

The Sun

Getting away with murder

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THE CONTRAST is astonishing. Last year, Boston (population 558,000) recorded 35 homicides; Baltimore (population 675,000) had 314. Even New York, with 10 times more people, had just 629 homicides.

These numbers tell a powerful story. Starting nine years ago with record homicide rates of 152 and 2,245, respectively, Boston and New York began reversing the tide.

Surely Baltimore, too, should be able to curb the lethal bloodshed on its streets.

Yet the prospect is not promising. The year has started with another wave of killings. Virtually every day brings another homicide.

Crime and gun violence are likely to be major issues in the campaigns this spring and summer for Baltimore mayor and City Council. As the rhetoric intensifies, police and law enforcement agencies will be under mounting pressure to take action - any action - to deflect criticism.

Adding to pressure is the pending release of a study by Harvard criminologists who devised Boston's winning strategy to cut youth killings. They have examined patterns of violent gun use by Baltimore criminals for the past 10 months as part of the Safe and Sound Campaign, a multimillion-dollar drive to create a safer environment for children and youth.

City Hall is desperate for a palliative. Mayor Kurt L. Schmoke, even before seeing the details, has pledged to implement the Harvard recommendations, which are to be released in the next few weeks. Yet the mayor, a cautious former prosecutor who has said he will not seek a fourth term, has rejected past calls for tough anti-crime policies, citing serious civil liberties concerns.

Since 1967, Baltimore's annual homicide rate has dipped below 200 only twice. In the past nine years, it has consistently been 304 or higher. The all-time record of 353 was registered in 1993.

Over these 32 years, Baltimore's homicide rates have soared under four mayors, six police commissioners and seven state's attorneys. This shared responsibility is of little consolation. With 46.5 homicides per 100,000 people, Maryland's largest city has America's fourth highest murder rate.

And Baltimore has sustained its high murder rate at a time when homicide rates are plummeting nationally - down nearly 40 percent since 1991.

Why has Baltimore failed when other cities have succeeded? No simple explanation exists. But Baltimore's murder plague is linked to the relatively late arrival of crack cocaine - compared, for example, with New York City - and a crack curse that has yet to run its course.

Even so, much of the blame for Baltimore's inability to address its prolonged murder crisis lies in the breakdown of the normal defenses put into place to protect a city's residents: police, prosecutors, courts and corrections institutions. As violence has numbed the public to fatalism, those agencies have been overrun by an avalanche of mundane, nonviolent cases. The system is so swamped it has lost its ability to treat killings as the No. 1 priority.

The result is disastrous: Killers are getting away with murder.

The criminal justice bureaucracies are in disarray. The presumably united front has dissolved into endless turf fights and finger pointing.

This must end.

The certainty of punishment for heinous crimes has to be reinstated. Frivolous postponements that undo critical prosecutorial efforts have to stop. The entire system, from street cops to court and probation personnel, has to be infused with a renewed sense of common mission.

This won't be easy. But the necessary changes must be made and resources marshaled. The breakdown of the criminal justice system machinery in Baltimore is now so serious that only extraordinary, high-level intervention can produce required reforms quickly. Gov. Parris N. Glendening, Court of Appeals Chief Judge Robert M. Bell and Mayor Schmoke must recognize this as a public emergency. They must take personal responsibility for ending demoralizing inefficiencies and self-defeating rivalries and ensuring that citizens receive swift justice.

The Boston model

Baltimore and other cities are intrigued by Boston's success because the city's approach seems to offer a shortcut. By channeling the prosecutions of suspected repeat murderers through the federal courts, Boston was able to bypass the vagaries of the local criminal justice system and persuade the criminal element that speedy punishment was certain.

Boston's "Ceasefire" began in mid-May 1995. Funded by a grant from the National Institute of Justice, it grew out of a study into

how guns were acquired and used by criminals. Under Ceasefire, a task force of federal, state and city agencies was assembled. It identified 1,300 "serially offending" gang members who were responsible for at least 60 percent of youth homicides. The gangs were given an ultimatum: Unless the killings and gun violence stopped, those involved would be prosecuted for every crime and infraction imaginable, including parole and probation violations.

