

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF House Bill 304:
Criminal Law - Failure to Obey a Reasonable and Lawful Order

TO: Members of the House Judiciary Committee
FROM: Christopher Dews, Senior Policy Advocate
DATE: February 1, 2022

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We support House Bill 304 as a means of decriminalizing both poverty and homelessness throughout the state of Maryland.

Maryland Criminal Code 10-201(c)(3), Failure to Obey a Lawful Order (FOLO) is broadly written with vague language regarding what is an “order” and when failure to obey rises to a level that is actionable. Often the same officer that gives the “order” has the interpretive discretion to make these decisions, effectively allowing them to serve as the judge and jury of their own actions. The lack of oversight or accountability for these decisions is particularly troubling given that 63% of people charged with FOLO in Maryland from 2017 to 2019 were Black, but only accounted for 31% of Maryland’s population.

An individual can be found guilty of FOLO even if they do not intend to disobey an “order.” Police officers may not recognize or consider that certain behaviors or limitations related to a disability may impact an individual’s capacity to comply with an “order.” Individuals with physical disabilities may not be able to comply with an “order” to the satisfaction of an officer due to mobility issues. Others may not be able to even understand an “order” due to cognitive or behavioral health limitations related to a disability, stress or worse.

We understand the need to protect police officers on the job. However, FOLO is a non-violent offense that does nothing to protect public safety. There are more egregious criminal charges such as assault, robbery, etc. that may be applied in circumstances where there is a legitimate threat to public safety or the safety of an officer. We do not believe that any criminal penalties are appropriate in circumstances where FOLO is the only offense that can be charged. JOTF understands that a criminal record can be both the cause and consequence of poverty and the continued mishandling of the FOLO statute has the unfortunate habit of criminalizing both the

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poor and the homeless needlessly. Continuing to heap fines on persons that are homeless because they failed to leave an area isn't a wise use of law enforcement resources and doesn't address the root causes of homelessness or poverty in the City.

JOTF urges this committee to support House Bill 304 to address the inequities created by FOLO and the continued risk of harm to our communities.