

What is the Sentencing Review Unit?

The Baltimore City State's Attorney's Office Sentencing Review Unit (SRU) is a new division of the agency that will review cases of incarcerated people to determine whether the office supports their release.

Why set up a Sentencing Review Unit?

The United States of America is an [outlier](#) in the world and Maryland is an outlier in the nation when it comes to punishing people- particularly People of Color. America is the largest jailer of people in the world, with the punitive severity and excessive nature of sentences [disproportionately](#) impacting Black and Brown people. Here, in the State of Maryland, African-Americans make up a mere 30% of the State population, yet [comprise](#) 70% of the state's prison population- that is more than double the national average.

According to DPSCS data, there are over 2202 prisoners currently serving life sentences in Maryland. Approximately 78% of them are black versus 21% are white. Of the more than 800 prisoners sentenced to life in Baltimore city, 94% are black versus 6% are white.

The status quo is neither just nor sustainable. Prosecutors have a responsibility to seek justice over convictions and this new unit will help put into practice the imperative need to review and revise sentences when appropriate that are incompatible with current practices.

This Unit is a new and integral part of our comprehensive [response](#) to the COVID-19 crisis. We have been able to successfully reduce the number of people entering the jail system (the jail population is down 45% compared to last year) in part through measures such as not prosecuting certain offenses, dismissing pending cases, eliminating warrants, and supporting the early release of certain individuals during this global pandemic. Yet we have always and will continue to balance public health and public safety.

COVID-19 has proven to be a crisis for the criminal justice system, largely in part because of the pre-existing dreadful stain of mass incarceration in this country, which has led to unsanitary, overcrowded and dehumanizing conditions of confinement.

Public health experts made it clear very early on, that prison walls will not stop the virus from entering and leaving, as correctional officers, food service workers, health service workers and many other employees that come and go to and from these facilities back into their homes and communities, where the virus can then spread to the broader community.

We have seen over the past year that once that virus enters the prison, it spreads like wildfire because quarantining and social distancing, which are essential prevention strategies for the virus, cannot work.

According to Public health Experts, prisons and jails [remain](#) a breeding ground for the disease. Daily coronavirus case numbers in the US are at unparalleled levels not seen [since](#) the start of the pandemic. Fourteen states recently have set hospitalization records, earlier this month, more than 70 incarcerated individuals and 16 staff tested positive at a county jail in Cecil County. The

National Academies of Sciences, Engineering, and Medicine (NASEM) recently released a report reiterating the dangers of COVID-19 in correctional facilities.

Chief Judge Ellen Barbera, the highest-ranking judge in Maryland has stated in an [order](#) that “The Administrative Judges of the Circuit Courts and the District Administrative Judges of the District Court of Maryland (Administrative Judges) are encouraged to communicate with justice system stakeholders to identify at-risk incarcerated persons for potential release to protect the health of at-risk incarcerated persons during the COVID-19 pandemic crisis, with careful regard for the safety of victims and communities in general; with respect for the statutory rights of victims; and with due consideration given to public health concerns related to inmates who may have contracted COVID-19.”

The Governor has also taken steps to release individuals and reduce the spread of the virus. On November 18, 2020, Governor Hogan issued a new Executive Order allowing the release of around 1,200 people. His order allows accelerated parole for non-violent people over 60 (not lifers) and early release for certain people with fewer than 120 days left on their sentence.

While justice stakeholders- the courts, police, prosecutors, defenders, the department of public safety and correctional services - have all made attempts to de-populate the jails and prisons, the question still becomes, whether we’ve done enough for those elderly and most susceptible to contracting COVID-19 in prison serving life sentences?

How do you decide whom to support?

