

ADVERTISEMENT

## POLITICS

# When innocent people go to prison, jailhouse informants are often to blame. Some Maryland lawmakers want to change the system.

---

By **LUKE BROADWATER**  
BALTIMORE SUN | FEB 13, 2020





Clarence Shipley Jr., 47, right, with his son, Clarence Shipley III, man, is greeted by family and supporters after leaving Courthouse East on Dec. 18, 2018, as a free man. The Baltimore City State's Attorney's Office vacated his conviction and dismissed all charges, after Shipley's lawyer, Michele Nethercott, of the Mid-Atlantic Innocence Project, proved he had been falsely fingered in a series of vehicle thefts on the basis of false testimony from a jailhouse informant. Shipley was incarcerated for 27 years after being convicted for a murder he did not commit. Proposed legislation before the General Assembly would place greater scrutiny on "in-custody witnesses." (Amy Davis / Baltimore Sun)

When **Demetrius Smith** went to prison in 2008 for a murder he didn't commit, a jailhouse informant was a damning witness.

Another exonerated man, **Clarence Shipley Jr. of Baltimore**, spent 27 years in prison – after a suspect arrested in a series of vehicle thefts falsely fingered him as a killer.

And the city of Baltimore paid out \$9 million to [another innocent man, James Owens](#), who spent two decades in prison. His murder conviction was based, in part, on the unreliable testimony of a prisoner who claimed Owens confessed to him.

Time and again, when innocent people go to prison in Maryland, false testimony from jailhouse informants plays a role. In the world of Maryland corrections – where detainees want reduced sentences and prosecutors are eager for help to land convictions – the incentive to lie about a fellow prisoner is so strong that additional protections must be placed in the law, some are now arguing in the Maryland legislature.

“This is an ongoing problem,” Michele Nethercott, director of the University of Baltimore’s Maryland Innocence Project, says of false testimony from jailhouse informants. “Many of them have a career in which they get arrested, they get concessions, they provide information. ... People are convicted on this unreliable false testimony.”

[\[Most read\] Engineering dean Darryll Pines appointed next president of University of Maryland, College Park »](#)

Maryland would join a growing number of states passing laws to place greater scrutiny on “in-custody witnesses” under proposed legislation before the General Assembly. Such laws force prosecutors to disclose to defense lawyers any deals cut with informants; track an informant’s record of testifying in other cases; and mandate hearings in front of a judge over whether an informant’s testimony should be allowed at trial.

Clarence Shipley Jr., right, was released from prison after it was proved that false testimony from a jailhouse informant had led to his conviction. (Amy Davis/Baltimore Sun video)



Testimony from jailhouse informants is one of the leading contributors to wrongful convictions, playing a role in nearly one in five of the [367 DNA-based exoneration cases](#) nationally, according to The Innocence Project, a nonprofit that works to exonerate wrongly convicted people through DNA testing.

In Maryland, at least four recent high-profile cases of exoneration involved jailhouse informants who gave false testimony.

State Sen. William C. Smith Jr., a Montgomery County Democrat, is sponsoring legislation to force prosecutors to turn over more information about jailhouse informants before they testify, including whether the informant has been promised any benefit and whether they’ve cut such deals in prior cases.

The legislation does not bar the use of jailhouse informants, whose testimony prosecutors argue is sometimes needed to secure convictions, but places greater restrictions on their use.

[\[Most read\] 2 police officers shot in Northeast Baltimore; law enforcement sources identify dead suspect »](#)

Before the informant would be allowed to testify, a judge would have to hold a hearing to assess the informant’s credibility and “screen out the most unreliable witnesses,” Smith said.

The legislation also would require prosecutors to maintain a database of jailhouse witnesses and to notify an informant's crime victims if a deal allows an informant to receive a reduced sentence, early release or any other leniency due to his testimony.

“It’s a small step that will go a long way to ensuring folks have a shot at justice and evidence is not wrongfully entered against them.”

— STATE SEN. WILLIAM C. SMITH JR., A MONTGOMERY COUNTY DEMOCRAT, WHO IS SPONSORING LEGISLATION TO FORCE PROSECUTORS TO TURN OVER MORE INFORMATION ABOUT JAILHOUSE INFORMANTS BEFORE THEY TESTIFY

---

Share quote & link



Smith's bill — co-sponsored by Sens. Jill P. Carter and Mary Washington, both Baltimore Democrats — is scheduled for a hearing Wednesday. A House of Delegates version of the bill — sponsored by Del. Debra Davis, a Charles County Democrat — will be heard Tuesday.

“This bill adds another layer and transparency to prevent this type of injustice from happening in the future,” Smith said. “It’s a small step that will go a long way to ensuring folks have a shot at justice and evidence is not wrongfully entered against them.”

Connecticut, Illinois, Nebraska and Texas have passed similar laws placing restrictions on jailhouse informants. Colorado, Kansas, Massachusetts and Oklahoma are debating their own reforms.

[\[Most read\] 2 police officers shot in Northeast Baltimore; law enforcement sources identify dead suspect »](#)

In 2017, the Texas legislature established strict record-keeping guidelines for the use of jailhouse informants in obtaining convictions. In 2018, Illinois lawmakers overrode a gubernatorial veto to tighten restrictions. Last year, Connecticut became the first state to require prosecutors to track information on jailhouse witnesses.

ADVERTISEMENT

Last year, Smith's legislation failed in the Judicial Proceedings Committee. It faced tough questions from his fellow lawmakers who argued it's the job of juries — not judges — to determine the reliability of witnesses.

Sen. Chris West, a Baltimore County Republican, argued at the time that all sorts of witnesses take the stand in criminal trials, including sometimes the accused's family members. Juries weigh each witness based on his or her credibility.

