

OFFICE OF THE STATE'S ATTORNEY
FOR BALTIMORE CITY



2024

**JUVENILE
LEGISLATIVE
PRIORITIES**



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A Message from State's Attorney Ivan J. Bates, Esq.

“Building a Better Baltimore through Strategic Legislative Action”

Dear Legislative Partners:

After a full year in office, I have been able to truly get a better grasp on the public safety issues facing our city. Having traveled the City of Baltimore throughout the summer, being provided with valuable and detailed information around their concerns, and crisscrossing the city for two months gathering insight and information around what should be included in my legislative agenda, I believe that the policies both I, and Prince George's County State's Attorney Aisha Braveboy, are proposing this session speak to that sentiment and reflect the will of the people we represent.

This package of legislative proposals demonstrates our understanding of the responsibility we hold to the people of the jurisdictions we represent. Capitalizing on the legislation passed last session, we want to ensure that we continue to hold offenders accountable while offering those who have served their debt to society a way forward in helping change their life for the better upon release.

This year's legislative agenda primarily focuses on juvenile offenders who continue to illegally possess firearms. We are seeking changes that would allow for any juvenile offender charged with this crime, or any crime of violence; and those charged with any motor vehicle theft, be brought before a juvenile magistrate within 24-hours of charging to ensure greater transparency and accountability within the juvenile charging system.

In this year's agenda, we are also seeking to extend the probationary period for juveniles, and for a stronger and more reliable GPS home monitoring system. We also want to take a look at how we can strengthen policies around the use of force and/or misconduct in office, by ensuring that those in law enforcement are held to the highest standards possible to help repair the relationship with the communities they serve.

Prioritizing the interests of justice in circumstances where individuals who have been convicted of a crime and have been rehabilitated to the extent that they are ready to return to the community, we are supporting eliminating the five year wait on sentence modifications. This legislation would allow for these individuals to seek one-time sentence modification throughout the entirety of their sentence. Relatedly, and most important to the assurance of public safety, I will seek to eliminate diminution credits for individuals found guilty of first-degree sex offenses.

These are some of our top legislative priorities this session, and I am hopeful that together - working side by side with the men and women of the Maryland General Assembly - we will accomplish meaningful work for the benefit of the residents of Maryland.

Joint Legislative Agenda with State's Attorney Aisha Braveboy.



PRIORITY ONE - JUVENILE JUSTICE

Juvenile-related crimes have been an alarmingly large group of the cases we have seen over the past year, mainly due to certain breakdowns in certain processes and limitations within the current law, some of which we will seek to improve public safety for all Marylanders.



PRIORITY TWO - PUBLIC SAFETY AND CORRECTIONS

Organized crime has rapidly evolved in Maryland over the past several years, including “criminal organizations” comprised of crews which are smaller in number and do not operate within the traditional vertical command structure that has historically been identified with crime families, gangs or cartels. Our efforts will broaden the authority of our offices, propose amendments to address substantial deficiencies in the current law by establishing clarity and increase penalties for first-time and subsequent offenders.



PRIORITY THREE - PAVA MARIE LAPERE ACT

This bill will seek to eliminate the ability for anyone convicted of a first-degree sex offense from receiving diminution credits during their entire period of incarceration.



COMMUNITY RESOURCES

Victim Compensation Fund: The Criminal Injuries Compensation Board is a remedial body designed to provide aid and assistance to victims of crime in Maryland. This program will assist in helping to streamline the process of getting victims the funds they need for funeral costs in cases of homicides with a maximum award of \$5,000, expediting the process for families already having to deal with tragedy and loss, from having to endure more headaches.

Juvenile Legislative Priority List



JUVENILE ACCOUNTABILITY PACKAGE

Ensuring any juvenile charged with a crime of violence, handgun crime, or motor vehicle theft, be seen by a juvenile magistrate or judge within 24-hours of arrest. (Juvenile Intake bill)

Authorizing the court to set an appropriate period of probation based on the successful completion services and/or programming and eliminating the current arbitrary timeframe. (Commitment bill)

Enabling the courts to commit juveniles for out of home placement for the interest of the child and/or public safety. (Violation of Probation bill)



JUVENILE COMPETENCY

Ensuring any juvenile found Not Competent can be detained on any subsequent offenses committed after the original charge.



