



LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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June 2, 2021

Dear Mayor Scott, Commissioner Harrison, and State's Attorney Mosby:

We are writing to you as police and prosecutors to applaud your recent decision to stop arresting and prosecuting certain low-level offenses.¹ We know that the American criminal justice system needs broad and meaningful reform, so that we can create a more equitable and just society. Your measures in Baltimore, a major city at the center of change, take us one step closer to achieving those goals.

It is our understanding that Baltimore's initial policy move was motivated by COVID-19 and the desire to slow the spread of the virus in prisons and jails. On March 18, 2020, police and prosecutors decided to stop arresting and prosecuting a range of low-level offenses, including drug possession, sex work, and minor traffic offenses.² One year later, you made these policies permanent. The collaboration your agencies have shown in this initiative has been heartening. Often, when forward-thinking prosecutors advance reform, the police or the mayor are not on the same page, making implementation challenging and sending mixed messages to the public. Baltimore City has shown that a multi-agency partnership on these issues is possible and effective.

We know that the War on Drugs has been a spectacular failure. We have "succeeded" in arresting and incarcerating drug users, exacerbating racial biases throughout the criminal justice system, and failed to reduce the supply of drugs. We know that drug users need access to treatment and services; not arrest and jail. We've long abided by the myth that officers must arrest a low-level user to get information on the high-level traffickers, but this belief is the essence of the thoroughly discredited zero-tolerance policing that has been so deeply damaging to police-community relations and even led to a consent decree in Baltimore City. The approach has been a well-documented disaster.³

The idea that those suffering from addiction must be criminalized because they may potentially provide information on more serious offenses is

exploitative and extremely disconcerting. Furthermore, the myopic approach of relying on someone with presumed behavioral health issues to solve crime has been used for decades. It has never worked. The notion that you need small fish (drug users) to get to the big fish (kingpins) is a trope of the Drug War and has been thoroughly debunked over the decades. In 2018, researchers from the University of North Carolina School of Law found that “Conventional wisdom has it that in the war on drugs you have to catch small fish in order to catch big fish. But what if the vast majority of drug arrests were for very small fish, and disproportionately brown ones at that? This article is the first to conclusively establish that the war on drugs is being waged primarily against those possessing or selling minuscule amounts of drugs. Two out of three drug offenders arrested by non-federal law enforcement possess or sell a gram or less at the time of arrest.”⁴

By the same token, there is a misguided notion that we must use the threat of arrest to get people into drug treatment. Again, science has shown that this strategy has failed us. A 2016 study concluded that “Evidence does not, on the whole, suggest improved outcomes related to compulsory treatment approaches, with some studies suggesting potential harms. Given the potential for human rights abuses within compulsory treatment settings, non-compulsory treatment modalities should be prioritized by policymakers seeking to reduce drug-related harms.”⁵ A harm reduction approach that meets drug users where they are and grants them agency to choose treatment is more impactful than a coercive approach.

By not arresting or prosecuting sex work, Baltimore has again taken an innovative approach to a challenging issue. Arresting sex workers does nothing to successfully address underlying issues that some sex workers may face. Tens of thousands of people are arrested, prosecuted, incarcerated, deported, or fined for sex work-related offenses in the US every year.⁶ In a 2003 survey of street-based sex workers in New York City, 80 percent said they had been threatened with or experienced violence, and many said the police were no help. In fact, 27 percent of respondents said they had experienced violence at the hands of police officers.⁷ In one 2008 study, nearly one in five sex workers and people profiled as sex workers said they had experienced coercion for sex by a police officer.⁸

Just as we’ve seen with drug offenses, people of color are significantly more likely to be targeted and arrested for sex work-related offenses than white people. According to Amnesty International, nearly 40 percent of adults and 60 percent of youth arrested for prostitution in the US in 2015 were black, even though black Americans only make up about 12 percent of the US population.⁹ In 2018, public health researchers reviewed 40 quantitative and 94 qualitative studies about the relationship between laws against sex work and the health and safety of sex workers.¹⁰ They found that the more criminalized sex work was, the more violence and exploitation sex workers faced. And, logically, if a sex worker fears arrest, they are unlikely to report violence or exploitation when they do experience it.

