



October 25, 2023

Mayor Muriel Bowser
Executive Office of the Mayor
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Mayor Bowser:

On behalf of The Sentencing Project, I am writing to express concern regarding the Addressing Crime Trends Now Act, which, according to your announcement, would reinstate the ability of the Metropolitan Police Department Chief to declare drug-free zones. During your October 23, 2023 press conference announcing this Act, Deputy Mayor Lindsey Appiah cited The Sentencing Project's work while defending the Act. Our 2013 brief on this topic, "Drug-Free Zone Laws: An Overview of State Policies," however, concludes that drug-free zones deepen racial disparities in sentencing and recommends that they be scaled back.¹ To be clear, The Sentencing Project has not endorsed the approach you are promoting, and I ask that you and your administration refrain from suggesting otherwise. Instead, we urge you to move beyond the failed tactics of the drug war and pursue public health responses to drug use.

Anti-Loitering Drug-Free Zones Raise Serious Constitutional Concerns

In 2014, the D.C. Council – including yourself – voted to repeal the Anti-Loitering/Drug-Free Zone Act of 1996,² which permitted the MPD chief, for up to 120 hours, to designate zones where two or more people would be prohibited from congregating if police suspected them of engaging in the drug trade. In practice, anti-loitering drug-free zone laws can criminalize the mere act of loitering while Black and deepen racial disparities in the criminal legal system. As such, according to then-Councilmember David Grosso, who introduced the bill to repeal the Act, the Committee on Judiciary and Public Safety had reached the conclusion that the law was "likely unconstitutional."³ That conclusion was consistent with concerns expressed by legal scholars that anti-loitering drug-free zone laws "represent a clear departure from longstanding constitutional principles which forbid laws that criminalize mere suspicion of future unlawful

¹ Porter, N. & Clemons, T. (2013). [Drug-Free Zone Laws: An Overview of State Policies](#). The Sentencing Project.

² [Anti-Loitering/Drug Free Zone Act of 1996](#), D.C. Act 11-321.

³ David Gross D.C. Council-At-Large (Sept. 18, 2014). [Grosso's Criminal Justice Bills Pass through Committee](#) [Press Release].

conduct.”⁴ In 2011, an anti-loitering drug-free zone law in Annapolis, Maryland even faced a successful challenge and was blocked by a federal court.⁵ The Sentencing Project urges you and the D.C. Council to not step backwards by reviving this failed policy.

Anti-Loitering Drug-Free Zones Perpetuate the Failed War on Drugs

The drug war has resulted in a skyrocketing number of Americans incarcerated for drug offenses – from 40,900 in 1980 to 430,900 in 2019 – and for increasingly lengthy periods of time.⁶ The United States’ choice to prioritize punishment over evidence-based responses to substance use disorders has also cost hundreds of thousands of lives, as overdose deaths have reached all-time highs.⁷

The War on Drugs, and its extremely punitive focus, disproportionately harms Black, Latinx, and Indigenous communities.⁸ Your proposed expansion of anti-loitering drug-free zone laws are likely to continue that trend. We urge you and the D.C. Council to remember the lessons and harms of the drug war and to pursue evidence-based solutions rooted in public health, not further criminalization.

Sincerely,



Kara Gotsch
Acting Executive Director
The Sentencing Project

⁴ See, e.g., Trosch, W. (1993). [The Third Generation of Loitering Laws Goes to Court: Do Laws That Criminalize Loitering with the Intent to Sell Drugs Pass Constitutional Muster](#). *North Carolina Law Review*. 71(2).

⁵ Crawford, A. (Mar. 31, 2001). [Annapolis' anti-loitering law aimed at drugs is struck down by U.S. judge](#), The Baltimore Sun.

⁶ The Sentencing Project (2022). [Trends in US Corrections](#).

⁷ Center for Disease Control and Prevention (2023). [Drug overdose deaths](#); Centers for Disease Control and Prevention (2023). [Vital statistics rapid release - monthly provisional drug overdose death counts](#).

⁸ Ghandnoosh, N. (2022). [Opioids: Treating an illness, ending a war](#). The Sentencing Project.