

# Maryland Policy Report

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## BALTIMORE'S PREVENTABLE MURDERS: *THE ROLE OF PRIOR CONVICTIONS AND SENTENCING IN FUTURE HOMICIDES*

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**BY SEAN KENNEDY**

From January 2015 to June 2022, there were over 2,500 murders recorded in Baltimore, tallying more than 300 killings each year for seven consecutive years.<sup>1</sup> That bloody toll consistently ranks Baltimore as America's Big City murder capital with a homicide rate rivaling the world's most dangerous cities.<sup>2</sup>

While there are many reasons for Baltimore's persistently high level of violence, this study examines what role the accused killers' sentences for prior offenses played in their opportunity to commit the alleged homicide. It seeks to answer the following questions: How many of Baltimore City's murderers could have been stopped by the justice system before the murder occurred? And what, if any, are the implications of the prevailing system for sentencing violent criminals?

This analysis demonstrates that if the homicide defendants had received and served their eligible sentences for previous offenses, a majority would not have been free to commit their alleged homicides. Scores of Baltimore's homicide victims would have lived if the city's justice system — in this case led by the chief prosecutor's office — had succeeded in imposing stronger sentences on future homicide suspects.

**This study finds:**

1. Among 110 suspects in homicides occurring between January 2019 and July 2020:
  - 82% had serious criminal convictions prior to the homicide;
  - 59% had previously committed a weapons crime or used a firearm in another offense;
  - 44% had prior violent crime convictions; and
  - 41% had previously violated their probation or parole.
2. Among those 77 homicide suspects previously convicted of serious crimes since 2015:
  - 62% had a conviction for weapons or firearm-involved offense;
  - 44% had violent offense convictions; and
  - 47% violated probation/parole.

Of the 110 charged homicide suspects studied, 90 had been convicted of serious offenses prior to the murder and 77 suspects were convicted of such crimes following Baltimore City State’s Attorney Marilyn Mosby’s assuming office in 2015. Further, 79% (61) of those convicted since 2015 faced jail terms that exceeded the time period from their disposition to the homicide incident. If the alleged killers had been incarcerated for their eligible sentence, they would not have been free to commit the alleged homicide.

**METHODOLOGY**

This paper created a database of 110 offenders charged in connection with a homicide that occurred in Baltimore City between January 1, 2019 and July 31, 2020.<sup>3</sup> The data included the offender’s name, date of birth, date of incident, and arrest date, and was provided by Baltimore Witness (BW), a nonprofit organization that uses data-driven journalism to track violent crime cases, especially homicides, and their adjudication through the city’s criminal justice system.<sup>4</sup> The data is drawn from public documents and hearings, then verified and organized by BW’s staff of journalists and data analysts. This study built on the BW data by filling in any gaps (i.e., missing dates of birth) through secondary public filings and media reports.

Using the database provided by BW, this study narrowed the scope to include only homicides occurring in the calendar year 2019 – Baltimore’s deadliest year in over a quarter century – and the first seven months of 2020. In that 19-month period, The Baltimore Sun recorded 543 murder victims in Baltimore – nearly one per day.

After correcting for data gaps and adjusting for alternate spellings, offenders’ names and dates of birth were matched to prior criminal offenses as recorded in the online Maryland Judiciary Case Search tool.

Despite all criminal filings being public record, Maryland law changes in 2020 omitted from the Maryland Case Search certain criminal or traffic charges in which “the disposition is acquitted, dismissed, nolle prosequi, or not guilty...” If all charges in the case qualify, the entire case is removed.<sup>5</sup>

As a result, this study examined only previous charges that were still pending, resulted in conviction or, in a few cases, were indefinitely postponed (i.e., placed on the stet docket) at the request of the prosecution.<sup>6</sup> Although almost all criminal charges and case documents remain public, the legislature rendered them significantly less accessible, requiring that requesters have prior knowledge of case details to conduct a search, make the request in person during business hours, wait for processing, and pay fees. This obscures from public view the full criminal history of accused killers as well as the conduct of the prosecution and judiciary in cases that resulted in non-convictions.

Although the case search tool contains typos, inaccuracies, and omissions because of clerical and technical errors, best efforts were made to verify and correct for any inconsistencies. Due to these problems and lack of access to internal police and court databases, all case history analysis undoubtedly understates the criminal histories of these defendants.