CHILD INTERROGATION PROTECTION ACT (AMENDMENT)

Ensuring that an attorney is mandated to be present during any and all child interrogations, eliminating the provision allowing for a hotline or legal phone call.



GPS HOME MONITORING/HOUSE ARREST (VIOLATIONS)

Requiring any juvenile found to have violated or breached the contract or perimeter of their home monitoring agreement, that the Department of Juvenile Services shall have 24-hours to notify the courts, the prosecutor's office and defense counsel of said breach.

Juvenile Division

Current Intake and Charging Process

1. Juvenile Arrest

Police Arrest of a Juvenile Defendant

- Officer detains juvenile and brings them to the Juvenile Justice Center.
- Officer calls the Justice Center to speak with DJS intake officer to see what to do with the juvenile.

2. Paper Referrals

DJS Intake Officer Reviews Charges

- Officer writes and submits report in lieu of making arrest
- Officer adds additional charges after initial arrest

3. DJS Charging Determination

Charging Decision by DJS Intake

- DJS Intake Officer determines what to do with the juvenile based on the charges, the arrest report, the juvenile's arrest record and other factors.
- DJS Officers are NOT attorneys and have a 25-day policy to send the cases to the SAO for charging, though it often takes longer, but could be shorter.

4. Formal/Informal

Charging Determination

- DJS makes determination to 'formal' the case and send it to the SAO to charge the juvenile.
- DJS makes determination that a juvenile does not need court intervention, and to keep the case 'informal'.

5. Stacks

State's Attorney Charging of Juvenile

- SAO has 30-days to charge and petition the case to the courts
- Case is set for arraignment with the courts within 30-60 days.

6. Specials

Immediate/Emergency Court Hearings

- Typically reserved for more serious offenses, these are cases set for arraignment at the next available court date.

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Assessing Juvenile Data Post-COVID



Catharine Rosenblatt

Deputy Chief, Juvenile Division

What the data shows...

A lot has been discussed around the juvenile justice system and how effective the current process has, or has not, been working post COVID and the different juvenile-focused policies passed by the Maryland General Assembly. Here is some of the data and information put together by my division around what we have seen since 2021.

Juvenile Charging Numbers	<u>2021</u>	<u>2022</u>	<u>2023</u>
CASES	338	334	655
SPECIAL	167	135	238
STACK	131	136	276

Important Juvenile Data

January 1, 2023 through December 31, 2023

The Baltimore City State's Attorney's Office - Juvenile Division, alongside data presented to them by the Baltimore City Police Department, were able to review the data of every individual juvenile case we charged, as well as those who were charged via the data provided to us by BPD that we may not have received for charging, to come up with the data presented below.

KEY INDICATOR	NUMBER OF JUVENILES CHARGED	GUILTY FINDINGS/OUTCOMES
MOTOR VEHICLE THEFT	299	111 CONVICTIONS 131 CASES PENDING 37 DISMISSALS
ILLEGAL FIREARMS	152	88 CONVICTIONS 37 CASES PENDING 17 DISMISSALS
ROBBERY CRIMES	134	82 CONVICTIONS 35 CASES PENDING 9 DISMISSALS

In 2023, there were **655 total SAO juvenile cases that have been charged**, the vast majority of those crimes (**547 cases**) were related to motor vehicle theft, illegal possession of a firearm or a robbery-related crime.

Of those, **425 (65%) of them were crimes of violence** that should have come before a juvenile magistrate in what is known as a "special" immediately following their charging. However, we have found that 276 cases were "stack" cases which means they were referred to us at a later date by DJS, with 238 being held for "specials" and 116 via transfer cases. Of the 276 stack cases, **89 cases, or roughly 33% - or one out of every three offenders - were crimes of violence but NOT brought before a judge**, rather released via DJS referral.

Juvenile Intake

Intake is the first contact that DJS will have with a youth. DJS operates juvenile intake offices in every county in Maryland in order to evaluate and assess each juvenile delinquency complaint brought by police, citizens or schools and **determines whether the case should be forwarded to a State's Attorney to initiate a court case.**

Currently, **the intake process has failed to hold juvenile offenders accountable**, as dozens of those offenders charged with crimes of violence and/or handgun related offenses, who are supposed to have been seen by a judge, known as a “special”, have slipped through the cracks.

