



***A REINVESTMENT & REHABILITATION FRAMEWORK FOR
AMERICA'S CRIMINAL JUSTICE SYSTEM***

America's criminal justice system is badly in need of reform. For too long our justice system has reinforced our country's cruel history of racism and economic inequality—remaining disconnected from our founding ideals of life, liberty, and equal treatment under the law.

Our country needs new leadership that will honestly assess our broken criminal justice system and put forward solutions that will:

- Ensure that justice is delivered for all Americans—regardless of race, class, or place.
- Build trust between law enforcement and the communities they serve.
- Ensure fairness and equal treatment for all people at every step within our justice system.

We must also strive to make our “corrections” facilities actually achieve rehabilitation. Almost all men and women who serve time in jail or prison return to their former communities. We will be stronger as a nation if all of our fellow Americans are able to find jobs, rebuild their lives, and have a stake in our democracy. There is no such thing as a spare American.

BUILD TRUST IN LAW ENFORCEMENT

The causes of crime are complicated. But our fundamental values and principles as Americans are simple: that all people are created equal, and should be protected equally under the law.

Public officials especially, including police officers, must treat all communities fairly and earn their trust. The next president should work closely with law enforcement agencies to implement best practices in policing, and build cultures of transparency, accountability, and respect.

Ensure Transparency and Accountability in Law Enforcement

As President Obama's [Task Force on 21st Century Policing](#) observed, law enforcement is at its best when officers work together with neighborhood residents to ensure public safety and promote the dignity of all people. This “guardian” ethic better protects citizens and law enforcement alike. Moreover, people have the greatest trust in law enforcement when officers' strategies and policies reflect their own values and input, and when policing data and practices are transparent and accessible to the public.

As president, Governor O'Malley will:

- **Mandate and Expand Data Reporting.** The FBI [does not collect data](#) on police-involved shootings. Local data is also poor and incomplete. O'Malley has called for—and will strongly support—legislation to require law enforcement agencies to report data on all police-involved shootings, custodial deaths, discourtesy complaints, and use of excessive force. This data should be centralized in a universal database and made publicly available, allowing communities to observe trends and develop policy responses when necessary.
- **Establish a National Use of Force Standard.** State laws governing when police officers can use excessive force [vary greatly](#). In order to protect citizen and officer safety, O'Malley will put forward national guidelines on the use of force, linked to the expanded mandatory reporting detailed above. He will support legislation to require states to review and amend their own use of force laws to comply with federal guidelines.
- **Expand Community Collaboration and Civilian Review of Police Departments.** O'Malley would reward and encourage police departments to implement best practices in goal-oriented community policing, including through the eligibility criteria in federal grant programs. These include undergoing racial bias training and crisis de-escalation training; establishing internal accountability measures to track and review civilian complaints and address officer misconduct; and creating and empowering civilian review boards to independently monitor and audit policing cases.
- **Use Technology to Advance Transparency.** Technology—including but not limited to body cameras—can improve policing and build community trust in law enforcement. But it must meet community and local law enforcement needs, without infringing on individual rights. O'Malley will work with law enforcement, advocates, and other stakeholders to establish national standards for deploying and developing technology, while protecting privacy and communities' access to data produced by body cameras or similar tools.

Improve Access to Justice within the Criminal Justice System

To build trust in law enforcement, we must also build trust in our justice system, adopting policies and reforms that improve fairness and ensure access to justice.

As president, Governor O'Malley will:

- **Encourage Independent Investigations of Policing Cases.** Local prosecutors must work closely with local police on a day-to-day basis, creating possible [conflicts of interest](#) in cases regarding police misconduct. As a result, states and cities have begun to appoint special independent prosecutors—or prosecutors from other jurisdictions—in cases where police use deadly force. O'Malley will make these measures model practices, and support legislation to encourage all states to adopt them.
- **Strengthen Federal Civil Rights Protections.** Under the Obama Administration, the Department of Justice's Civil Rights Division has [successfully launched investigations](#) into the deaths of Trayvon Martin, Eric Garner, and Michael Brown. However, the Department's ability to prosecute cases is limited because federal officials must meet a very high legal standard to bring civil rights charges. O'Malley would call on Congress to revise this standard so that the federal government can act as an effective backstop for ensuring justice.