**The undercount problem suggests an even larger share of defendants have prior criminal offenses and convictions, probably including more recent and perhaps more serious crimes.**

Paradoxically, these limitations improved the study’s approach by narrowing the scope and nature of results to charges where the offender’s guilt was proven, admitted, uncontested, or yet to be determined, the latter two representing only a small fraction of prior offenses. Owing to juvenile record shields, offenders who were under the

age of 17 at the time of the homicide were excluded since their criminal histories were unavailable or incomplete. Additionally, this analysis counts an offender as having “prior serious criminal history” if they have felony convictions or serious misdemeanor convictions or outstanding charges carrying a potential sentence of at least three years in jail (e.g., second degree assault, various weapons crimes classed as misdemeanors).<sup>7</sup> It excludes known convictions for more minor crimes unless the offender violated their probation or parole.

**Criteria for Inclusion of Baltimore’s Accused Killers:**

1. Incident occurred between January 1, 2019 and July 31, 2020;
2. Formal murder charges filed in Baltimore courts;
3. More than 95% were charged with at least one count of first-degree murder. The remainder faced second-degree or conspiracy to commit murder counts.
4. Defendant was at least 17 years old at the time of the offense.

**Criminal Histories of Homicide Defendants**

Over the period examined, fully 82% of homicide defendants had a prior serious criminal record – often multiple offenses over years. This is consistent with the Baltimore Police Department (BPD)’s annual homicide analysis that shows in 2019 and 2020, 81% (70 of 86) and 76% (78 of 102 in 2020), respectively, of known homicide suspects had a criminal arrest record.<sup>8</sup> For the entire period (2015–2021), 82% (553 of 674) had a criminal record. Similar shares of offenders with prior violent crimes appear in the BPD analysis (43%) and this study (44%).<sup>9</sup>

CHARGED MURDER SUSPECTS (2019–2020)	TOTAL (110 DEFENDANTS)	PERCENT OF TOTAL
SERIOUS CRIMINAL HISTORY/ CONVICTIONS	90	82%
VIOLENT OFFENSE	48	44%
GUN CRIME/USE OF FIREARM	65	59%
DRUG-RELATED	50	45%
PAROLE/PROBATION VIOLATION	45	41%
VIOLENT & GUN	44	40%
GUNS & DRUGS	32	29%

Due to methodological differences, this study finds a significantly higher rate of homicide defendants with prior firearm-involved convictions (59%) compared with BPD’s “arrested for gun crime” category (41%). This

is because this study classifies convictions for “armed robbery” or “armed carjacking” etc. as both a violent and firearm-involved crime even if gun charges were not laid or did not result in a conviction. BPD only includes weapons-related offense arrests (e.g., unlawfully carrying a handgun).

BALTIMORE HOMICIDE SUSPECTS	2019	2020	TOTAL	PERCENT OF TOTAL
KNOWN SUSPECTS	86	102	188	
ARRESTED WITH RECORD	70	78	148	79%
ARRESTED FOR DRUGS	52	55	107	57%
ON PAROLE OR PROBATION	23	26	49	26%
ON PAROLE OR PROBATION/GUN CRIMES	5	6	11	6%
GANG/DRUG CREW MEMBER	17	14	31	16%
ARRESTED FOR VIOLENT CRIME	45	36	81	43%
ARRESTED FOR GUN CRIME	38	39	77	41%

Conversely, BPD attests to a higher rate of prior drug crimes (57%) among accused killers than this analysis shows (45%), owing to the difference between a simple arrest and a conviction for a serious offense.

**The Role of the State’s Attorney Office (SAO)**

The year before State’s Attorney Marilyn Mosby assumed office, Baltimore recorded 211 murders compared with 342 killings in her first year.<sup>10</sup> Subsequently, the city’s homicide tally has remained stubbornly high (averaging 333 murders per year) but the average number of homicides resulting in arrest increased only slightly. The relative share of arrests viz. homicide actually fell from 40% between 2011 and 2014 to 30% since 2015.<sup>11</sup> So, the overall homicide caseload for prosecution has risen slightly (12%) but not relative to the increase in homicides (55%).<sup>12</sup>

A total of 77 of the 110 suspects (70%) had previously identified criminal cases disposed since 2015 prior to their alleged homicide offense, or 85% of the 90 who had prior serious convictions. And under each metric, suspected killers adjudicated since 2015 had committed more offenses and more serious crimes as a relative share of all homicide defendants. This does not indicate a failure of the State’s Attorney’s office under Mosby per se but is more reflective of the recent intensification of crime and violence in Baltimore.