The Sentencing Review Unit (SRU) will prioritize cases utilizing the following criteria for initial review but not wholly sufficient for a recommendation to support release (please see factors for consideration in application process):

1. Individuals who have a documented serious medical condition according to CDC that places them at a higher risk of serious illness or death if they contract COVID-19;

AND

2. Individuals over the age of 60 who have spent more than 25 years in prison on a life sentence OR Individuals who have spent more than 25 years in prison on a life sentence for a crime committed as a juvenile (age 17 and under).

Defense counsel incarcerated inmates may apply for sentencing review based on the aforementioned initial screening criteria found on the SAO website. After an initial screening, SRU will conduct a thorough review of whether the SAO should support the release of the individual which includes – but is not limited to - consultation with the victim/next of kin, facts of the case, mitigating circumstances, changes in sentencing practices, conduct while incarcerated, reentry plan, certificates of achievement, letters of support, length of time in prison, age, medical conditions, remorse, positive development, family/community support, and likelihood of re-offending.

SRU’s recommendation will be reviewed by members of the Executive Team, before a final recommendation is made to the State's Attorney, who makes the ultimate decision. If the

decision is made to support the case, the SRU will work with defense counsel to discern what, if any, legal path for release is available.

****In the 2021 state legislative session, the SAO will again advocate for the Second Look Act, which would enable people to receive a hearing on a potential sentencing reduction after the person has served more than 25 years.****

What authority does the office have to review sentences?

The SAO plays a key role in the post-conviction process. Post-conviction is an available remedy to incarcerated people, which occurs after an appeal. When a defendant files for post-conviction relief, the Maryland Rules require a response from the SAO. The SRU will pay special attention to cases that meet the aforementioned criteria and may file a joint petition for post-conviction relief, subsequently requesting joint sentencing relief. This process may result in the release of the incarcerated individual.

Is the release automatic?

No. The ultimate decision will be made by a judge. The judge will review any motion and can deny a hearing, deny the motion, or deny any sentencing modification request.

Are these released individuals going to be a public safety concern?

The United States spends millions of dollars to incarcerate elderly people who no longer present a public safety threat. Criminologists have long stated that people “age out” of crime, and as they enter their later years, they are far less likely to commit crime. FBI Crime Statistics bear that out with people over 60 responsible for 3% of violent crime arrests. The Unger ruling saw the release of 200 lifers. The majority were over 60, and 97% have been successful in re-acclimating into their communities and haven’t re-offended nor returned to prison. (The recidivism rate is a mere 3%, way below the state average of 40.5%).

According to developmental criminology – that is, criminal behavior decreases significantly as people age, and therefore, lengthy and extended incarceration often does not promote community safety. However, throughout the United States we are literally spending millions of dollars to incarcerate people who no longer present a public safety threat. According to The Sentencing Project:” The cost for life imprisonment is in the range of \$1 million per adult prisoner, with prison expenses rising precipitously after middle-age. A partial cause of the eventual doubling of expenses as prisoners age is the heavy toll that prison itself has on human health. Typically, people entering incarceration already exhibit poorer health compared to the general population, but the harsh prison environment, accompanied by inadequate treatment, exacerbates prisoners’ health status and accelerates the aging process.“ All of this exacerbates the costs of confinement on taxpayers.

In 2016, The Supreme Court outlawed mandatory juvenile life without the possibility of parole. This ruling was made after reviewing new scientific evidence on the juvenile brain, which recognized that we should treat juveniles differently from adults. Twenty-three States across the

nation have banned juvenile life without the possibility of parole sentences, recognizing that what you do at 16 years of age should not always define who you are at 70 years of age.

In Maryland, there are approximately 300 juvenile lifers (people given life sentences for crimes committed prior to age 18) that have effectively become juvenile lifers without parole because Maryland is one of three states that require approval from the governor as part of the parole process.

In 1995, Maryland's Governor Glendening removed the pre-release of all lifers in the correctional facilities with his famous quote "life means life." This has since been the tone for every governor succeeding him until in 2019, Maryland Governor Larry Hogan, directly approved parole for two juvenile lifers and for a third juvenile lifer, he allowed the time to expire without his signature, which statutorily became an automatic approval. There are currently approximately 200 juvenile lifers that are parole eligible.