In Baltimore, sex workers have faced similar challenges to those faced across the nation. Two 2018 studies from the Johns Hopkins Bloomberg School of Public Health examined the effects of Baltimore Police Department interactions on sex workers’ health and safety. As the Baltimore

Beat reported, “About 78 percent reported having had abusive interactions with police; for 41 percent, this happened at least weekly; for 48 percent, this abuse constituted sexual harassment or assault. About 23 percent reported having been pressured by police to exchange sex for no arrest; and about 17 percent reported having police officers as clients.”¹¹

We also know that prosecuting the clients of sex workers undermines the whole point of not prosecuting sex workers. It would continue to put them in danger by making the clients engage in clandestine activity for fear of being caught by police and prosecuted. The criminalization of sex work – including clients – gives police a reason to confront sex workers, who are among the most vulnerable people in society – including people who are transgender, homeless, underage, and who use drugs. The ACLU recently reviewed over 83 empirical studies and concluded that “the continued criminalization of buyers under these policies puts sex workers at risk – both in terms of safety and financial security – and exacerbates the problem of mass incarceration in the U.S.”¹² Other studies have noted that criminalizing clients “may shift workers to less safe or less public areas or increase the risk of the client insisting on less public areas and/or engaging in unprotected sex,” and “even when clients are the stated target of police, sex workers remain at a heightened risk of violence.”¹³

We do not doubt that Baltimore City has a serious crime problem. But by allocating resources to investigating serious offenses, such as homicides and non-fatal shootings, police and prosecutors can better serve the public. Police and prosecutors have a choice, they have discretion, and the public should be made aware of that. Do taxpayers want their dollars spent on arresting and prosecuting drug users? Or do they want law enforcement’s time and energy spent on reducing violence in the city? We applaud the mayor, state’s attorney, and police commissioner for their philosophical alignment on these critical issues.

The data backs this innovative approach. In Boston, DA Rachael Rollins stopped prosecuting certain misdemeanors in 2019. An analysis by academics at Rutgers University showed that declining to prosecute these offenses led to a reduction in felony crime.¹⁴ As one of the researchers concluded, “Our results imply that a prosecutor’s decision to not charge a defendant with a nonviolent misdemeanor significantly reduces their probability of future criminal legal contact.”¹⁵ We foresee similar results in Baltimore City.

As law enforcement, we are acutely aware of the moment we are in as a nation. Police must do more to earn the trust of the community, particularly communities of color, in light of an ongoing and devastating series of high-profile police brutality cases. We applaud the Baltimore Police Department for being one of the few agencies that external reviewers said properly handled police protests last summer.¹⁶ As we focus on improving police interaction with their communities, we know that low-level offense arrests can often result in flashpoints for police and people of color. Eric Garner was stopped over a loose cigarette. George Floyd was detained over a counterfeit note. Daunte Wright was stopped for expired license plates. For these victimless crimes, they lost their lives, and police lost the public’s trust. We encourage police and prosecutors to get out of the business of pursuing these minor quality-of-life offenses that can do

so much damage to trust and integrity. Commissioner Harrison's embrace of SA Mosby's policy, and Mayor's Scott's support, demonstrates that we can and should move in this direction.

What Baltimore City is doing is tremendously thoughtful, innovative, and forward-thinking. It is also just. We stand ready and willing to assist you in these endeavors and wholeheartedly support these new policy changes.

Respectfully,

Major Neill Franklin (Ret.)
Maryland State Police

Detective Debbie Ramsey (Ret.)
Baltimore Police Department

Major Mike Hilliard (Ret.)
Baltimore Police Department

Captain Sonia Pruitt (Ret.)
Montgomery County Police Department

Captain Leigh Maddox (Ret.)
Maryland State Police

Deputy Secretary Wendell M. France, Sr. (Ret.)
Maryland Department of Public Safety and Correctional Services
Retired Major, Baltimore Police Department

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