DISPOSED UNDER MOSBY (2015-20)	TOTAL WITH PRIORS (90 DEFENDANTS)	PERCENT (WITH PRIORS)
SERIOUS CRIMINAL HISTORY / CONVICTIONS	77	70%
VIOLENT OFFENSE	40	44%
GUN CRIME / USE OF FIREARM	56	62%
DRUG-RELATED	45	50%
PAROLE/PROBATION VIOLATION	42	47%
VIOLENT & GUN	37	41%
GUNS & DRUGS	29	32%

**Due to plea bargaining, convictions rarely capture the full extent of an offender’s prior crimes, which are often more severe than the final disposed counts suggest.**

For example, an offender who commits an armed carjacking may face more than 10 felony charges including weapons possession, robbery, and abduction but plead guilty to the auto theft felony to avoid a longer sentence.

Further, the actual sentence agreed to (and recommended to the judge) by the SAO for the specified convicted offense often falls short of the statutory sentencing guidelines and well below the collective eligible sentence for all alleged offenses. This is due to an exception to guidelines-compliant sentencing rules (including mandatory minimums) under the Maryland State Commission on Criminal Sentencing Policy (MSCCSP)’s binding plea agreement (i.e., American Bar Association or ABA plea deal). Those plea agreements, jointly agreed to by the prosecution and defense beforehand, present the judge with both final disposition (case outcome) and sentence for active jail time for final approval or rejection. The court cannot amend or alter the predetermined sentence, only accept or reject the plea. These agreements, despite the fact they often depart dramatically from the guidelines range, are nonetheless considered “compliant” according to the Maryland Judiciary.

While outside factors (e.g. strength of evidence, witness cooperation, prosecutorial caseload, etc.) affect disposition decisions, the offenders in these cases plead guilty to lesser counts than the cumulative charges (e.g., count 5 of 7 counts) which collectively carry much stiffer penalties if fully prosecuted and sentenced. This could have provided prosecutors with greater leverage in negotiations on both count pleas and sentencing for active jail time. But fully evaluating the leverage would require more information about the circumstances of each case and the prosecution’s decision-making process.

Presupposing that other criminal counts — carrying harsher penalties — were dropped or served concurrently, the convicted offense(s) carried sufficient penalties to have incapacitated the offender beyond the window of the later homicide incident. This study tracked the timeline from prior offense disposition (or sentence start) date by matching the MSCCSP’s guidelines for specified offenses to the respective offenders’ convictions.

This analysis shows that a majority of all homicide offenders in the 2019-2020 window studied were adjudicated and eligible for imprisonment for a period longer than the window of time to the murder. If incarcerated for their eligible sentence [usually less than half] the killer would not have been free to commit the crime.

***The following information pertains to the offenses by 61 homicide defendants:***

1. They occurred in Baltimore and adjudicated in city courts [District or Circuit];
2. They were disposed under SAO Mosby (2015-2020) prior to the homicide incident; and
3. They were eligible, under guidelines, for a prison sentence greater than time to homicide.

OFFENSE DESCRIPTION	CJIS CODE	FELONY/MISD	MAX TERM	MAND MIN
ASSAULT, 1ST DEGREE	1-1420	FELONY	25Y	
ASSAULT, 2ND DEGREE	1-1415	MISD.	10Y	
DISTRIBUTION/ MANUFACTURER OF NARCOTICS	1-1118-33; 1-1556-58	FELONY	20Y	
POSSESS/DISTRIBUTE CONTROLLED PARAPHERNALIA—NON-MARIJUANA	1-0255	MISD.	4Y	
ROBBERY/ CARJACKING—ARMED	1-0826	FELONY	30Y	
ROBBERY	2-0700	FELONY	15Y	
ROBBERY WITH A DANGEROUS WEAPON	2-0705	FELONY	20Y	
USE OF FIREARM IN FELONY/VIOLENT CRIME, 1ST OFFENSE	1241462	MISD.	20Y	MM*=5Y
WEAR OR CARRY CONCEALED DANGEROUS WEAPON	1206033	MISD.	3Y	
POSSESSION OF FIREARM BY PROHIBITED PERSON	1-1106	MISD.	5Y	
POSSESSION OF FIREARM AFTER VIOLENT/DRUG CONVICTION	1-1609	FELONY	15Y	MM*=5Y

Maryland's statute outlines the penalties for specified offenses and the Sentencing Commission provides further instruction through its guidelines. But those standards are not being enforced as prosecutors grant sentencing terms that fall outside those bounds, possibly for pragmatic or philosophical reasons. Nonetheless, the result has been the same under State's Attorney Marilyn Mosby's tenure; offenders with serious criminal histories and resulting convictions frequently serve limited to no jail time. In many cases, if the offenders had received most if not all of their eligible sentence, homicides would have been prevented in the city of Baltimore.

## CONCLUSION

This study finds that if these 61 offenders had been sentenced to imprisonment and confined for the duration of the statutory guidelines for their prior convicted offense in the period since 2015, they would not have been free to commit a murder in Baltimore.