A division of labor was devised. The police investigated ordinary cases involving gang members. Gun violence and homicides were referred to the Ceasefire team, which used every available legal tactic to remove suspected killers from the streets. If inadequate evidence existed for a homicide conviction, prosecutors tried to lock up the suspect on another charge that carried a heavy penalty.

This strategy is not new: When no murder case would stick against Chicago gangster Al Capone, federal prosecutors sent him to prison on tax evasion charges in 1931.

A Boston leaflet circulated to gangs underscored the point. Quoting the local U.S. attorney, it described one Freddie Cardoza as such a violent gang member that "given his extensive criminal record, if there was a federal law against jaywalking we'd indict him for that." The leaflet then informed the gangs that although Cardoza had been arrested for possessing a single bullet, he had been sentenced to 19 years and seven months in a maximum security facility, with no possibility of parole.

The results have been dramatic. When the Ceasefire enforcement drive began, Boston had 96 homicides. A year later in 1996, the number declined to 59. Each year since has been marked by a further reduction: 43 in 1997, 35 last year.

The Ceasefire still holds. Harvard criminologist David M. Kennedy attributes the success to the drive's intentionally narrow objective: "The goal was not to attack or eliminate gangs as such, or even to prevent all gang-related crime. The goal was to prevent youth homicides and violence."

Baltimore's murder problem is more complicated. The lethal rampage goes far beyond street-level criminal formations - "boys," "crews" and "posses." It stems from epidemic drug use; a shocking one of 11 Baltimoreans is believed to be an addict. Add to that powerful guns, endemic poverty, Third World-like outbreaks of tuberculosis and syphilis and dysfunctional homes and schools.

Nearly 80 percent of those arrested for Baltimore homicides last year were men and women under the age of 30. Most had long arrest records for crimes ranging from gun violence and drug trafficking to robberies. Yet relatively few spent serious time in jail. Getting off with multiple probations bolstered their sense of immunity, made them more brazen and added to the violence they perpetuate. Disputes over drugs, money, girls or leadership were routinely resolved with guns. If those criminals were weaned from gun use - or removed from the streets - homicides would quickly decline.

RECOMMENDATION: A citywide crackdown is long overdue. It is unlikely to produce lasting benefits unless Baltimore enhances its overall capacity to apprehend and successfully prosecute violent offenders. They can be punished only if the entire array of criminal-justice agencies, which operate under different authorities and without a mutual mission, act in concert. The joint leadership of Governor Glendening, Chief Judge Bell and Mayor Schmoke is needed.

Homicide squad

Of the 314 murders in the city last year, 233 were committed with guns. A startling 69 were executions: point-blank gunshots to the head. In one case, the No. 1 boss of a drug operation was slain by his deputy who then was eliminated himself, probably by underlings vying for power.

Regardless of the method, each killing is investigated by the homicide unit, the squad that inspired the NBC television series "Homicide." The weekly program premiered in 1993, the year Baltimore's murder rate, coincidentally, reached an all-time high.

"Homicide" is powerful television because it is so authentic. However, some events do not lend themselves to easy dramatization. Among them was a personnel rotation policy instituted by Police Commissioner Thomas C. Frazier two years ago.

Rotation was part of Mr. Frazier's pledge to reorganize the Police Department and rid it of vestiges of institutional racism. Through regular changes of assignment, the commissioner wanted to create a department where more officers - particularly African-Americans and women - gained broader experience so that they could be considered for promotion to management positions.

The rotation order stunned the tightly knit homicide squad of some 60 detectives. It unleashed a firestorm of protests from politicians and unions.

In the Police Department's social hierarchy, the homicide squad was an elite assignment. The mounted police and motorcycle units were considered show business; the mayor's security detail brought prestige. But it was the homicide unit that required long experience on the streets, familiarity with neighborhoods, good people skills and an intuitive knowledge of how the criminal mind works. Once given that job, a detective usually stayed, passing up chances at promotions because they meant reassignment.

