

Testimony of Mona Sahaf, Vera Institute of Justice

Supporting HB1429/SB0763: Requiring the Collection and Publication of Criminal Case and Prosecutorial Information

Oral testimony

Good afternoon. My name is Mona Sahaf. I am a Maryland resident and work at the Vera Institute of Justice as Deputy Director of the Reshaping Prosecution Program. The Reshaping Prosecution program helps prosecutors shrink the criminal legal system, promote racial equity, and increase transparency and accountability to the communities they serve. Before joining Vera, I worked for twelve years as a federal prosecutor in Washington, DC.

Prosecutors wield great power to shape criminal cases, including collecting evidence through subpoenas and search warrants, choosing who to investigate or charge, deciding what charges to bring, and making plea offers. Many of these decisions—especially around declination, charging, and plea bargaining—are virtually unreviewable by any court or other entity, and totally discretionary to prosecutors. Yet, despite this immense power, the general public does not receive much, if any, information about how prosecutors make these choices, which are often life-altering for people and their families.

This bill is a significant step towards unlocking the black box of prosecution for Maryland residents. Publicizing this data and information empowers the public to isolate and understand how prosecutors' decisions collectively and individually impact the communities that they are elected to serve, and what priorities a given state's attorney is pursuing. With access to this data, community members will have information necessary to understand vital issues like what resources state's attorneys spend on cases driven by substance abuse, how frequently they ask for pretrial detention for people presumed innocent, and how their decisions contribute to racial disparities in the system.

However, while this bill is a significant step towards transparency, its success will depend on helping state's attorneys' offices to implement it effectively. The vast majority of state's attorneys' offices likely do not have the in-house capacity necessary to properly collect or report many of the data points in the legislation. As such, the general assembly or the governor should consider providing state-wide technical assistance to help prosecutors meet the demands of the legislation.

Please see my supplemental written testimony for additional data points that the legislation could capture, as well as implementation suggestions to support offices in collecting and publishing data.

Supplemental written testimony

My supplemental testimony focuses on two areas: additional data points to collect and avenues to help state's attorneys collect data.

First, although HB502/SB456 requires collection and reporting of many crucial data points, there are a few others our team would suggest:

- Non-public safety traffic stops These are stops where someone is detained for a minor traffic infraction that does not impact public safety. These stops increase racial bias in the

system and do not provide a public safety benefit.¹ To capture how these stops impact the justice system, consider requiring state’s attorneys to collect whether an arrest involved:

- a traffic stop, documenting the traffic infraction even if the prosecutor does not file the traffic offense;
 - an outstanding warrant; or
 - a consent search.
- Demographic information. In addition to the proposed information about the person charged, state’s attorneys could collect:
 - The person’s residential zip code and ethnicity – both of which would shed light on who is disparately impacted by the criminal legal system.
 - Victim information: demographic information on victims like race, ethnicity, age, gender, residential zip code, and disability status would similarly shed light on the disparate impact of the justice system.

Second, the state should consider providing support – financial or technical – to increase the data collection capacity for state’s attorneys’ offices. Even for well-resourced offices, changing practices to collect the data required under the legislation will be a heavy lift.

To relieve that burden, and to ensure the effective collection of data, other states have offices devoted to providing technical assistance to prosecutor offices. For example, Colorado passed legislation creating and funding the Colorado Integrated Criminal Justice Information System, a centralized state-wide data system that provides technical support to offices in maintaining data standards.² The Prosecuting Attorneys Association of Michigan develops software and helps offices with technical matters.³ Developing a similar centralized support system for Maryland state’s attorneys could help with standardizing data collection and ease implementation of the legislation.

¹ Vera Institute of Justice and Institute of Innovation in Prosecution, “Refuse: Decline arrests from pretextual stops,” <https://motionforjustice.vera.org/strategies/refuse>.

² Colorado Integrated Criminal Justice Information System homepage, accessed February 22, 2022, <https://cicjis.colorado.gov/>.

³ Prosecuting Attorneys Association of Michigan homepage, accessed February 22, 2022, <https://www.michiganprosecutor.org/>.