- **Reform Civil Asset Forfeiture to Prioritize Public Safety.** Civil forfeiture allows law enforcement to seize any property they allege is involved in a crime, even if the owner has not been charged or convicted. Originally designed as a way to cripple large criminal organizations, civil forfeiture is [now rarely used](#) to address actual crime and is too often abused. O’Malley will support bipartisan efforts in Congress to reform civil forfeiture statutes, reorienting law enforcement activity toward improving public safety and community policing.

INCREASE FAIRNESS IN SENTENCING

Skyrocketing spending on prisons and jails drains investment from schools, job creation, and community services: corrections spending at every level totals [more than \\$80 billion](#) a year. [Racial bias remains](#) ingrained in the justice system, and more needs to be done to reduce recidivism and expand successful reentry programs.

Ensure Fair Sentencing

Sentencing laws should treat all individuals fairly—ensuring that dangerous individuals are held accountable, setting lower penalties for less serious offenses, and providing opportunities for full rehabilitation.

As president, Governor O’Malley will:

- **Eliminate the Sentencing Disparity Between Crack and Powder Cocaine.** This sentencing disparity has resulted in vast racial disparities within the justice system. Before Congress lowered the sentencing ratio in 2010 from 100:1 to 18:1, unjustifiably higher penalties for crack offenses led to African Americans serving [roughly as much](#) time for non-violent offenses as whites for violent offenses. O’Malley has called for and will continue to support legislation to completely eliminate this sentencing disparity.
- **Declassify Marijuana as a Schedule I Drug.** O’Malley will direct the Attorney General to [move to reclassify marijuana](#), while supporting bipartisan congressional efforts to legislatively reclassify marijuana as a Schedule II drug.
- **Reform Mandatory Minimum Sentencing.** Over the past 30 years, mandatory minimum sentences have led to punishments that often do not fit the crime. Unnecessarily harsh sentences for non-violent offenses have not deterred crime, and have [disproportionately impacted communities of color](#). O’Malley will support legislation that eliminates mandatory minimums for low-level drug offenses, while giving judges more flexibility to tailor sentences based on the facts of each case. He will also continue the Department of Justice’s successful Smart on Crime initiative, directing U.S. Attorneys to exercise greater discretion in their charging decisions.
- **Forge Consensus for Ending the Death Penalty.** The death penalty is a [racially biased and ineffective deterrent](#), and the appeals process is [expensive](#) and cruel to surviving family members. O’Malley has long opposed the death penalty as a matter of principle and as a matter of policy. As president, he will continue to oppose capital punishment and work to abolish death sentences under federal laws.

Reduce Recidivism Through Investments in Reentry

[Up to 60 percent](#) of individuals released from jail or prison return within three years. Programs that help people in prison or jail transition into society are [saving taxpayer dollars](#) that might otherwise be wasted on re-arrest or re-incarceration. Successful reentry options also give motivated individuals the tools and support they need to leave the criminal justice system for good, compete for a job, find stable housing, support their families, and contribute to their communities.

As president, Governor O'Malley will:

- **Invest in Job-Training Programs That Work.** Roughly [9 million people](#) return home from jail, and 650,000 from prison, every year. Getting and keeping a job is crucial to their ability to reenter their communities—and thus to reducing recidivism, and incarceration costs, overall. O'Malley will build on successful programs in Maryland and other states to train, place, and support those exiting the criminal justice system so they can secure employment. As president, he will work with Congress to secure additional funding for—and legislation that expands—community-based job training programs.
- **Support Reentry Programming.** Since 2008, the bipartisan Second Chance Act has funded critical community services that help people return to their families from prisons, jails, and juvenile facilities. O'Malley will work with Congress to reauthorize and expand funding for Second Chance Act programs, and other important services that ease the transition back to the outside world. Such services include referrals for housing and benefits, substance abuse treatment, mentoring, education, and job training.
- **Expand Good Time Credits.** O'Malley will support legislation to allow people in federal prison to earn sentence-reduction credits by completing education and reentry programs. More broadly, he will support [evidence-based, cost-effective reforms](#) that allow people in prisons or jails to earn more good time credit for greater sentence reductions than federal law currently allows.
- **Support Access to Higher Education in Prison.** O'Malley will use existing funds and work with Congress to support multi-year educational and vocational training programs in correctional facilities, including providing funding for professional teachers and staff. He will also support legislation and take executive action to [restore eligibility for Pell Grants](#) for people in state and federal prison, which was eliminated in the 1994 crime bill. These investments will increase individuals' chances of finding jobs once they've done their time, and decrease their chances of cycling back into prison later in life.
- **Dramatically Reduce the Use of Solitary Confinement and Ban Solitary for Juveniles.** [Research shows](#) that prisoners subjected to prolonged isolation may experience depression, rage, claustrophobia, hallucinations, and severe psychosis that can lead to random violence or suicide. [Federal judges have called](#) the long-term lack of interaction, mental stimulus, and exposure to nature “beyond what most humans can psychologically tolerate”. As president, O'Malley will reverse the runaway growth of solitary confinement, limiting its use to the most serious in-prison offenders. He will also fight to pass legislation banning the federal use of solitary confinement for juveniles nationally.

Provide Pathways to Full Restoration of Rights and Benefits

[Nearly one in three](#) Americans has a criminal record that, because of employer biases and state laws, could prevent them from even being considered for good-paying jobs. Moreover, nearly [six million Americans](#) are denied the fundamental right to vote because of regressive state laws that target people with felony convictions. This results in one out of every 13 African Americans being unable to vote.

As president, Governor O'Malley will:

- **Ban the Box.** O'Malley will use existing federal dollars to encourage states to adopt "fair chance" policies, which direct employers to delay criminal record inquiries and individually assess job applicants based on their qualifications. He will make the federal government a model employer by adopting fair chance hiring policies for all federal contractors and agencies.
- **Expunge or Seal Criminal Records.** O'Malley will also support legislation that provides paths to recourse for people with criminal records. This includes automatically expunging or sealing juvenile records, so young people have a fair chance to turn around their lives; allowing some categories of formerly incarcerated people to petition a court to seal their records; and expunging the records of arrests that did not lead to formal charges.
- **Restore Voting Rights to People with Felony Records.** All those who served time and reentered society should be allowed to vote. O'Malley will call for and strongly support legislation restoring voting rights to individuals with felony records. He will explore and take advantage of every opportunity to use federal funds and administrative solutions to encourage states to restore voting rights.
- **Ensure Access to Temporary Support.** O'Malley will call for and strongly support legislation that would end the drug felon ban on access to SNAP and TANF assistance. Formerly incarcerated people and their families should have access to crucial support to help them get on their feet after serving their time.

Work to Eliminate For-Profit Prisons

There are approximately [130 private prisons](#) in the United States. They house nearly half of all immigrant detainees, in addition to [six percent of the state and 16 percent of the federal prison population](#). These facilities earn the private prison industry \$3.3 billion in annual revenue, backed by nearly \$25 million in lobbying over the past 25 years. This includes industry lobbying to protect perverse incentives, the strict enforcement of sentencing and immigration laws, and contracts that require correctional facilities and immigration detention centers to remain full even when crime is falling.

As president, Governor O'Malley will:

- **Phase Out Federal For-Profit Prisons.** This includes closing for-profit immigration detention centers, while using alternatives to detention in the immigration context whenever possible.