Mr. Frazier's rotation policy produced an exodus of veterans from the squad. The longest-serving white homicide detective resigned rather than accept an ordinary patrol post. The senior African-American was shifted to the personnel department, effectively undercutting one of the goals of the rotation policy.

Are more murder cases being solved? Police insist that 68 percent of last year's homicides were "cleared" through identification or arrest of the suspect. That is an increase of 4 percentage points over 1997, but still significantly lower than before rotation began.

Trials provide another gauge. The state's attorney's office, however, was unable to provide even basic statistics about how many murder trials end in conviction and how many result in dismissal.

The rotation policy's effect on homicide prosecutions is worrisome. When the Police Department lost senior homicide detectives - many of whom went to investigate slayings in surrounding counties - it also lost the ability to call them in as witnesses in cases they had worked on. This complicated prosecution. Today's stable of homicide detectives is less-seasoned. Their experience and expertise are constantly challenged by deft defense attorneys.

When a case fails, no one is accountable: The State's Attorney's Office can blame poor police work; the police can argue that the State's Attorney's Office, in deciding when to go to trial, is responsible for dismissal.

The homicide squad, still trying to cope with the effects of rotation, is in the midst of more change. As of Feb. 1, the unit was

overhauled in the most drastic reorganization in five decades. Detectives now investigate homicides and nonfatal shootings on the theory that most shootings are meant to kill. The city has been divided into three geographic territories, each with an around-the-clock commander. The chief of homicide also oversees a task force that targets youth violence, using some

Given time, these changes may produce results. But time for Mr. Frazier could be running out. The next mayor may insist on a new police commissioner, whose first impulse might be to reverse Mr. Frazier's policies.

RECOMMENDATION: Mr. Frazier's sweeping reorganization should be carefully evaluated. The controversial rotation policy should be examined in light of homicide arrest and conviction data and steps taken, if necessary, to ensure that homicide prosecutions are not lost because of detectives' inexperience.

State's attorney

When a Baltimorean is arrested - whether for a minor offense or homicide - the suspect no longer ends up at a district police lockup but at the Central Booking and Intake Center next to the forbidding Maryland Penitentiary and city detention center at Madison Street and Fallsway. On an average day, that modern building, opened just four years ago to accommodate 811 arrestees, is bursting with so many inmates some must sleep in plastic boat-like beds on the gym floor.

Last year, 85,532 people - an average of 244 every working day - were processed there. Their charges involved murders and shootings, as well as drug violations, domestic violence, robberies and nuisance crimes. The total was 17 percent, or 14,857 cases, more than the previous year.

In each case, the arresting police officer decided what charges the defendant would face. Prosecutors were seldom consulted.

This practice makes no sense for two reasons:

- * It encourages unnecessary arrests. Many officers overcharge suspects or arrest them on such flimsy grounds that the cases will never be prosecuted. Nevertheless, every arrest has to be processed and scheduled for a hearing.

- * Each time an arrest is made and a suspect booked, an officer is removed from the streets for nearly two hours of processing time. This leaves neighborhoods unprotected.

In many big cities, prosecutors do the charging. This allows them to start screening cases right away and identify the important ones. In New York City, prosecutors dispose of more than half of misdemeanors within the first 29 hours of arrest, using night courts or alternative sentencing. Philadelphia reports similar success.

Contrast this with Baltimore: A hearing is typically held 30 days after arrest. Defendants who can afford it bail themselves out, if that is an option; those who do not have the money languish in detention.

The charging hodgepodge leads to chronic overcrowding at the Central Booking and Intake Center and the city detention center and saddles taxpayers with huge bills for unnecessary incarceration. This does not seem to bother the police. It's not city money; central booking and the detention center are operated by the state.

