



**FACT
SHEET**

THE UNGERS, 5 YEARS AND COUNTING

**A CASE STUDY IN SAFELY REDUCING
LONG PRISON TERMS AND
SAVING TAXPAYER DOLLARS**

For policymakers to reduce significantly the growing and costly prison population, reform to long sentences for people sentenced for violent crimes must be addressed.

OPPORTUNITY FOR REFORM

A landmark court case, *Unger v. Maryland*, offers powerful lessons for national and state policymakers and stakeholders interested in tackling mass incarceration. The 2012 case centered on remedying improper jury instructions and applied to a cohort of people who had been sentenced prior to 1981. The decision resulted in the potential release of more than 200 people from Maryland prisons who had served more than 30 years and their release story created a natural experiment from which other states can learn.

The Unger group was incarcerated for an average of 40 years and were on average 64 years of age upon release. Almost all of the Ungers, who are overwhelmingly African-American, were serving parole-eligible life sentences but had been denied parole, either by the parole board or by the Governor rejecting a recommendation for parole.

The Unger releasees have had very low recidivism rates, which is consistent with research on crime and the aging population.

Despite getting out years sooner than other people in prison facing similar sentences, the Ungers have had a very low recidivism rate – less than three percent. When controlling for age, other states have seen successes in community safety when elderly individuals are released from confinement – New York saw only a four percent rate when an individual was over 65 years old. There was evidence that the Unger releasees would do well upon release: A great majority of the Unger releasees had few infractions while in prison, and before a policy bar was imposed, many participated in programming when available in prison—an indicator they would do well upon their return to the community.

More intensive reentry support was provided to the Ungers by a team of people.

Part of the reason the Ungers have been so successful is that they were provided with more intensive reentry support than is typically the case by a team of lawyers, social workers and formerly incarcerated people. What makes the Unger decision particularly unique is that private philanthropy, through the Open Society Institute-Baltimore, provided specialized reentry programming to be made available to those individuals upon release.

A team of social workers, lawyers and formerly incarcerated people, were involved in helping the Ungers return to the community by providing them a more intensive level of support. The Unger releasees received specialized assistance in obtaining state ID and social security cards, birth certificates, benefits, transportation, housing, employment, and referrals to reentry programs.

The continued cost of incarcerating the Ungers is well over the price of intensive reentry support.

Due to the stresses of prison, incarcerated individuals over the age of 50 are generally considered "geriatric". Based on data showing the geriatric population has higher care costs, a fiscal analysis concluded that continued confinement of the Ungers for an additional 18 years (based on the expected period of incarceration based on the age at release and the projected life expectancy of the Ungers), would have amounted to nearly \$1 million per Unger, or \$53,000 a year. This is compared to the \$6,000 a year to provide intensive reentry support that has proven to successfully reintegrate the Ungers back into the community.

There are thousands more people like the Ungers in Maryland.

There are over 3,000 people in prison in Maryland that are similar in age to the Ungers. A previous analysis of people 55 years old and older released from Maryland prisons in 2013 found that only 1 in 5 returned. If we apply this 80 percent success rate to the geriatric population still in Maryland prisons, taxpayers could potentially save 120 million in the first year.

IN THE SIX YEARS SINCE THE DECISION, WE HAVE LEARNED A NUMBER OF IMPORTANT LESSONS. THESE INCLUDE:

We can safely release people who have committed a serious, violent offense:

The Unger group was primarily convicted of homicide and rape; however, after serving decades in prison they have safely been reintegrated into the community, arguing for a reconsideration of policies that continue to lock people up based solely on the severity of their underlying offense.

Public safety will not be greatly impacted when re-thinking our approach to violence:

The research is clear that individuals generally age out of crime, and the Unger group is no different. As of today, they have posted a one percent recidivism rate, a fraction of the overall Maryland rate of 40 percent.

We need to emphasize the importance of reentry:

The success of the Unger group has been the direct result of an ambitious reentry effort. The University of Maryland began its reentry approach while the Unger group was still inside the facility and followed through with individualized treatment and services in the community.

Incarcerating the geriatric population is associated with increased costs with little public safety benefit:

There are thousands of geriatric-aged individuals still in the prison system, many with the same profile as those in the Unger group. Maryland could save over \$100 million in the first year if it reduced its low-risk geriatric population.

The Unger group and others sentenced to long prison terms were deeply impacted by racial discrimination:

Almost 90 percent of the Unger group are black, despite only 18 percent of Maryland's population being black at the time of their convictions. Like today, the U.S. was facing a deep racially divided country at the time when many individuals were sentenced to long-term sentences, increasing the racial disparity within the system.

THE PRACTICE OF EXTREME SENTENCING

The practice of extreme sentencing has been justified in the name of public safety, but the evidence suggests those motivations have been misplaced. Maryland and other states can significantly reduce the size of its prison population, and the impact on its budget, without negatively affecting public safety by rethinking parole strategies, particularly for those people who have served long prison terms.

The current approach to parole is too heavily focused on the offense. Too often, the state fails to appropriately take into consideration a research-based assessment of the risk of reoffending when making release decisions. Moreover, current law requires all parole recommendations for those sentenced to life to pass through the governor's desk, a practice that has resulted in only one person having been granted parole since 1995. The consistent denial of parole is not a public safety decision, but one that has been politically motivated and continued across administrations.

By pivoting away from an approach that focuses solely on the crime committed, to one that assesses the current risk of re-offending, Maryland can lead by example, safely reducing its prison population and cost to taxpayers.

POLICY RECOMMENDATIONS

Many states have seen meaningful parole reform left out of the policy conversation. As stakeholders continue to grapple with what policy reform should look like, it is important to address the barriers that have caused those serving long-term sentences, many for violent offenses, to remain behind bars. While every state will be faced with their own challenges, the research and the experiences of the Unger group have provided guidance on what parole reform can look like in Maryland and across the country.

Remove the governor from the parole process for lifers in Maryland and make all parole boards independent.

In order for Maryland to ensure a fair and effective parole process, the governor needs to be removed from the proceedings to allow the Parole Commission sole jurisdiction over release decisions.

Expand opportunities and incentives for release from prison.

Everyone, including those serving long-term sentences with an indeterminate release date, should be provided an opportunity for meaningful review of their progress while incarcerated.

Release decisions must reflect an individual's conduct while incarcerated and risk of engaging in future criminal activity.

Parole boards place too much weight on the underlying offense when considering an application for release.

States should dedicate funding to establish specialized discharge planning and reentry preparation for people who have served long prison terms.

Before an individual's release, departments of corrections should collect identification documents, assist with any processes for continued health insurance, and provide needed social services.

Increase the use of compassionate release, geriatric and medical parole.

There are often significant eligibility barriers for an individual applying for compassionate, geriatric, and/or medical parole. The primary obstacle is the committing offense. Policymakers should expand eligibility to include those who have committed more serious offenses.

For the full text of the report, including the full recommendations, please visit <http://bit.ly/2B8foFZ>