no legal official must evaluate these accusations' merits before the pretrial detention decision. This lack of oversight and accountability in the civilian complaint review process diminishes the responsibility of State's Attorneys' Offices and can lead to arbitrary and unfair charging decisions which directly and significantly affect pretrial processes, often leaving innocent individuals uncertain before their cases are resolved.

Racial Disparities in Pretrial Decision-making

Maryland's pretrial system disproportionately confines Black people, highlighting systemic inequities embedded in procedural delays, prosecutorial practices, and pretrial decision-making.² The need for targeted reforms is urgent, as these disparities sustain cycles of disadvantage and unequal treatment within the criminal legal system. One crucial aspect of eliminating unnecessary pretrial confinement is creating a more standardized and formal procedure for issuing arrest warrants. The following outlines some potential benefits:

Standardizing the Civilian Complaint Review Process to Mitigate Bias: A more formal and standardized system for reviewing civilian complaints, as contemplated by Senate Bill 567, could lead to fairer outcomes in charging decisions, addressing the overrepresentation of Black people in pretrial detention. Establishing consistent procedures would help ensure that complaints are evaluated based on objective criteria, minimizing the influence of personal or racial biases in determining whether charges should be pursued.³

Limiting Subjective Decision-Making in Arrest Warrants: District Court commissioners currently have significant discretion in issuing arrest warrants, a process vulnerable to subjective judgments that can contribute to racial disparities. By centralizing the warrant process and requiring applications to be submitted through official channels, such as police officers or State's Attorneys, this discretion can be reduced. Implementing standardized procedures for warrant approvals can help prevent arbitrary decisions that disproportionately impact Black and Latinx communities.

Curtailing the Impact of Private Complaints on Arrest Warrants: Private citizen complaints can lead to arrests driven by personal bias or malicious intent, disproportionately affecting marginalized groups—particularly Black people.⁴ Under the proposed changes, applications for arrest warrants would be vetted

¹ Md. Code Ann., Cts. & Jud. Proc. § 2-607(c)2

² Vera Institute of Justice. (n.d.). Incarceration trends in Maryland. Retrieved January 31, 2025, from <https://trends.vera.org/state/MD>

³ National Conference of State Legislatures, "Racial and Ethnic Disparities in the Criminal Justice System, updated May 24, 2022, <https://www.ncsl.org/civil-and-criminal-justice/racial-and-ethnic-disparities-in-the-criminal-justice-system>

⁴ Ira P. Robbins, Citizen's Arrest and Race, 20 Ohio State Journal of Criminal Law 133 (2022). Available at: https://digitalcommons.wcl.american.edu/facsch_lawrev/2213

more formally, reducing the influence of biased complaints and mitigating the risk of unwarranted arrests stemming from subjective or discriminatory complaints.

Formalizing Warrant Applications to Promote Fairer Outcomes: Requiring police officers or State’s Attorneys to file warrant applications would standardize the decision-making process. By applying uniform standards to warrant approvals, this approach would be a step toward reducing the disproportionate rates of arrest and detention among communities of color.

Reducing Unnecessary Pretrial Detention for Low-Level Offenses: Low-level offenses have been a significant driver of pretrial detention rates for Black and Latinx people.⁵ The proposed changes could reduce the frequency of arrests for minor offenses by centralizing the warrant process and prioritizing more serious cases. This would lessen the likelihood of individuals from marginalized communities being detained pretrial for nonviolent or low-level infractions.

Conclusion

We urge the Committee to consider meaningful reform of the current private citizen complaint process. By implementing standardized procedures and ensuring that private complaints are evaluated under a more formal and objective framework, Maryland can address systemic racial disparities, reduce unjustified arrests, and create a fairer pretrial system.

Submitted by: Maryland Equitable Justice Collaborative

**Anthony Brown, Co-Chair
Maryland Attorney General**

**Natasha Dartigue, Co-Chair
Maryland Public Defender**

⁵ Nazgol Ghandnoosh, Celeste Barry, and Luke Trinka. Research assistance provided by Niki Monazzam.T, “One in Five: Racial Disparities in Imprisonment – Causes and Remedies, December 2023, <https://www.sentencingproject.org/app/uploads/2023/12/One-in-Five-Racial-Disparity-in-Imprisonment-Causes-and-Remedies.pdf>