

The Sun

If judges don't make reforms, lawmakers will; Getting away with MURDER

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THE separation of powers doctrine is one of the prides of U.S. democracy. By ensuring the independence of its executive, legislative and judicial branches of government, this nation has achieved a remarkably effective series of checks and balances.

But that same separation of powers -- written into Maryland's Declaration of Rights -- has helped foster the deplorable gridlock in Baltimore's criminal justice system. This has resulted in some people charged with serious crimes being set free because they didn't get a speedy trial.

Judges won't approve any proposals coming from the executive branch. They won't listen to legislative branch leaders, either. The Baltimore state's attorney -- whose budget is handled by the mayor -- feels free to ignore suggestions coming from Annapolis.

District Court judges not only are at odds with Circuit Court judges, but they also differ with the governor's corrections department.

The state's top jurist, Chief Judge Robert M. Bell, of the Court of Appeals, meanwhile, would be happy to spend all the extra millions the governor and legislature send his way. But he wants no interference with the judiciary's role in determining what's broken, how it will be repaired, and how long it will take.

At City Hall, Mayor Kurt L. Schmoke remains a passive bystander. His one-note response: Let me wash my hands of this mess by having the state take over all criminal justice costs.

So much finger pointing. So much denial and obfuscation. The separation of powers makes it harder, not easier, to find a cure.

Yet those separation of power barriers are amazingly porous.

The judiciary may have dug in its heels, but the governor and legislature still control its budget. Lawmakers also routinely enact laws that directly impact the way judges handle cases.

Pressure is rapidly building in Annapolis for those in charge to agree on some answers.

Every time Chief Judge Bell, or city State's Attorney Patricia Jessamy, or Chief District Court Judge Martha F. Rasin resists recommendations or cooperative partnerships with other agencies, the temperature of lawmakers nears the boiling point.ous waste of dollars under the present setup.

Here are some of the steps legislators are contemplating:

Forcing Ms. Jessamy to take over the charging duties of police officers by putting strings on any special appropriation for her office. Ms. Jessamy met with Lt. Gov. Kathleen Kennedy Townsend last week and asked for \$2 million. Staffing the central booking center with a prosecutor day and night would make an enormous difference.

Forcing Judge Rasin to put a full-time judge in the central booking center's courtroom. Thousands of cases could be removed from the clogged system that way.

Legislation is under discussion that would mandate that a District Court judge -- with broad authority to hear a variety of cases -- be placed permanently at that facility. Also, the District Court's budget may be cut unless the booking center's courtroom is used full-time.

Requiring the parole and probation division, in its budget, to install computer software at the booking center so judges receive immediate access to a suspect's record and parole status.

Setting up an evening court at central booking to weed out minor cases. Every unnecessary overnight stay costs taxpayers \$50. The complex handles 84,000 defendants annually.

Ordering an independent management audit of Baltimore's entire criminal justice system. This would be similar to the study that led to an overhaul of the city's public school system.

Executive and legislative leaders want a monitor to keep reforms on track. But Chief Judge Bell strongly objects at any hint of interference. He hasn't suggested anything better, though.

Time is running out for the judges. Unless they propose practical solutions, legislators could lose patience as they take votes on the governor's budget.

Public sentiment is strongly against those favoring a "leave us alone" approach. Baltimore's broken criminal-justice system must be fixed -- even if it takes some pressure from those in other branches of government to make it happen.

Barry Rascovar is a deputy editorial page editor.