Since two-thirds of Baltimore's annual murders go without an arrest, many killers remain free and can go on to kill and maim other victims, a fact attested to by Baltimore Police data showing that 11 of the 86 (13%) known homicide suspects in 2019 were suspects in other recent homicides. Worse, in many cases, authorities had the opportunity to incapacitate serious, often violent, offenders before they committed a homicide. Thus, failure to effectively prosecute, incarcerate, and incapacitate violent offenders contributed to Baltimore's carnage.

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## ADDENDUM: PRIOR OFFENSES & DISPOSITIONS OF FIVE BALTIMORE CITY HOMICIDE DEFENDANTS

### 1. JAMES DUNBAR

(Date of Birth: 12/10/2000)

**Homicide Incident:** 11/13/2019; Victim: Donnell Brockington (21 years old); Shooting

**Status:** Pending

**Priors:** Handgun on person: Carry/Wear & Probation Violation

- Pled guilty: 8/22/2019 - Disposition date
- Sentence: 3 years, suspending 2 years 9 months and 6 days, 3 years probation
- Date of incident: 5/28/2019

**Guidelines:** Misdemeanor – Maximum (3 years), Minimum (30 days) and outstanding sentence

- Sentence: Start on May 29, 2019; Time Served as of August 22, 2019

**Time to Homicide Incident:** less than 3 months

### 2. CALVIN M. STEVENS

(Date of Birth: 07/22/1991)

**Homicide Incident:** 1/15/2020; Victim: Khari Johnson (20 years old); Shooting

**Status:** Murder case still pending, declined plea 10/7/2021; next hearing 11/15/2022

**Priors:** Handgun on person: Carry/Wear & Probation Violation

- Pled guilty: 5/28/2019 - Disposition date
- Sentence: 3 months suspending 2 years 6 months and 6 days, 3 years probation
- Date of incident: 12/28/2018

**Guidelines:** Misdemeanor – Maximum (3 years), Minimum (30 days) & outstanding sentence

- Sentence: Start on December 22, 2018; Time Served as of May 28, 2019

#### NOTE:

- 2008 charges in Juvenile Court included first degree and second-degree assault, armed robbery, assault with deadly weapon, car theft etc.

**Time to Homicide Incident:** 7.5 months

### 3. JALONTE DAVIS

(Date of Birth: 3/24/1997)

**Homicide Incident:** 3/1/2020

**Status:** Pending, next hearing 8/29/2022

**Priors:** 2nd Degree Assault

- Pled guilty: 12/13/2018 - Disposition date
- Sentence: 4 months, 24 days
- Date of incident: 7/22/2018

**Guidelines:** Misdemeanor – Maximum (10 years)

- Sentence: Time Served as of December 13, 2018

#### NOTE:

- Baltimore County for Robbery (2015) disposed December 21, 2018 [18 months - all suspended]; Eligible for 15 years
- Harford County - Driving Motor Vehicle without license/authorization [60 days all suspended, January 7, 2020]; Eligible 60 days in jail

#### Time to Homicide Incident:

- 14.5 months – Baltimore City – Preventable
- 14 months – Baltimore County – Preventable
- 7 weeks – Harford County – Preventable

### 4. RONALD NATHANIEL HASKINS JR. (Date of Birth: 9/23/1997)

**Homicide Incident:** 1/11/2020; Victim: Richard Pearson (38 years old); Shooting

**Status:** Guilty, First-Degree Murder etc. [LIFE]

**Priors:** Attempted Distribution of Narcotics, Probation Violation, CDS Possession etc.

- Pled guilty: 7/18/2019 - Disposition date
- Sentence: [Sub Curia, None]
- Date of incident: 9/12/2018

**Guidelines:** Misdemeanor – Maximum (20 years+),

#### NOTE:

- Baltimore City: Probation Violation, CDS Possession etc. [January 2018] – 5 months
- Baltimore County: Felon in Possession of Firearm [May 2019] – STET
- Baltimore City: Narcotics Possession with Intent to Distribute, Probation Violation [Dec 2017] – under 3 months

**Time to Homicide Incident:** 6 months

**5. DONYE THOMPSON** (*Date of Birth: 3/22/1996*)

**Homicide Incident:** 12/1/2019; Victim: Richard Pearson (38 years old); Shooting

**Status:** Pending, next hearings July 6, 2022 & November 7, 2022

**Priors:**

1. Use of Firearm in Violent Crime/ Felony
  - Verdict Not Rendered [Hung Jury – not retried]
  - Disposition Date: 8/2/2018
  - Sentence: None
2. Probation Violation for 2015 Handgun on person: carry/ wear
  - Guilty: 8/18/2016 [Probation Terminated]
  - Previous Sentence {Oct 2015}: 3 years, suspending 2 years 8 months; 3 years on probation

**Guidelines:** Eligible for 20 years, 5-year mandatory minimum

**NOTE:**

- Charged in attempted murder when 15 years old [juvenile] for 2012 shooting at gas station (later dropped).<sup>13</sup> Acquaintance killed in same shoot-out.

