

SUPPORT HB 1309 - Commission to assess racial disparities

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



To: Chair Sandy Bartlett and House Judiciary Committee
From: Phil Caroom, MAJR Executive Committee chair
Date: March 2, 2026

The Justice Policy Institute, late in 2019, reported that our state courts disproportionately incarcerate black Marylanders at a higher rate than any other U.S. state, including our sister-state runner-up Mississippi: Maryland's incarceration of black citizens is more than double the national average. This report sparked calls from the Baltimore Sun, the Washington Post, and leaders for investigation and change. With the pandemic, however, steps towards real change still have not begun.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) is directed by statute to “reduce unwarranted disparity, including any racial disparity, in sentences for criminals who have committed similar crimes and have similar criminal histories.” Md.Code, Crim.Proc.Art.,sec.6-202. MSCCSP has concluded that a more comprehensive study reaching far beyond sentencing is needed and that the problem is not limited to our sentencing process:

“Black and Hispanic individuals generally received more stringent criminal sentences in Maryland, including higher incarceration rates and longer sentences, on average, in comparison to White sentenced individuals. ... [A]s noted by the National Academies of Sciences (National Academies of Sciences, Engineering, and Medicine, 2022), racial inequality in the criminal justice system reflects cumulative disadvantages related to various stages of criminal processing, including police stops, arrest, charging, incarceration, and community supervision.” ... “Blacks’ mean offender scores are only 22% higher than Whites’ offender scores, [but] Black Marylanders’ pretrial detention is substantially higher than Whites’ and their median overall non-suspended sentences is double that of Whites. [Emphasis added.]” (See “Assessment of Racial Differences in Maryland Guidelines-Eligible Sentencing Events” -12/23 report.)

For these reasons, MSCCSP’s report concludes that “[t]he State should consider funding a study such as the one conducted by the Criminal Justice Policy Program at the Harvard Law School (Bishop et al., 2020) to complete a comprehensive analysis regarding the impact of race at multiple points of the criminal justice system to understand potential sources of disparity more fully. Specifically, a study should be commissioned to collect data to address potential differences in arrest, pretrial detention, and prosecution charging decisions” with particular attention to the drivers of these differences including 1) disparate pre-trial detention of African-Americans, 2) the impact of mandatory minimum sentencing, 3) the disparate sentencing of Hispanic - Marylanders despite their lesser prior records, and 4) the jurisdictional differences of sentencing alternative programs.

Many sister states have studied their own criminal justice systems’ racial disparities with findings that point to different appropriate remedies. (Please see pg.2 reference list for some examples.)

HB 1309 would provide exactly the study that MSCCSP has recommended. It also would allow Maryland to join those sister states that have begun to address the national problem of racial disparities in the criminal justice system, rather than being an example of one of the worst states having this problem. Please give a favorable report to HB 1309 to take an important first step towards eliminating Maryland’s nation-leading racial disparities in our criminal justice system.

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Please note: Phil Caroom provides this testimony for MAJR and not for the Md. Judiciary.
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REFERENCES:

Racial Disparities in the Criminal Justice System in Wisconsin (July 2020) -
<https://www.badgerinstitute.org/BI-Files/Reports/RacialDisparitiesBrief.pdf>

Major Disparity in Massachusetts Criminal Justice (September 2020) -
<https://www.harvardmagazine.com/2020/09/harvard-law-school-report-on-racial-disparities-in-the-massachusetts-criminal-system>

South Carolina studies -

-<https://www.theguardian.com/us-news/2016/feb/29/racial-bias-criminal-sentencing-south-carolina>

-https://www.sc.edu/uofsc/posts/2021/01/uofsc_law_alum_seeks_to_eliminate_racial_disparities_in_justice_system.php#.Ya9qQy-cZPM

-https://sc.edu/study/colleges_schools/artsandsciences/criminology_and_criminal_justice/beyond_the_classroom/reu/index.php

Notre Dame Law Review as to “digital platforms” now available to expedite and track contents and statistics of plea bargains: http://ndlawreview.org/wp-content/uploads/2021/01/NDL302-Turner_crop.pdf A provider boasts that “a customer who “used to take . . . 4–6 hours to update cases after a large docket . . . now only takes 20–30 minutes.”