



**Testimony Submitted to the Baltimore City Council Judiciary and
Legislative Investigations Committee in Opposition to Bill 17-0111**
July 25, 2017

The NAACP Legal Defense and Educational Fund, Inc. (LDF) opposes Council Bill 17-0111, which would impose a mandatory minimum sentence on people convicted of the misdemeanor offense of wearing, carrying, or knowingly transporting handguns near certain places of public assembly. Founded in 1940 by the late U.S. Supreme Court Justice Thurgood Marshall, a Baltimore native, LDF is the nation's oldest civil rights legal organization.¹ Since its inception, it has utilized the U.S. Constitution and federal and state civil rights laws to pursue equality and justice for African Americans and other people of color in the areas of education, voting, employment and housing. LDF has also fought to address racial bias at every stage of the criminal justice system – from police stops, to sentencing, to reentry.²

Members of the Baltimore City Council have introduced Bill 17-0111 at a time when the public overwhelmingly supports the elimination of mandatory minimum sentences for certain nonviolent offenses.³ And, while we share city leaders' desire to eliminate gun violence, there is no reliable evidence that mandatory minimum sentences reduce crime. In fact, several studies have found that longer and harsher punishments do not deter crime, and there is no link between prison lengths of stay and recidivism.⁴

¹ LDF has been separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.

² See, e.g., Complaint, *Davis, et al. v. City of New York, et al.*, Case No. 1:10-cv-00699-SAS-HBP (S.D.N.Y. Jan. 28, 2010) (challenging the unlawful stopping, questioning and arresting of African-American and Latino public housing residents and their guests by New York City Police Department officers), <http://www.naacpldf.org/update/court-approves-final-settlement-federal-classaction-lawsuit-challenging-police-practices-nyc>. See also, *Buck v. Davis*, 580 U.S. ____ (2017) (holding that Duane Buck received ineffective assistance of counsel when his attorney introduced racially-biased testimony during his capital sentencing hearing), <http://www.naacpldf.org/press-release/naacp-legal-defense-fund-wins-major-victory-united-states-supreme-court>; and, *LDF Statement on President Obama's Actions to Promote Rehabilitation and Reintegration of Persons with Criminal Records* (Nov. 3, 2015), <http://www.naacpldf.org/press-release/ldf-statement-president-obama%E2%80%99s-actions-promote-rehabilitation-and-reintegration-perso>.

³ See, Christopher Ingram, *Here's how much Americans hate mandatory minimum sentences*, The Washington Post, Oct. 1, 2015, https://www.washingtonpost.com/news/wonk/wp/2015/10/01/heres-how-much-americans-hate-mandatory-minimum-sentences/?utm_term=.c4d357e7cdd0 (stating that 77% of Americans believe that "mandatory minimum prison sentences for non-violent drug offenders should be eliminated so that judges can make sentencing decisions on a case-by-case basis.")

⁴ See, Steven Durlauf and Daniel S. Nagin, *Imprisonment and crime: Can both be reduced?*, 10 CRIMINOLOGY & PUB. POLICY, ISSUE 1, 37-38 (2011), <https://pdfs.semanticscholar.org/cdec/d97f9e20c12a23a862afc17ffed4129cc55c.pdf>. See generally, The JFA Institute, *Unlocking America: Why and How to Reduce America's Prison Population*, November 2007, <http://www.jfa-associates.com/publications/srs/UnlockingAmerica.pdf>.

Yet, there is evidence that mandatory minimum sentences, particularly for drug offenses, fall heaviest and disproportionately on African Americans. For example, a report by the Justice Policy Institute found that 89 percent of people sent to prison for mandatory minimum drug offenses in Maryland were African American, even though they comprised 29 percent of the state's population; and, this disparity was not due to higher rates of drug use.⁵ Recognizing that locking up non-violent drug offenders did not effectively address the state's substance use problem, Maryland's General Assembly repealed mandatory minimum sentences for people convicted of certain drug offenses in 2016.⁶