A judge and a court administrator, who prepared a technical assistance report for the Baltimore Circuit Court in November, recommended that the charging function be shifted from the police to the state's attorney's office. In making the proposal, the two Philadelphians reaffirmed a 1996 recommendation of the blue-ribbon Commission on the Future of Maryland Courts: "Experienced prosecutors should realistically and aggressively screen criminal cases as soon as practicable after arrest to insure proper charging, explore alternatives to detention, determine the availability and appropriateness of alternative dispute resolution mechanisms and evaluate dispositional and treatment alternatives."

Both reports also urged that defense counsels - including the public defender's office, which represents more than 90 percent of arrestees in Baltimore - be involved at an early stage.

Shifting the charging function to the state's attorney would require only a rule change from the Court of Appeals. The real problem involves beefing up the offices of state's attorney and public defender so that they can staff central booking 24 hours a day, seven days a week. At present, they are so short-handed and underfunded they can hardly function.

Though the State's Attorney's Office has the awesome power to determine which cases should be tried, plea-bargained or dropped, the agency has been on a steady starvation diet. It has not added any city-funded positions since 1987 and is currently subject to a hiring freeze. It is among the least-computerized city departments, relying on a 20-year-old IBM mainframe for which spare parts are hard to find.

The office's all-important homicide division has 12 experienced prosecutors, no investigators, one full-time law clerk and four secretaries. Each prosecutor handles as many as 18 active homicide cases and decides matters of life and death.

RECOMMENDATION: With state help, the city must find the resources to remove charging from the police. State's Attorney Patricia C. Jessamy must take steps to screen cases so they can be resolved early without overwhelming court dockets.

Postponements

When charges against four homicide suspects were dropped last month because their trial had been postponed for more than three years, it produced big headlines. Yet many other murder and serious felony prosecutions expire without much attention.

Constant backlogs have spawned an insidious culture of unending postponements.

The court system bases its operation on the expectation of delays. Because of their overcrowded dockets, judges are inclined to grant any postponement request, however spurious. Each delay reduces the chances that a case will be resolved. Cases are recycled rather than disposed of. In the end, many of them simply evaporate. Crucial witnesses become tired of the runaround or are not notified of yet another court date because of clerical errors; prosecutors and judges change or lose interest. In this way, the system indiscriminately purges its unmanageable caseload.

Unending postponements are not unique to Baltimore. They cause havoc in New York and other cities as well. Yet little has been done about them. The reason: Postponements benefit too many people. They allow prosecutors and defense attorneys to juggle an enormous load of presumably simultaneous cases in District and Circuit courts. If all were called at their scheduled times, the court

system would collapse.

Suspects and their lawyers have learned to exploit this situation.

"Every lawyer who knows his ABCs and can count to a hundred knows a delay is always in the interest of the defendant," says a judge who has tried more than 100 murders. "The last thing they want is a speedy trial. The odds are lots of things happen. People die or move away; witnesses disappear, are killed or bought."

If Baltimore is serious about ensuring that violent crimes are punished, chronic postponements for no good reason have to stop. Fairness to defendants requires this; they have the right to a speedy trial. Victims, their families and witnesses deserve that, too. Yet each delay brings them more suffering and inconvenience. Witnesses often skip work - without pay - to attend sessions that produce nothing but further postponements. No wonder many citizens become callous and cynical and do not want to get involved.

RECOMMENDATION Governor Glendening, Chief Judge Bell and Mayor Schموke must lead a streamlining effort. The individual institutions are incapable of doing so on their own. They are autonomous or operate within different bureaucratic jurisdictions and have no common funding source. All parts of the criminal justice system must be made to operate seamlessly without undue postponements.

Turf fights

Turf wars permeate the criminal justice system. They start the moment a suspect is brought to the Central Booking and Intake Center, which was built by the state at a cost of \$54 million.

Substantial work and money went to make central booking an efficient operation that would speed up justice. It boasted an automated \$10 million booking system. Police would deliver suspects through the front door; the state's attorney's office would review charges while state correctional personnel fingerprinted, checked records and photographed the suspect. Once processing was done, a District Court commissioner would set the suspect's bail.