"I'm really not wild about that," West said of a pretrial hearing in which a judge could prevent an informant from testifying.

**"All these laws they're trying to pass are to correct things that happened 30 years ago. I think we've come a long way with a lot of things we're doing."**

— BALTIMORE COUNTY STATE'S ATTORNEY SCOTT SHELLENBERGER

Share quote & link



Deputy Baltimore County State's Attorney John Cox testified against the bill in 2019, arguing it was written too broadly and could force the release of information about confidential informants the state had no plans to call to testify.

[\[Most read\] Auditors question \\$750,000 grant from state opioid office to buy former Caroline County country club »](#)

"It would create a grave danger," Cox said.

The Maryland State's Attorneys' Association plans to oppose the bill again this year. Baltimore County State's Attorney Scott Shellenberger said in an interview that prosecutors are already required to turn over information to the defense that could help a defendant's case, including any incentives a jailhouse informant has received to testify. He said prosecutors typically go to great lengths to make sure a witness is telling the truth before putting the witness on the stand.

"We go through a pretty rigorous process to make sure we're getting truthful testimony," Shellenberger said. "It's our duty to turn over exculpatory information."

Shellenberger noted that using jailhouse information is not something prosecutors do "on a regular basis," and he thinks lawmakers are overcorrecting for mistakes made decades ago.

"All these laws they're trying to pass are to correct things that happened 30 years ago," Shellenberger said. "I think we've come a long way with a lot of things we're doing."

[\[Most read\] Tears, tributes and then a 15-year sentence for man who burned his Baltimore business in \\$15 million fraud scheme »](#)

But Nethercott said prosecutors don't always turn over information about jailhouse informants as they should. She argued such informants have a unique incentive to lie and therefore deserve the extra scrutiny of a hearing before a judge before they can testify.

"Many of them are one-man crime waves," Nethercott said. "They've committed crime after crime after crime. They're very hard to pin down. Oftentimes they're not truthful with the prosecutors. The point of the hearing is to get all this out up front."

Smith also argued the legislation is a cost-saving measure for the state. Maryland's Board of Public Works recently agreed to pay out about \$9 million to five wrongly convicted men who were imprisoned for decades, including about \$2 million to Shipley. Smith noted there have been other settlements as well, such as the \$9 million paid by Baltimore to Owens.

ADVERTISEMENT

"If we can implement a process to make sure this type of injustice doesn't happen, we'll end up saving a lot more money on the tail end," Smith said.

Despite the bill's failure last session, it faces better prospects now. The new Senate president, Baltimore Democrat Bill Ferguson, has made Smith chairman of the Judicial Proceedings Committee. And the new House speaker, Baltimore County Democrat Adrienne A. Jones, has pledged her support for the bill.

In January, 11 exonerated men – who spent more than 200 years in prison combined – came to Annapolis to advocate for the bill’s passage. The men also want the legislature to pass a uniform wrongful conviction compensation law, so that exonerated people won’t have to wait years for the Board of Public Works to approve compensation to them.

“We can’t take back the years, but we can try to prevent this from happening to others,” Jones told the men. “We’re going to make sure those bills get out.”

Smith told the men the legislation “got a little hung up last year” but was now “tightened.”

“I feel very confident in our chances this year,” he said.

Demetrius Smith, 37, of Baltimore, told the lawmakers of spending five years in prison.

“A jailhouse informant was arrested on a probation violation and made up a story that he seen me kill a man,” Smith said. “There were a lot of reasons to doubt the jailhouse informant’s story. The guy was a repeat informant in different cases. He wrote a letter to the judge asking for a deal for cooperating in my case. ... While I was in prison for a crime I didn’t commit, the actual killer went on to commit other crimes.”

Shipley, 48, spoke of how he’d spent nearly three decades behind bars.

## Maryland Policy & Politics Newsletter

Weekdays

---

Keep up to date with Maryland politics, elections and important decisions made by federal, state and local government officials.

ENTER YOUR EMAIL ADDRESS

“In my case, the state’s witness was arrested for a crime. For his testimony, he got some of his charges dropped and a lesser sentence,” Shipley said. “That shouldn’t be. They should investigate these witnesses. ... They gave me life and 20, based on his testimony. That shouldn’t be.”

Davis, the House sponsor of the bill, said she wanted the men to feel hopeful that they could change the system.

“I love the faith you have in our system still, the system that wronged you, the system that took away your life,” she said. “We’re going to do our best to get rid of wrongful convictions.”

Kirk Bloodsworth, the first American death row inmate to be exonerated by DNA evidence, also spoke about how Maryland’s justice system needs reform. He recalled going off to prison for the first time with two other men who also were later exonerated.

Bloodsworth spent nine years in prison for a murder he didn’t commit before he was exonerated in 1993.

## LATEST POLITICS

---

When innocent people go to prison, jailhouse informants are often to blame. Some Maryland lawmakers want to change the system.

4h

---

Owner of ‘Crazy Girl’ and other vessels that prompted abandoned boat legislation says she opposes Maryland bill

5h

---

Engineering dean Darryll Pines appointed next president of University of Maryland, College Park

FEB 12, 2020

---

Auditors question \$750,000 grant from state opioid office to buy former Caroline County country club

FEB 12, 2020

## Baltimore Mayor Young launches 50-day 'pothole challenge,' pledges city will fill 5,000 potholes

FEB 12, 2020

“I’m glad lawmakers are taking action to protect against unreliable jailhouse informants, one of the worst systemic problems in this country for wrongful convictions,” he said.

---

ADVERTISEMENT

ADVERTISEMENT