What about victims and family members?

State's Attorney Mosby was once a survivor herself when her cousin was killed outside of her home in broad daylight when he was mistaken as a neighborhood drug dealer.

Victim/witness/survivor support has always and will remain a priority for this administration and especially for the SRU.

Becky Feldman will head the SRU. She is the former Deputy Public Defender for Maryland, and represented hundreds of inmates at post-conviction proceedings, resentencing proceedings, parole retake hearings, and parole hearings with a focus on the geriatric inmate population. She also managed the Unger project that resulted in the release of nearly 200 men who had served in excess of 30 years in prison. Feldman also has the ability to empathize with victims of crime, having tragically lost her brother to homicide in Baltimore City in 2000. While two individuals were arrested and ultimately charged and convicted of the crime, Becky was inspired to work in the criminal justice system fighting for the release of inmates because it was therapeutic for her. It was a part of her healing process.

With the start of this unit, Becky intends to consult, engage and advise victims families throughout the review process. To that end, the SRU has partnered with the Restorative Justice Organization, [Restorative Response Baltimore](#), to offer a process for where those who have been harmed and their support system and those who have caused harm along with their support system can voluntarily engage in a restorative dialogue. This process will be offered to those directly involved in and affected by harm to attempt to reconcile, heal, and empathize to build community and connection. This process will be facilitated by trained invested facilitators. Facilitators will speak with everyone participating in the dialogue process to find out if they are interested in attending, who needs to be present, what to expect, as well as what resources may need to be present. If individuals aren't interested in participating in the restorative justice dialogue we will attempt to provide resources to support health and healing.

Regardless of how victim or survivor decides to proceed, the SAO will also connect individuals with our [Victims and Witness Services](#) unit so the victims/witnesses/or survivors can obtain

services such as lifetime grief counseling through family bereavement and grief counseling, information on the legal process, and more.

What about support upon reentry?

As part of any assessment the SRU conducts, the division will work closely with the defense counsel to ensure the individual has a reentry plan that incorporates housing, employment, medical assistance, and more. A proper reentry plan is a key criteria for release. If the Baltimore City SAO decides to support the release, the individual will be placed on probation for a period of time, which will give the person access to drug treatment, mental health, employment support, and more. The SAO is exploring a partnership with Bon Secours, a local organization that would connect returning citizens to its resources. Its re-entry program offers case management, expungement, career coaching and a 12-week course for ex-offenders to address a wide range of issues, help build skills and set them on a path to success.

Has the SRU had any success thus far?

The SRU has already reviewed a number of cases and have some hearings coming soon. The SRU has also taken positions to support parole recipients. While Becky Feldman is the head of the SRU, her unit is supervised by Deputy State's Attorney Jan Bledsoe. Ms. Bledsoe handled the SRU's first successful case.

Calvin McNeill was a juvenile lifer with a nearly perfect institutional record who had served nearly four decades in prison for an offense committed when he was 16. Mr. McNeill took another person's life in a robbery in 1981. He has thoroughly demonstrated his complete rehabilitation. Indeed, three times in the last decade Mr. McNeill had been recommended for release by the Maryland Parole Commission. Because Maryland's system operates as one of clemency in which opportunities for release are extremely rare, each time he was recommended he was denied by a sitting Maryland Governor. Mr. McNeill was represented by Sonia Kumar of the ACLU who brought the case to our attention. After a review, the SAO agreed with ACLU that McNeill should be released.

The court granted a motion to reopen, offered by the parties for emergency action in the COVID-19 crisis, and a joint motion was submitted by Ms. Kumar and supported by the Office of the State's Attorney. The defense urged, and the State agreed that the Court modify his 1982 life sentence. Mr. McNeill's trial attorney had failed to file a contemporaneous motion to modify the life sentence; such a motion would have afforded an opportunity for the court to address McNeill's rehabilitative potential and factors relevant to his age (16) at time of sentencing. The court agreed and resentenced him on July 6, 2020. Mr. McNeill is on 5 years probation, with a solid reentry plan, as manifested by him securing employment and working alongside his brother.