We have also witnessed **a turnstile of juveniles coming in and out of the justice system on non-violent felony charges such as motor vehicle theft**, only to return to the streets within hours to commit additional crimes, and victims do NOT have to be notified during this process.

CURRENT LAW:

According to the DJS website, **State's Attorneys do not have to be informed of charging, nor is detention necessary, for a juvenile alleged to have committed a non-violent felony or misdemeanor**, which includes any and all motor vehicle thefts.

OUR SUGGESTED CHANGE:

To ensure that **any juvenile charged with a crime of violence, including handgun offenses and any and all motor vehicle theft cases, be held until they are seen by a judge or a juvenile magistrate, which should occur within 24 hours of arrest.**

The reasons we are asking for this change in the law is:

1. Each one of these “juvenile complaints” are legal issues and **DJS intake officers are NOT attorneys but are making legal determinations** on whether or not to send these cases to the State's Attorneys office;
2. The DJS policy, which states they have **up to 25-days from the charged crime to refer the case** to prosecutors, limits interaction between law enforcement and prosecutors working together ensuring the elements of the crime have been made and strengthening cases;
3. During this 25-day charging decision process, **DJS is not required to inform victims of non-violent crimes and misdemeanors of their decision**, leaving victims frustrated and unsure of the actions being taken regarding the crime committed against them. Victims may only receive a letter from DJS AFTER they decide not to “formally” charge the case, which is supposed to be sent within 30-days of their charging decision;
4. This would allow for the immediate opportunity of the youth to receive services, “*swift and certain consequences*”, which is spelled out in the **Examination of Deterrence Theory.**

Also due to the passage of the JJRA, **we cannot recommend commitments on misdemeanors**, which would allow more time for assessment, implementation of more engaged services, and placement, where appropriate, and when public safety demands it.

The **courts are prohibited from ordering “out of home” placement** for the interest of the child or public safety for any and all misdemeanor or technical violations of probation.

CURRENT LAW:

Detention **may not** be authorized for “technical violations” of probation;
The court **may not** commit a child to DJS for an out-of-home placement when the most serious adjudicated offense is a misdemeanor, unless:
□ the youth is adjudicated delinquent of a misdemeanor handgun violation

OUR SUGGESTED CHANGE:

Detention ~~may not~~ **MAY** be authorized for “technical violations” of probation;
The court ~~may not~~ **MAY** commit a child to DJS for an out-of-home placement **FOR THE INTEREST OF THE CHILD AND/OR PUBLIC SAFETY**

Previous to the passage of the JJRA, probation was given as a “commitment” based on the completion of their court-ordered program and/or services. **The arbitrary time period was added in the JJRA and had not taken into account the length of time for programming**, and the lack of incentive of the youth completing the program or services without that commitment attached after the probation time had lapsed.

CURRENT LAW:

The initial term of probation for a **misdemeanor offense is up to 6-months**, and for a **felony offense is up to 1-year**. (After the initial term of probation, the court may hold a hearing and extend probation by terms of 3 months if the court finds: ✓ Good cause to extend the probation; AND ✓ The purpose is to ensure the child completes treatment or a rehabilitative program. The total time of the probation, including extensions, cannot be more than one year for a misdemeanor and two years for felonies.)

OUR SUGGESTED CHANGE:

The initial term of probation for a misdemeanor offense AND/OR for a felony offense **SHALL BE DETERMINED BASED ON COMPLETION OF THE TREATMENT AND/OR REHABILITATIVE PROGRAM GIVEN TO THE CHILD BY THE COURTS.**

02

Juvenile Competency (Detention)

The challenges with juvenile competency hearings is that **we cannot detain a youth pending a competency determination. They must be placed in a shelter** (which is not considered detention) like Hickey Shelter or an MDH facility which has a massive wait list. So, the youth, potentially, is left with nothing but community detention which means they go home, and many times that may not be a stable environment, leaving youth with continued vulnerabilities to reoffend. If they do reoffend, **we would like to see detention to a DJS facility as a viable option for the courts, for any subsequent charges; AND continued detention while pending the competency determination.**

We would also like to look at the timeline around competency determination hearings because we have had challenges with some cases being dismissed due to time lapse technicalities, which highlights a lack of efficiency. **We want to ensure that youth found not competent - shall be able to be detained on subsequent offense(s) committed after the original charge.**

