



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

February 2, 2023

Senator William C. Smith, Jr.  
Chair, Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Testimony Supporting Sente Bill 51: Reasonable Suspicion and Probable Cause  
- Cannabis**

Dear Chairman Smith and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 51 on behalf of Maryland Legal Aid (MLA), the state's largest nonprofit law firm. Though MLA does not represent people in criminal matters, our clients often require assistance for the devastating civil challenges that stem from criminal justice system involvement, such as homelessness, unemployment, family separation, and the inability to expunge old convictions—even for marijuana use, in a state that is about to legalize recreational use. These traumas can impact communities for generations—not to mention the state's economy. Senate Bill 51 addresses these traumas by preventing arrests and convictions based on the mere odor of marijuana, which is too often a pretext for questionable or discriminatory police conduct, or worse. MLA submits this testimony at the request of Senator Jill Carter and urges a favorable vote on Senate Bill 51.

Across our civil practice areas, and especially through our expungement work, MLA clients often share how police interactions impact them. Many of these interactions begin with a traffic stop. Traffic stops are one of the most common ways the police interact with all community members, but they should only happen to serve a true public safety purpose. Instead, we know that Black, brown, and low-income people are pulled over with higher frequency than other individuals, often with dire, sometimes deadly, consequences.

Recently, Marylanders voted to legalize cannabis in our state. This is in line with a national movement recognizing the failure of the war on drugs, the racist foundations of marijuana criminalization, and the financial, medicinal, and other benefits of regulating marijuana in the legal market economy. Continuing to permit vehicle searches and stops based on cannabis odor defeats the purpose of the new legislation, continues to criminalize Marylanders, and ignores the voices and votes of this committee's constituents. In other words, continuing to allow stops based on the mere odor of cannabis allows legalization to take place only through the letter of the law, and not the spirit. MLA has witnessed similar perverse outcomes with cannabis legislation in the past. For example, MLA advocates were thrilled when small amounts of marijuana were decriminalized in

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2014. In tandem with the expansion of the expungement law in the years following, we were able to assist many clients who had marijuana possession charges on their criminal records. However, the law did not decriminalize marijuana paraphernalia, which is charged separately. Therefore, anyone who was also convicted of marijuana paraphernalia—and so many marijuana cases include charges that increase the potential penalty and force quick guilty pleas—could not have an expungement. While the law has changed further since then, the inconsistencies were problematic for years. Passing Senate Bill 51 now, on the eve of cannabis legalization, would prevent these sorts of inconsistencies going forward and honor the wishes of Maryland citizens: individuals should not be penalized for using marijuana.

MLA has filed hundreds of expungement petitions for dismissed or stet docket charges related to cannabis possession. Basing a search or arrest on an odor is a conveniently tenuous thing; an odor cannot be photographed or filmed on a body camera. It seems the state prosecutors agree, based on the sheer number of times MLA has expunged possession charges they have declined to prosecute. Over and over again our clients tell us that they were pulled over for a real (or imagined) traffic violation, an officer claims to smell cannabis, and a car search ensues. A large percentage of these charges are eventually dropped. However, in the meantime, our clients are stuck navigating the consequences of an arrest: missing work, missing school, paying for childcare, retrieving a towed or impounded vehicle, replacing lost personal items. Of course, these consequences are most harshly felt by low-income people like MLA's clients, for whom just one missed paid workday or lost phone can be the springboard to cataclysmic life changes, such as losing a job, a house, a driver's license, a professional license, or even custody of their child.

In fact, many of our clients relate stories about leaving police interactions without being arrested but becoming the victims of crimes themselves. This usually occurs when the police take untraceable bills from our clients—people who police know are less likely to have bank accounts or credit cards, and more likely to carry cash. Clients are too afraid, or too jaded, to report these police officers. This should never happen. By reducing gratuitous stops for the alleged smell of marijuana, Senate Bill 51 would limit these situations and limit the possibility of perpetuating discriminatory, harmful and potentially criminal police conduct toward vulnerable people, therefore limiting the knock-on criminal and civil consequences that our clients deal with on a daily basis.

Thank you for providing MLA the opportunity to comment on this important piece of legislation. We ask that this committee give it a favorable report, and strongly urges its passage into law.

/s/Charlotte Ahearn  
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