What other offices have SRUs?

A number of offices throughout the country have SRUs that do similar work to the Baltimore City SRU. They include Seattle, Prince George's County, Philadelphia, San Francisco, Los Angeles, Brooklyn, and more.

King County (Seattle, WA) Prosecuting Attorney Dan Satterberg reviews older cases with long prison sentences in light of newer court rulings and research." Since 2009, his office has advocated for the release of twenty-one individuals, many of whom had received life sentences under Seattle's "three-strikes" law. All of these requests were granted, illustrating the power of prosecutorial support in these cases.

In April 2019, Kings County (Brooklyn, NY) District Attorney Eric Gonzalez announced that for individuals who had pled guilty, his office will support parole at the earliest opportunity, in most circumstances. Gonzalez said : "To continuously keep people in jail for terms longer than they need to be in there, simply as more punishment, is unjust and unfair. We made a deal with them that after 15 years or 20 years or whatever the number, they would be eligible to get a fair hearing on parole, and largely they are not."

Does this mean a shift away from focusing on violent crime?

No. The other divisions will remain as focused on prosecuting violent crime in the city. Over time, the hope is that the SRU will take on post-conviction responsibilities that often dominate the work of other divisions, like homicide and general felony, allowing those divisions to focus more on prosecuting violent crime. The Baltimore City SAO felony crime conviction rate is 94% and the agency intends to keep it at that level or better.

If I have a case, how do I connect with the SRU?

Go to:

<https://www.stattorney.org/office/bureaus-units/sentencing-review>

Who supports the SRU?

The SAO's new initiative has been endorsed by several local and national organizations and experts.

"COVID-19 poses a unique and deadly threat to those who live and work in our nation's prisons and jails. It is critical to protect the public health of our communities and we must do all that we can to prevent the spread of COVID-19 in custodial settings," said Senator Cory Booker (D-NJ). "I am proud to have introduced the Emergency Community Supervision Act to take action to address the COVID-19 crisis in our federal prisons, and I commend the City of Baltimore and State's Attorney Mosby for taking the initiative at the local level with the announcement of their sentencing review unit. I hope other cities and states will follow their lead."

"State's Attorney Mosby's creation of a Sentencing Review Unit to safely reduce incarceration, while providing increased counseling and restorative justice for crime survivors, is an effective and smart approach to keeping communities safe and healthy. Excessive incarceration not only undermines public health and public safety, it often absorbs more focus and resources than

meeting the core needs of crime victims. This is especially true in underserved communities that experience crime and violence the most - the same communities disproportionately being harmed by the health and socio-economic impacts of COVID. As crime victims, we know that many people in prison were once victims of crime themselves, and we want public policies that stop cycles of crime and support our recovery from trauma. This announcement is an important step towards improving how we approach public safety." Aswad Thomas, Managing Director of Crime Survivors for Safety and Justice, a national network of tens of thousands of crime victims that is a flagship program of Alliance for Safety and Justice.

"I applaud State's Attorney Mosby for offering individuals a second chance through the creation of the sentencing review unit. I know how victims and family members feel. My brother was killed in 1988. But I am here to say that people can change. I forgave my brother's killer and recognize that prison can change people. We are not the worst thing we do. I fully support the State's Attorney's efforts at restorative justice and victim support, and her passion for criminal justice reform." Darryl Green, Deep Forgiveness.

"Prison and jails have been hotbeds of COVID-19 infection. These facilities house large numbers of older adults who are at high risk of severe COVID-19 infection, and who present little public safety threat. It is critical to reduce this population of vulnerable individuals to protect their health and that of the larger Maryland community." Carolyn Beth Sufrin, A.M., M.D., Ph.D - Johns Hopkins University.