REINVEST TO ENSURE JUSTICE

As a nation, our divestment in education, job creation, and healthcare has resulted in some communities turning to law enforcement as a first and last resort—from providing student discipline to addressing addiction and mental illness. Reversing this trend by reinvesting in these areas will relieve our overburdened justice system, and ensure that law enforcement is able to focus on the most violent crimes.

Medicalize our Response to Addiction and Mental Illness

Incarceration is an inadequate—and in most cases inappropriate—response for people in crisis. Far greater investment in community mental health and substance abuse treatment is required to provide individuals with the care and support they require, outside of the justice system.

As president, Governor O'Malley will:

- **Make Robust Investments in Drug Treatment.** O'Malley will work to expand [existing federal grants](#) to states to support comprehensive drug treatment systems. He will call for tripling the number of states eligible for grants, as well as increasing the aid provided to each state. He will call for requiring states to make matching investments—ensuring that addiction is treated, and not ignored, at the local level. He will also support regulations and legislation to expand evidence-based treatment for addiction under Medicare and Medicaid.
- **Make Robust Investments in Community Mental Health Infrastructure.** Although the rate of serious mental illness is [two to six times](#) higher among incarcerated populations, more than 80 percent of people with mental illness in jails and prisons do not receive care. O'Malley will invest to provide adequate mental health treatment and substance abuse treatment within correctional facilities. Additionally, he will call for community-based recovery for individuals suffering from mental illness, setting a national target for reducing the number of Americans with serious mental illness behind bars. He will work with Congress to make critically needed investments in housing, supported employment, and outpatient treatment.
- **Train and Equip Law Enforcement to Serve People in Crisis.** Police officers have increasingly become first responders to people with mental illness or substance abuse problems, often without adequate training. O'Malley will establish federal guidelines for law enforcement on how to best serve people in crisis—including [de-escalating encounters](#), equipping specialized staff and response teams, and intervening in partnership with civilian service providers. He will use existing federal funds to support state [Crisis Intervention Training](#), work with Congress to make additional investments, and require states to adopt federal crisis intervention guidelines.

Address the Discriminatory and Punitive Application of Student Discipline

Underinvestment in public education has left many districts financially strapped, often unable to staff the counselors, special education teachers and social workers their students need. This has coincided with an [increased reliance](#) on suspensions, expulsions, and school resource officers to enforce school discipline—including for behavior that is far from a crime. As a result, student

discipline increasingly reflects the adult criminal-justice system—with children, [especially children of color](#), being charged, arrested, and even detained in juvenile facilities. This trend has dramatic economic implications as well: children with arrest records have a fraction of the chance of graduating compared to students without arrest records.

As president, Governor O'Malley will:

- **Enforce and Codify Federal Discipline Guidelines.** Federal law already prohibits public school districts from administering student discipline in a discriminatory way. The Departments of Education and Justice [put forward guidance](#) last year to help schools identify, avoid, and remedy discriminatory discipline, so that all schools ensure equal educational opportunities for all students. O'Malley will enforce this guidance by bringing federal investigations or charges when necessary, and call to codify the guidance into law.
- **Reinvest in Other Services and Supports for Teachers and Students.** Underinvestment in public education has left many schools with too little funding for counselors, special educators, teacher training, and other needs. This has sometimes created an over-reliance on law enforcement and school resource officers to enforce discipline. O'Malley will invest in federal grants to help deploy counselors and other school staff, including by reprioritizing existing federal funding currently used to place law enforcement officers in schools.

Fulfill the Constitutional Right to Counsel

The flood of misdemeanor cases for petty crimes has [greatly overburdened state courts](#). Many poor defendants—about one in four—do not receive court-appointed legal counsel, despite their right to it. Crushing caseloads for public defenders can create an [“assembly-line mentality”](#) toward justice that contributes to individuals being unnecessarily imprisoned for minor offenses.

As president, Governor O'Malley will:

- **Ensure Access to Counsel and Legal Assistance.** O'Malley would invest to protect every American's [constitutional right to counsel](#), providing funding for legal aid programs and public defenders, and ensuring their independence.