03

Child Interrogation Protection Act - Revision

As a zealous defender of the constitution and the rights afforded to the people of our city, state, and nation, **we want to further ensure the child's rights to counsel when they are in the custody of law enforcement, mandating the attorney to be in-person with all interested parties.**

This right issued under the current *Child Interrogation Protection Act* allows for an attorney to be reached via phone so the youth and their parent can speak with the attorney. **In the adult jurisdiction, this court appointed attorney is present, in-person with their client, when they see the commissioner and NOT simply offered through a telephone hotline.**

04

GPS Home Monitoring (Violations)

We have witnessed dozens of alleged perpetrators, as well as victims of crime, wearing GPS ankle bracelets during the time of the criminal act, most having violated their agreement. We want to **require any juvenile found to have violated or breached the contract or perimeter of their home monitoring agreement, that the Department of Juvenile Services shall have 24-hours to notify the courts, the prosecutor's office and defense counsel of said breach.**

A DEEPER LOOK AT ISSUES FOUND WITH THE CURRENT DJS SYSTEM

Intake officers must make a decision on the merits of a juvenile complaint within 25 days after referral. An intake officer must determine whether the juvenile court has jurisdiction and whether the facts stated in the complaint are sufficient to commence a juvenile action. If not, the complaint must be disapproved as legally insufficient.

(Once again, here you find **intake officers making determinations of legal complaints without a legal background.** And while this says that DJS MUST make a decision on the merits of a juvenile complaint within 25-days of referral, **our offices are often NOT receiving those complaints within that time period,** which leaves us a month or more behind from the original complaint date.

The 'Examination of Deterrence Theory' has shown us that in order to deter crime, consequences must be both "swift" and "certain". So we ask you, how is the decision to forward the prosecuting body a criminal case a month or more after the crime was committed, swift or certain? This does not serve the best interest of public safety, nor does it provide an adequate deterrence to crime.)

After interviewing the youth and his/her caregivers and utilizing the MCASP, the intake officer may make one of the following decisions:

- Resolve the matter at intake. **(No formal process. Left solely up to the intake officer).**
- Propose an informal adjustment period. This informal supervision consists of an agreement between DJS, the youth and his/her parent or caregiver that the youth will abide by certain conditions during the informal adjustment period. In return, DJS agrees to not forward the youth's case to the State's Attorney as long as he/she remains compliant. If the youth fails to comply with the terms of the informal adjustment period, **DJS reserves the right to forward the youth's case to the local State's Attorney's Office.**
- Authorize the filing of a petition by the local State's Attorney's Office. This decision is made when an intake officer determines that a court action is in the best interest of the public or the youth. **Violent felony offenses are always forwarded to the local State's Attorney's Office for review.**

(This has ultimately led to DJS not sending the required "Violent Felony Offenses" to our offices, which includes handgun cases under current law. As shown in the Juvenile Data page in this document, we have found 89-cases, which is roughly one out of every three juveniles charged with violent felonies, where our offices were not forwarded these cases, but rather they were either "informaled" OR sent to our office via "paper referral" weeks or more than a month later.)

The Reality of CINS Petitions

In light of the current DJS intake policy, which includes the steps to take to file a petition for a child in need of supervision (CINS), A Baltimore Police Department (BPD) detective sought a CINS petition to address a recent incident which occurred, on December 31, 2023. In summary, three children, ages 10, 10, and 7, were found to have burglarized a commercial business, between the hours of midnight and 3:00 a.m., in the Northern District of Baltimore.

Damages to the business were estimated to be over \$1,000 but less than \$5,000. The detective contacted our office to determine how they should proceed on the matter. Due to the ages of the children, we could not pursue any charges related to the incident, and the criminal matter is also not under the jurisdiction of DJS, pursuant to current law. (It is worth noting that, under current law, if this matter was ripe to be referred directly to DJS, our staff would not have the opportunity to review, unless DJS had determined that charges should be pursued.)

Based on current DJS policies, I advised the detective to visit DJS intake at the Baltimore City Juvenile Justice Center (BCJJC) and initiate a CINS petition, on January 5, 2024. The detective requested a form that was provided to him, and he filled in the required information; however, once the intake staff reviewed the petition, it was rejected, because “it was in relation to a criminal incident,” and the sergeant was told that they would only request that the parent come in to be interviewed.