Similarly, imposing a one-year mandatory sentence on persons convicted of a misdemeanor gun possession offense will do nothing more than increase the state's prison population with little impact on crime reduction, at high social costs, including persons facing barriers to employment and housing due to a criminal record.⁷

Criminal justice policies that lead to increased incarceration rates drive racial inequality and poverty. If not for mass incarceration, one study reports that the overall poverty rate would have dropped by 20 percent between 1980 and 2004.⁸ One-in-three Americans are estimated to have a criminal record.⁹ Although many have minor offenses, having a criminal record creates barriers to opportunity, such as employment, and is linked as a direct cause and consequence of poverty.¹⁰ Unfortunately, data show that one year after their release, 60 percent of citizens returning from prisons remain unemployed.¹¹ And, for those able to find employment, most have considerably diminished earnings.¹²

This has important civil rights and racial justice implications. A 2004 study by Professor Devah Pager found that White job applicants with a criminal record were called back

⁵ Justice Policy Institute, *Maryland's Mandatory Minimum Drug Sentencing Laws*, 9, (Feb. 2007), http://www.justicepolicy.org/uploads/justicepolicy/documents/07-02_rep_mdmandatoryminimums_dp-md.pdf.

⁶ See, Ovetta Wiggins, *How Maryland came to repeal mandatory minimums for drug offenders*, The Washington Post, June 1, 2016, https://www.washingtonpost.com/local/md-politics/how-maryland-came-to-repeal-mandatory-minimums-for-drug-offenders/2016/06/01/4961c7c4-2124-11e6-8690-f14ca9de2972_story.html?utm_term=.7ebc865cc103.

⁷ The Honorable Alexander, Jr., Chair, *Final Report of the Collateral Consequences Working Group*, Dec. 1, 2016, <https://gocep.maryland.gov/wp-content/uploads/collateral-consequences-final-report-2016.pdf>.

⁸ Robert DeFina & Lance Hannon, *The Impact of Mass Incarceration on Poverty*, SAGE JOURNALS Vol. 59, Issue 4, 21 (2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.

⁹ Rebecca Vallas & Sharon Dietrich, *One Strike and You're Out*, CENTER FOR AMERICAN PROGRESS 1(Dec. 2014), <https://cdn.americanprogress.org/wp-content/uploads/2014/12/VallasCriminalRecordsReport.pdf>.

¹⁰ *Id.*

¹¹ Rebecca Vallas et al., *Removing Barriers to Opportunity for Parents with Criminal Records and Their Children*, CENTER FOR AMERICAN PROGRESS 4 (Dec. 2015), <https://cdn.americanprogress.org/wp-content/uploads/2015/12/09060720/CriminalRecords-report2.pdf>.

¹² *Id.*



for interviews more often than equally-qualified African American applicants who did not have a criminal record, attributing this to the effect of employers' consideration of both race and criminal background.¹³ According to Professor Pager, the criminal justice system plays a central role in "sorting and stratifying labor market opportunities" for those with criminal records.¹⁴ Employment policies and practices that apply a blanket exclusion of those with criminal records can lead directly to the disproportionate exclusion of African Americans and Latinos from the workforce with the attendant impact on their economic security and opportunity.

With an unemployment rate of 5.8, which is higher than surrounding counties and the national average,¹⁵ Baltimore City officials should not adopt criminal justice policies that will diminish employment opportunities for its residents.

For these reasons, LDF opposes Council Bill 17-0111.

Thank you for considering this testimony. If you have any questions, please do not hesitate to contact Todd Cox, Director of Policy or Monique Dixon, Deputy Director of Policy and Senior Counsel at 202-682-1300.

¹³ Devah Pager, *The Mark of a Criminal Record*, 108 AM. JOURNAL OF SOCIOLOGY 937, 957-60 (2003), <http://www.irp.wisc.edu/publications/focus/pdfs/foc232i.pdf>.

¹⁴ *Id.* at 46.

¹⁵ U.S. Dep't of Labor Bureau of Labor Statistics, *Baltimore Area Economic Summary*, (Updated June 28, 2017), https://www.bls.gov/regions/mid-atlantic/summary/blssummary_baltimore.pdf (the national unemployment rate is 4.1)