

Testimony for the Senate Finance Committee

March 3, 2022

SB 692 - Cannabis – Legalization and Regulation (Cannabis Legalization and Reparations for the War on Drugs Act)

FAVORABLE

My name is Lisa Henderson and I am writing to indicate my support for SB 692. This bill would legalize adult use and possession of certain amounts of cannabis, clear criminal records of certain marijuana related charges, and establish guidelines for the distribution of revenue from the marijuana industry. This bill seeks to provide redress to communities who have been hurt by the failed “War on Drugs” and also presents comprehensive provisions to ensure that legal marijuana use and possession is treated as such. One of these provisions would ban vehicle searches based solely on the odor of marijuana alone.

My son, James, was stopped by Howard County Police on February 25, 2021 around 8:30 p.m. He drove to the Exxon Station and saw someone with whom he is acquainted. As usual, the young people were gathered at the Exxon Gas Station to laugh and talk. This has been going on for over 20 years since the County removed all the basketball courts and only has recreational activities for those whom can afford their extremely high membership.

James’ friend asked James to drop him off not too far from the gas station. Howard County Police are known for surveilling the gas station and often assume that one of the young people have done something illegal. My son’s experience was no different. The police’s modus operandi (MO) is:

- 1) Stop all young Black/Brown males especially if they are driving a nice car.
- 2) Pull the young man over and lie that the vehicle has a tail/tag light out regardless of the truth of this claim.
- 3) Approach the vehicle and claim they smell marijuana and use that as an excuse to violate the civil rights of the young man regardless of the truth of this claim.
- 4) State they have “probable cause” to search the car because of the perceived smell of marijuana.
- 5) Lie on an official Police Report by stating they found drug paraphernalia and evidence of an intent to sell marijuana as a way to justify the arrest after the fact.
- 6) The charges are later dropped or reduced because of the lack of evidence. In my son’s case, the charges were reduced to, “failure to obey a lawful order.” However, because of blatant racial profiling by police, the lack of evidence of any criminal activity, and false pretext used to justify a search, the police violated my son’s civil rights.

Racial discrimination runs rampant in Howard County. In 2008, my home was raided by Howard County Police who came to the wrong home, shot and killed our dog, and charged my spouse and I with marijuana-related drug charges because of a “grinder” left on our coffee table.

The police did not have a warrant. Because I am a Legal Secretary, with over 30-years of experience, I asked to see the warrant. They only had a piece of white copy paper with nothing on it. However, this did not stop them from breaking down my door and killing my pet. The police held us for over two hours to go find a crooked judge to write one after the fact.

I knew they had violated our rights. However, when my husband and I filed a complaint, we were targeted. We had to spend over \$10,000.00 to defend our innocence and another \$10,000 to file a lawsuit for property damage, embarrassment, and the loss of our family pet. I made an official complaint and a week or two later my husband and I received documents for a marijuana charge, which was clearly an attempt to punish my husband and I for standing up for our civil rights.

The police have routinely used marijuana as a way to dishonor the badge and violate the public's trust. Legislative policies have routinely protected this small faction in place of protecting the people they serve.

My son's only crime was refusing to follow an order that he knew to be unlawful and unconstitutional. False claims of a broken tail light and claims that the officer smelled marijuana gave him a blank check to harass and arrest my son for "driving while Black." You have the ability to outlaw this kind of conduct. Marijuana is not the problem. The problem is the lack of protection for all aspects surrounding marijuana.

A 2020 Maryland Court of Appeals Decision ruled that a search of a person could not be conducted based on the odor of marijuana alone. Per the court's decision, the odor of marijuana does not constitute probable cause for a warrantless arrest, as the odor does not indicate the individual is in a possession of a criminal amount of marijuana. Vehicle searches were excluded from this ruling due to a decreased expectation of privacy. However, under the court's explanation for the 2020 ruling, the delineation between searches of one's body and searches of their vehicle seems quite arbitrary.

The provision in SB 692 banning odor-based searches would follow a 2021 New York law that banned searches of this nature. This provision would eliminate mechanisms to further criminalize a substance that would otherwise be legal and would close racial disparities in enforcement.

For the foregoing reasons, I fully support SB 692 and encourage a favorable report on the bill