**Time to Homicide Incident:** 16 months

1 Baltimore Sun, Homicides Database, 2007-2022 YTD, <https://homicides.news.baltimoresun.com/>  
 2 Ranking includes US Cities over 500,000 residents. Smaller cities sometimes see larger homicide rates; Theodor Meyer, "Who Wants to Run the Deadliest Big City in America?," Politico Magazine, May 29, 2020, <https://www.politico.com/news/magazine/2020/05/29/baltimore-mayors-race-crime-sheila-dixon-286950>; Angelo Young, "Most Dangerous Cities in the World, 24/7 Wall Street, July 23, 2019, <https://247wallst.com/special-report/2019/07/23/most-dangerous-cities-in-the-world/>;  
 "Baltimore homicide rate is on a record high, deadlier than Detroit and Chicago," Associated Press, September 25, 2018, <https://www.usatoday.com/story/news/2018/09/25/baltimore-homicide-murder-rate-fbi-statistics-death-crime-killings/1426739002/>  
 3 Dates chosen to include defendants whose prior offense adjudication preceded the COVID-19 related shutdown although 20+ included homicides occurred after the March 2020 COVID-related court closures. Closures would not have impacted prior dispositions.  
 4 Data provided by Baltimore Witness (<https://baltimorewitness.org/>) on February 15, 2022.  
 5 Maryland Judiciary, "Case Search Notices," <https://mdcourts.gov/casesearch2/notice>; accessed July 1, 2022  
 6 Stet dispositions or an indefinite postponement must be initiated by the prosecution and accepted by the defendant and judge. Legally, the case could be re-opened for any reason within one year and in years 2 and 3 for "good cause," but rarely is before the 3-year window closes. Stet dispositions act as de facto "nolle prosequi" (prosecutorial dismissals).  
 7 Maryland is a significant outlier in its definition of "misdemeanor" crime since in most states a misdemeanor is only punishable by up to one year in jail and never state prison. In Maryland, numerous serious offenses that can carry decades in prison are "misdemeanors" under statute. See National Conference of State Legislatures (NCSL), "Misdemeanor Sentencing Trends: 50-State Penalty Analysis", January 29, 2019. <https://www.ncsl.org/research/civil-and-criminal-justice/misdemeanor-sentencing-trends.aspx>  
 8 Baltimore Police Department, Homicide Analysis, 2015–2021; obtained via MPIA request February 10, 2022.  
 9 NB: An arrest is not a conviction nor proof that the suspect committed the alleged offense but is used in aggregate as a proxy for likely prior criminal involvement.  
 10 Baltimore Sun, Homicides Database, 2007-2022 YTD, <https://homicides.news.baltimoresun.com/>  
 11 These figures are based on BPD's Homicide Analysis for 2011 through 2021 and are inclusive only of arrested suspects as of the end of the calendar year and not a final tally of homicides cleared by arrest. Additionally, BPD's "homicide clearance rate" is the division of offenses resolved — not necessarily by arrest — in a given year divided by the number of crimes recorded that same year. This metric can be misleading because even in the same crime category (e.g., murder) the specific cleared offenses do not directly match the recorded offense counts (i.e., a cold case homicide from 1990 solved in 2020 counts toward the clearance rate for 2020 even though the offense occurred thirty years before, artificially boosting the percentage of contemporaneous cases cleared). Similarly, it is unreasonable to assume a murder committed on December 31 would be solved before midnight but its lack of resolution in the same calendar year impacts the annual clearance rate.  
 12 Baltimore City State's Attorney's Office, "Interactive Data Dashboard," <https://www.stattorney.org/policy-legislative-affairs/policy/bcsao-data>; accessed July 1, 2022  
 13 Justin Fenton, "Teen charged with shooting at man's unknown killer," The Baltimore Sun, March 9, 2012 <https://www.baltimoresun.com/news/crime/bs-xpm-2012-03-09-bal-baltimore-teen-charged-with-shooting-at-mans-unknown-killer-20120309-story.html>; Maryland Court of Special Appeals, Marc Mitchell v. State of Maryland, No. 0821, September Term 2014, <https://www.courts.state.md.us/sites/default/files/unreported-opinions/0821s14.pdf>

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