That's not how the process has ever worked.

When the booking facility opened four years ago, there were no data entry clerks. Police had to learn to enter the charging information into computers themselves, leading to considerable delays. The center's computers did not interface with the probation and parole departments. The lack of an adequate number of court commissioners to process paperwork and set initial bail caused further delays and frictions. The District Court, following overly optimistic workload projections, had laid off commissioners and could not find suitable replacements. The situation became so bad that the District Court several times considered removing its commissioners altogether from the central booking facility.

For a defendant to "vanish" for up to 18 hours while the case was being processed was not unusual. During that time, no way existed for bail bondsmen or family members to find out the arrestee's status or whether the person was, in fact, at central booking.

Today, some of the worst problems have been resolved. But this has been achieved through changes that defeat the original goals of the one-stop central booking facility.

Instead of attempting to do all charging at central booking, police are again decentralizing. The Western and Southwestern districts have remote booking computers; the other seven districts will have them within months. The State's Attorney's Office has eliminated a second shift from central booking. The reason: Police officers refused to recognize city prosecutors' authority to advise them on legal matters.

The conflicts do not end here. At the booking facility is a monument to these turf wars: a second-floor courtroom built by the state to speed up bail review through on-site hearings by district judges.

The District Court, however, protecting its perceived independence, resists sending a judge inside the booking facility. As a result, the courtroom stands empty. One day a week, it is used for a few hours by the Circuit Court, which does not have similar qualms.

Bail reviews, which determine whether a suspect can be released to await trial, are conducted by a judge who uses low-tech video conferencing equipment and sits a half-mile away at the North Avenue District Court building. The arrestees are at central booking, men wearing orange jumpsuits, women pink. The picture is fuzzy; answers are often inaudible. The remote setup, prone to breakdowns, has no local repair service. All this to satisfy turf sensitivities. The kicker: Since no courtroom is set aside for bail reviews at North Avenue, the video system has to be carted from one room to another.

RECOMMENDATION Joint intervention by Governor Glendening, Chief Judge Bell and Mayor Schموke must end these silly and demoralizing turf fights that divert the attention of criminal justice agencies from more important matters. As a start toward better communication and cooperation, the overlapping systems need computers that talk to one another.

Circuit Court

Even in the largely immobilized court system, miracles occur. Misdemeanor cases sent from the District Court hearing in the morning routinely go to a jury trial in the Circuit Court in the afternoon.

Many citizens - and even lawyers - find this puzzling. A system that is capable of moving this quickly for minor cases should be able to act expeditiously on murder cases as well, they say.

Some speculate that the Circuit Court's bedlam is intentional, caused by Mayor Schموke's objective to have the state assume the costs of the court.

This cannot be proved. However, it is indisputable that the allocations the court receives from the city's general fund have been virtually unchanged in four of the past five years. The court's no-growth budgetary situation is no different than that of the State's Attorney's Office, which also had to cope with stagnant city funding.

The Circuit Court works under the assumption that the arraignment, during which a murder suspect has a chance to respond to the charges, is not expected until 75 to 90 days after arrest. A trial is typically expected 135 to 150 days after arrest. This does not give the prosecutors much leeway for unforeseen circumstances. A recently reaffirmed Court of Appeals decision decrees that trials must be held within 180 days, unless the defendant has waived the right to a speedy trial. This poses a serious problem because last year

nearly 22 percent of all Circuit Court cases had been sitting for more than a year without trial or resolution. And court records are in disarray.

Most Circuit Court cases do not involve murders. An estimated 60 percent of the court's workload is drug cases, another 20 percent has some link to drugs. Ways should be found to expedite these nonviolent cases since data show only a fraction will reach the trial stage. Of cases involving 1,161 defendants last May, only 4 percent were brought to court trials, 3 percent to jury trials. A whopping 70 percent were resolved through nontrial negotiations; 23 percent had charges dropped or placed

Each case that is identified at an early stage for nontrial disposition would lighten the court's docket and ease the backlog.