"We can't take on mass incarceration without dismantling every part of its architecture. Part of how we got here is by building barriers to release even for the most deserving people who have served many decades and demonstrated their remorse and change. We applaud this effort to recognize the important role that State's Attorneys must play to correct ongoing injustices and to invest in restorative approaches for our communities." Sonia Kumar, Senior Staff Attorney with the ACLU of Maryland.

"Safely reducing the incarcerated population is both merciful and in our public health interest given that jails and prisons are known hot spots for the virus." - Major Neill Franklin (Ret.), executive director of the Law Enforcement Action Partnership.

"Sentencing review units recognize that people have the capacity to grow and change--they recognize the possibilities for remorse and redemption. We are thrilled that the Baltimore City State's Attorney has taken this step towards reevaluating sentences that may have seemed just when handed down but are no longer necessary to keep the public safe or ensure rehabilitation and we look forward to working with them." Leigh Goodmark, Marjorie Cook Professor of Law and Co-Director, Clinical Law Program, University of Maryland Francis King Carey School of Law.

"By releasing people from prison who are vulnerable to Covid-19, the State's Attorney's office is showing compassion and good sense," said Lauren-Brooke Eisen, director of the Justice Program at the Brennan Center for Justice at NYU Law and a former assistant district attorney in New York City. "This effort is the humane response to the devastating impact of the coronavirus on those behind bars, where social distancing isn't feasible. And, since more than 95% of the

people in our nation's prisons will be released and re-enter their communities at some point, prioritizing early release for the elderly and others who are most susceptible to Covid-19 won't jeopardize public safety."

"Because of draconian sentencing policies in Maryland too many people are locked up for long prison terms without a meaningful opportunity for release or the hope of a better life. As a result, we are seeing an aging prison population in Maryland. Further, the current system exacerbates racial disparities in Maryland, which already has the highest proportion of people of color in prison in the country. Because of this, I applaud State's Attorney Marilyn Mosby on launching a sentencing review unit. Given Maryland's dysfunctional justice system and the resultant racial disparities, I can't overstate how much need there is for the new sentencing review unit," said Keith Wallington, State Based Strategist for Justice Policy Institute.

"The establishment of the Sentencing Review Unit is a welcome opportunity to work collaboratively with the Baltimore City State's Attorney's Office to secure freedom for individuals who demonstrate change, remorse, and rehabilitation. COVID-19's spread in our correctional facilities has highlighted the urgent need to reduce Maryland's prison population. Our decarceration efforts must include those who are serving long sentences but pose no further risk to public safety. I look forward to working with the new unit to bring much needed relief to my clients," said Lila Meadows, Clinical Instructor, University of Maryland School of Law.

"About one in 5 people in Maryland prisons is serving a life or virtual life sentence despite decades of research that most people age out of criminal behavior and no longer present a risk to public safety. We applaud the State's Attorney Marilyn Mosby for recognizing her role in undoing some of the harm caused by extreme sentences. Thousands of people in Maryland prisons, overwhelmingly African American, can be safely returned home right now. We urge the legislature to build upon this momentum and allow all people serving long sentences a chance for change and freedom." Amy Fetting, Executive Director of The Sentencing Project.

"In light of the public health crisis facing prisons and jails, and the chronic health conditions disproportionately affecting the incarcerated that make them more susceptible to severe Covid-19 symptoms, we are encouraged by State's Attorney Mosby's leadership in this moment. Adolescents are uniquely capable of positive change, and the overwhelming majority of youth who commit crimes mature into positively oriented adults. State's Attorney Mosby's commitment to prioritizing review of cases involving individuals who committed crimes under the age of 18 reflects sound and important policy to protect the health and wellbeing of the most vulnerable in our community." Heather Renwick, Legal Director, Campaign for the Fair Sentencing of Youth.