If the parent refuses, there is nothing they can do. If the parent responded for interview and relayed that they do not need assistance with supervision of their children, DJS would not take it any further. The DJS intake staff further relayed that, even if the parent did say they need help, DJS would recommend some services and programs, but they had no way to enforce use of or engagement in any provided services. They then advised that the detective should contact the Department of Social Services (DSS) so that Child Protective Services (CPS) could be involved because “DJS does not go out to the home to investigate but CPS will.”

The DJS intake staff advised that they “cannot file the petition based on a police report. If all that is submitted is information from the police report, the petition would be entered into the system as ungovernable” because they cannot do anything about it. It was further relayed that, when initiating a CINS petition, the person seeking the petition needs to have information about child’s living conditions, school attendance, school behavior, interactions with the school principal, etc. Additionally, the intake staff suggested that the sergeant file a CINA (children in need of assistance) petition, instead of a CINS petition.

The DJS intake staff further advised that they would retain the petition form that was completed by the police sergeant for the shift summary so that, if anything else comes up related to the children, they would be able to reference it, but they did not accept the petition for filing. It should also be noted that this entire interaction took 61 minutes, from the time the sergeant requested a petition to complete and when the intake supervisor advised that they could do nothing about it. Upon leaving, the detective was not provided a copy of the form that he completed nor was he given any other documentation, with the exception of contact information for the intake leadership staff.

This result seems to be contrary to current statute supported DJS policy, which was established pursuant to the passage of the JJRA. Per DJS policy:

DJS SHALL: Receive CINS complaints on youth between ages 10 and 17

·At the very least, the petitions related to the two 10-year-olds should have been received and, per DJS policy, if the petition was rejected, that information should be relayed in writing to multiple parties, including the detective who initiated the petition. He was not provided with any documentation, but he was verbally told that they would not accept the petition for filing.

There are additional requirements, under the controlling language use of the word “shall” governing what a DJS intake worker is supposed to do in these circumstances; however, none these requirements were done in response to the CINS petition by the detective.

Additionally, and based on the DJS recommendation that the matter be referred to DHS/DSS, my staff had a meeting with the leadership of the Baltimore City Department of Human Services/Department of Social Services, and it has been clarified that they would not be the governing agency to address this matter as relayed, absent evidence of neglect, abuse, or imminent danger to the children.

This also leaves the question of whether any agency would have jurisdiction over the seven-year-old who was also involved in the burglary incident, and was out on the street between midnight and 3:00 a.m. What recourse is left for the victim?

Unfortunately, none of this was communicated or done by the DJS intake staff upon their review of the application for CINS petition. However, **State’s Attorney Bates and DJS Secretary Schiraldi recently met to discuss issues such as this, and Secretary Schiraldi has made it a priority to review these situations and address any issues that may exist within the process.**

Conclusion

The Office of the State's Attorney for Baltimore City is committed to working hard and in collaboration with our public safety partners to improve the quality of life of Baltimore City residents. This can only happen by strengthening the laws and policies governing the criminal justice system, many of which we believe can be addressed by some of the tweaks suggested by this legislative agenda.

We realize that there is no easy fix, or a simple policy solution, to the problems that currently exist; however, being uniquely qualified to understand the complexities of what we are facing based on the daily interactions with the criminal element, we believe that these policy proposals will go a long way to helping address the problems that we continue to face.

We are committed to working alongside this body to help craft the best possible policies in order to help alleviate the issues we all face on a daily basis. We want to thank you for your time and consideration of this legislative agenda and look forward to having a healthy and robust conversation around how we resolve these issues with a compelling and comprehensive solution.

"I believe this year's legislative package equally balances the rights of the citizens with that of the victims, and their families; while looking to hold offenders accountable for their actions."

~State's Attorney Ivan J. Bates

Acknowledgements

Many thanks to the hard working men and women at the Baltimore City State's Attorney's Office, along with our public safety partners, which helped make this legislative agenda, and the details in this report, a reality.

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“We thank you for your continued support in our efforts to improving the livelihood of Baltimore residents through effective and efficient public safety measures.”

~ Ivan J. Bates, Esq.

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