Bring Accountability, Due Process, and Immediate Relief to our Immigration System

Immigration-related cases make up [more than 40 percent](#) of federal prosecutions, more than any other type of prosecution—including drug crimes. Yet families are denied justice throughout the immigration system. Conditions at immigrant detention facilities are deplorable, due process is limited, assembly-line justice is common, and families are needlessly torn apart.

As president, Governor O'Malley will:

- **Use Detention Only as a Last Resort.** O'Malley will direct the Department of Homeland Security to use alternatives to detention for the vast majority of people, including for all children, families, LGBT individuals, and other vulnerable individuals. This includes using the family placement and community-based supervision policies he successfully

implemented in Maryland. He will also work with Congress to repeal mandatory detention and deportation laws, and to codify higher detention standards. When detention must be used, O'Malley will ensure conditions are humane and in line with our basic values as a nation.

- **End Operation Streamline.** Under [Operation Streamline](#), federal attorneys criminally prosecute, in assembly-line settings, virtually all undocumented immigrants that enter the United States through the Southern border. Fast-track prosecutions and group hearings raise serious concerns regarding the violation of due process. Moreover, thousands of immigrants who try to enter or re-enter the United States are the parents of U.S. citizens attempting to reunite with their loved ones. O'Malley will direct federal prosecutors to focus only on priority entry and reentry cases—those involving national security or serious crimes—and work with Congress to repeal the Operation Streamline program.
- **Disentangle Local Law Enforcement From Immigration Enforcement.** Our immigration policies have fallen short of their goal to pinpoint and detain individuals who pose a clear and present danger to public safety. Instead, they have created an indiscriminate dragnet that can encourage racial profiling and undermines trust between law enforcement and New American communities. O'Malley has outlined his plan for disentangling law enforcement from immigration enforcement, including by closing loopholes in [DOJ guidance](#) that allow DHS agencies to profile Americans based on their ethnicity and religion.
- **Set High Standards for Customs and Border Protection (CBP).** CBP is the nation's largest law enforcement agency, and CBP officers must have the support and tools they need to do their jobs well. O'Malley will require CBP to implement the best practices in law enforcement, including equipping officers with body cameras, tracking and disclosing discourtesy and brutality complaints, providing robust training, and holding agents accountable for the use of excessive force.
- **Ensure Due Process.** O'Malley will also implement critical reforms to expand due process protections in our detention and immigration systems, including providing counsel for immigrants in deportation proceedings, increasing the number of immigration judges and courts, ending telephonic and video hearings for detainees, and ensuring language access.

ECONOMIC INEQUALITY

Actions to address racial disparities in the criminal justice system should be accompanied by a wide range of policies that help to alleviate deeply rooted disparities in economic security and opportunity among communities of color.

Today, too many families are hurt by active discrimination. What's more, the legacy of institutionalized discrimination—such as redlining—has amplified the disproportionate harm that the recession inflicted on communities of color. As a result, our nation has endured 30 years of worsening economic inequality.

As a nation, we must strive to remove barriers to full participation in the social, economic, and political life of our nation, once and for all. Legal equality is absolutely necessary but not sufficient – we must strive for equal opportunity and a fair shot for everyone. That means helping to ensure good jobs that provide stable incomes; universal, high-quality

childcare; affordable housing and homeownership; and greater equity in our education and health care systems—for all Americans.

Governor O'Malley has already called for a number of actions that would support greater economic security and opportunity for communities of color, including:

- Raising the minimum wage to \$15 dollars an hour.
- Empowering labor unions.
- Greatly expanding access to national service and job opportunities for young people.
- Ensuring young people can attend public colleges and universities debt-free.
- Passing comprehensive immigration reform.
- Investing in universal childcare.

In the coming weeks and months, Governor O'Malley will lay out comprehensive plans to address poverty and support the millions of American families striving to join the middle class, as well as put forth agendas to reform K-12 education, address homeownership and the rental crisis, and improve access to affordable healthcare.