The Circuit Court does not operate in a vacuum, however. Last May, when the number of judges devoting their time to minor drug cases was doubled to four, the public defender's office could not handle the additional work. This shows how interlocked the agencies are. They may belong to different jurisdictions and have disparate funding sources, but the inability of one part to move can stall the whole process.

The Circuit Court's backlog is more than 5,000 felony cases. Yet many courtrooms are dark and unused in the afternoon. Why?

RECOMMENDATION: Administrative Judge Joseph H.H. Kaplan must better manage Circuit Court cases and their scheduling. Disastrous recordkeeping must be improved by the new clerk of court, Frank M. Conaway. While state funding of the Circuit Court system is a goal we support, its absence should not be used to justify ignoring organizational problems that have little to do with funding.

District Court

The District Court has only a peripheral role in felony cases. But some of its procedures create needless complications that are time-consuming, wasteful and add to the backlogs.

Examples:

The District Court insists that requests for jury trial (which are called prayers) be made in person. Last year, 9,594 arrestees were transported to District Court, then back to the detention facility just to make jury trial requests. In several Maryland counties, including Prince George's, the requests are routinely handled in writing.

Another expensive anachronism: When District Court defendants appeal to the Circuit Court, their cases have to be retried. Last year in 902 cases, the victim and witnesses had to be recalled and the judge, prosecutor, defense attorney and court personnel had to waste valuable time replicating portions of the trial that had been completed.

RECOMMENDATION: Chief District Judge Martha F. Rasin must initiate changes that allow all appeals to be based on previous court record. Jury prayers should be made in writing.

Baltimore's tepid attempts to curb homicides and gun violence have produced palpable battle-weariness and defeatism among the public. Some contend nothing can be done. Others insist that drugs should be decriminalized so that the violence associated with fights for turf and money will stop.

This is why Boston and New York are such powerful examples. Their political leaders understood that the common good required resolute actions. They have proved that violence can be reduced under existing laws. By maintaining a tight focus on crime reduction, those cities have re-established the best deterrent against crime - predictable punishment.

As residents have regained a sense of personal safety, New York and Boston have been transformed. Once-decrepit residential neighborhoods are being revitalized through new investment. Businesses no longer talk about moving out but of expanding; hotels need more rooms. The perception of safety has allowed these cities to thrive.

Baltimore, in contrast, has to live with its reputation as one of America's deadliest cities. Never mind that most murders are concentrated in a handful of drug-infested slums. Never mind that they are unlikely to touch a visitor or a middle-class Baltimorean. The perception, fostered by years of year-end newspaper headlines and jabs on late-night television shows, is that people are lucky to get out of Baltimore alive. Just try recruiting new companies or residents under those circumstances. Just try to sell Baltimore and Washington as the site of the 2012 Olympics. This is not just the city's problem; Baltimore's terrifying homicide rate is harming the entire region.

It doesn't have to be this way. Until 1941, Baltimore's homicide rates were extremely low. Even in 1942, when the 100-mark was first broken, the rate was only 12 per 100,000 residents, compared with 46.5 last year.

The highly concentrated drugs and lethal semiautomatic handguns that saturate Baltimore are daunting obstacles. But a drastic reduction in homicides and gun violence must be Baltimore's urgent goal. The city can only reach it if a functional, seamless and accountable criminal justice system is re-established.

Governor Glendening, Chief Judge Bell and Mayor Schmoke must lead the crusade against murders and guns. They must see to it that the malfunctioning criminal justice system is repaired. It is time to stop the bloodshed and bring the killers to trial.

Graphics:

GRAPH(S) MAP(S)

1. SUN RESEARCH

2 & 3. CHARLES W. JONES: SUN STAFF

4. BALTIMORE CITY POLICE DEPARTMENT

Caption:

1. Homicides in Baltimore and the nation

2. Homicide profiles

3. How they died

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4. 1998 Baltimore homicides (LOCATION MAP)

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