**Testimony of Kevin Ring, President, Families Against Mandatory Minimums
Hearing on House Bills 100, 101, and 102
February 6, 2018
House Judiciary Committee**

I want to thank Chair Vallario, Vice-Chair Dumais, and the members of this committee for the opportunity to submit written testimony on behalf of Families Against Mandatory Minimums. **We oppose House Bills 100, 101, and 102 because the bills' mandatory minimum and mandatory consecutive sentencing provisions are an ineffective and inefficient approach to reducing crime.**

FAMM is a nonpartisan, nonprofit sentencing reform advocacy group founded in Washington, D.C. in 1991. FAMM's mission is to protect public safety and promote efficiency in the criminal justice system by advocating for individualized, proportional criminal sentencing laws. We are not against punishment or prisons. We simply believe that sentences should fit the crime and the offender, and that judges are in the best position to decide the proper punishment in each and every case.

Governor Larry Hogan's proposed crime package comes in response to the serious crime and violence challenges faced by the state. In 2017, Baltimore experienced its highest rate of homicides, with roughly 56 killings per 100,000 people. The overwhelming majority of murder victims were African American. The city's violent and property crime rates have risen in recent years even while many major cities across the country have experienced decreases.

Given the painful reality of crime in Maryland, state leaders must not succumb to disproven crime prevention strategies, but rather should seek effective, efficient, and lasting solutions. Put simply, mandatory minimums and harsh consecutive sentencing laws do not reduce crime, but they do cost taxpayers a fortune, harm families and communities, produce unjust and absurd results that erode trust in the justice system, and keep people in prison so long that their chances of a successful reentry dwindle.

FAMM is the oldest sentencing reform organization in the country and has worked specifically to reform mandatory minimum and mandatory sentencing enhancement laws. In the 26 years of our existence, we have seen lawmakers of all parties, in dozens of states, enact every kind of mandatory sentence imaginable for every kind of crime. We have seen these sentences fail to deliver time and time again. Mandatory minimum sentences have not solved America's drug problems, its gun violence problems, its drunk driving problems, or its problems with violent and sex offenses. Yet, over the past 26 years, we have also seen the United States enjoy a historic reduction in crime generally. There is no one tactic or policy that caused that crime drop, but we know it cannot be attributed to mandatory minimum sentencing policies. At most, incarceration overall is only responsible for between two and 25 percent of the crime drop in America. That means at least 75 percent of our crime reduction came from something else. In fact, the Pew Center on the States recently found that since 2008, 35 states have cut both their prison

populations and their crime rates at the same time – a finding that flies in the face of the conventional wisdom that locking more people up longer leads to lower crime.

Available evidence shows that the bills before you today, with their emphasis on mandatory minimum sentences and mandatory sentencing enhancements, including consecutive sentencing and the elimination of parole eligibility, will not serve their intended purpose. First, these sentences will not deter crime. The Department of Justice's National Institute of Justice has found that it is the certainty of being caught, not the length of the sentence, that deters future crime. Certainty of apprehension increases with tactics New York City has used successfully in its fight on crime, like "hot spot" policing that targets high-crime street corners, or focusing more resources on closing cases and getting convictions. In some cities, the majority of crimes come from only three percent of streets. Evidence shows that anti-crime strategies that target the affected area directly are most effective – not longer sentences. Counterintuitively, a recent study found that progressively tougher sentencing for repeat offenders – the sentencing scheme at the core of the governor's proposal – actually increases the likelihood that offenders will reoffend, thereby increasing crime.

Mandatory minimum sentencing laws for gun-related crimes have a particularly poor track record. In 2013, a report from the Bluhm Legal Clinic at the Northwestern School of Law found that "the evidence indicates, repeatedly, that mandatory minimum sentences will not reduce gun violence." The report, which included a meta-analysis review of 29 studies on programs designed to reduce gun violence, found little empirical evidence for policies "rooted in the deterrence theory." The report also notes the failures of similar policies in Florida, Massachusetts, Michigan, and Virginia.

Second, mandatory minimums and mandatory sentencing enhancements do not increase the certainty of punishment. Mandatory minimums do not guarantee more or longer prison sentences for all offenders. Mandatory minimums shift sentencing decisions away from the judge to the prosecuting attorney, who can still negotiate a different sentence, dismiss or fail to bring charges that carry mandatory penalties, or misuse mandatory minimum sentences to create a sentencing penalty for those who exercise their constitutional right to go to trial. This sentencing shift is already playing out in Maryland, where evidence shows that rural defendants receive mandatory minimums at a much higher rate than urban defendants.

Third, mandatory minimum sentencing laws often yield unintended consequences. For example, these bills are sure to increase Maryland's prison population. Maryland's Division of Corrections is currently operating at 100 percent capacity. The sentencing called for in these bills will cause the population to surpass capacity and become unsustainably overcrowded. Overcrowded prisons will cause more crime by preventing successful rehabilitation and will pose significant safety risks to both prisoners and prison staff.

Fourth, these bills, if passed, will also exacerbate already existing racial disparities in Maryland's prison population. African Americans currently make up about 70 percent of Maryland's prison population, despite constituting about 30 percent of the state's general population. From 2002-2008, 89 percent of defendants sentenced to mandatory minimum drug sentences were African American. Maryland cannot rely on racially disparate, unjust sentences

to increase public safety. Continued use of racially imbalanced sentencing will further deplete trust of law enforcement in communities most affected by the rise in crime.

Fifth, mandatory minimum sentences are expensive and produce a low return on the dollar for public safety. A single 10-year mandatory minimum sentence proposed in these bills would cost Maryland taxpayers over $400,000. Locking up one armed robber for a decade may feel like "doing something" to fix crime, but much of that money would be better invested in victim trauma centers, drug and mental health treatment, violent crime prevention programs, gang intervention programs, job-training and placement programs, or any other number of community-based organizations that are tackling violent crime person-to-person on the very streets where it will make a difference. In 2016, Maryland passed the Justice Reinvestment Act (JRA), which eliminated many mandatory minimum drug sentences, promising cost savings. The governor's bills eviscerate any savings JRA will produce, plus some.

Finally, ignoring the evidence and enacting this legislation would go against the nationwide trend of cost-effective sentencing reform. In 2016, because of evidence proving the ineffectiveness of its mandatory minimum for aggravated assault with a firearm, Florida repealed this law. Since 1994, Minnesota has employed a safety valve for crimes involving a gun, allowing the court to depart from mandatory minimums if they find "substantial and compelling reasons to do so." The safety valve is used frequently, saving the state millions annually. Maryland's JRA was built on the fact that mandatory minimums do not work; their ineffectiveness is as true for violent and gun offenses as it is for drug offenses.

FAMM's opposition to these bills is not rooted in a sympathy for individuals who use dangerous weapons to harm innocent citizens. Rather, our objection is rooted in a belief – backed by all credible evidence – that mandatory minimums do not leave law-abiding citizens any safer.

The pressure to enact tougher penalties in the face of heightened violence makes sense; however, we cannot allow politics to crowd out the evidence. The evidence is clear: mandatory sentencing policies do not work. For this reason, we urge you to reject the bills before you and adopt evidence-based policies that are cost-effective and increase public safety.

Thank you for allowing FAMM to submit testimony to this hearing, and thank you for your dedicated service to the state of Maryland. We are happy to assist you as you consider this important issue.