

Greenroom Guardians' Senate Bill 516 Written Testimony

Maryland is very excited to bring adult-use recreational cannabis to its citizens. We are making history by doing something that we have never done before and have very little experience in. As such, there are some obvious missteps that we need to correct going forward in order to make the Maryland adult-use cannabis program as fair, equitable, and successful as possible. The current bill has unnecessarily linked law enforcement to key programs and positions. It also woefully does not allow enough of those with the cannabis information and know-how that we need to make a successful program to participate in key programs and positions. Less than half of American states allow recreational use cannabis (ProCon.org, 2022). We have the opportunity to be a national blueprint for the states that follow.

Senate Bill 516, as written, has unnecessary law enforcement participation in key positions and crucial program areas. Even worse, the positions that are reserved for individuals with a policing background have little oversight or transparency and the most vulnerable in the public, namely minorities, have very few safeguards or protections. The Alcohol, Tobacco, and Cannabis Commission consists of seven members where, "one shall be knowledgeable and experienced in law enforcement matters." (Hayes & Feldman, 2023, p. 5) The Executive Director that commission, "shall be a sworn police officer with the powers granted to an officer or employee of the Field Enforcement Division." (Hayes & Feldman, 2023, p. 8). Building law enforcement officers into the key positions and critical areas of the recreational cannabis industry is a terrible idea akin to having wolves guard sheep.

The police, as an organization, have a terrible track record of unequally enforcing laws on minorities. In fact, numerous academic studies have confirmed that police routinely target minorities. Even in post-legalization states, "Black and Hispanic drivers were still more likely to be searched [at a traffic stop] than white drivers." (National Conference of State Legislatures, 24 May 22) Minorities also rarely get the same shot at justice as Whites once they have had a run in with the police. "Black and Latino offenders sentenced in state and federal courts face significantly greater odds of incarceration than similarly situated white offenders and receive longer sentences than their white counterparts in some jurisdictions." (American Civil Liberties Union Federation, 2014). It's also well known that minorities, Blacks in particular, can expect to face harsher sentences for law violations than whites. Says the U.S. Sentencing Commission, "Black men statistically received harsher prison sentences than white men who commit the same crimes." (Larche, 2022)

A major goal of this bill is to provide inclusion into the adult-use cannabis program for those who have been excluded from the medical use cannabis program, particularly women and minorities. By having The Executive Direction be a member of the police force, the state is almost guaranteeing that neither a woman or a minority has a fair shot of occupying this position. Baltimore county's police force is over 80% white (Wood, 2019). Ann Arundale county, which includes the state capital of Annapolis, has a police force that was 82% white just a couple years ago (Wood, 2019). The vast majority of police forces in the state have white and male majorities which means that neither a woman or a minority has

a fair shot of being selected to be the Executive Director, a position which holds tremendous power, especially when it comes to enforcement of adult-use recreational cannabis use.

The police are people and people have biases. As an organization, the police have shown time and again that their biases cause them to disproportionately target minorities. Placing a member of the police in one of the most prominent positions when it comes to enforcement of adult-use cannabis means that these harmful biases will become a part of The Commission and the Cannabis Regulation and Enforcement Division that serves it. By setting up the police to have one of the most influential and critical positions in regulating and enforcing Maryland's adult-use recreational cannabis, and the harmful biases towards minorities they bring with them, the State is setting up an enforcement system where the wolves guard the sheep.

The solution is simple, easy, and obvious: the best way forward for women and minorities to enjoy and be represented in the Maryland adult-use cannabis program is for the state to remove the requirement to have a law enforcement background to participate in the Alcohol, Tobacco, and Cannabis Commission, to be selected as the Executive Director, and to participate in the Cannabis Regulation and Enforcement Division. Reading through the 88-page bill, it becomes apparent that no position's responsibilities actually require a member with a law enforcement background. The Alcohol, Tobacco, and Cannabis Commission is being created to conduct studies and develop best practices for the Maryland adult-use cannabis market. There is no advantage that someone with a policing background brings to this task. The Cannabis Regulation and Enforcement Division is created to develop a seed-to-sale tracking methodology and issue and award licenses. There is no advantage that someone with a policing background brings to this task. Having a law enforcement background is neither necessary or advantageous to serving in these positions or any other position created by this bill. For the best possible outcome, the state needs to leave law enforcement to the law enforcement officers and leave policy-making and governance to the people. Otherwise, we will have wolves guarding sheep.

Although the recommendation is to eliminate the requirement that any position created for this bill be exclusive to someone with a law enforcement background, it is not to say that the police or those with a law enforcement background should not participate in the Maryland cannabis program. Their skills and knowledge of law enforcement may be valuable as consultants or advisors, not as the holders of key positions. Key positions and groups should be headed by those with experience in the adult-use recreational cannabis program. Industry experts are woefully underrepresented in this version of the bill. The Alcohol, Tobacco, and Cannabis Commission will consist of 7 positions but only 2 of those are reserved for those with any experience in the cannabis market. Maryland is attempting to do something that it has not done before. Its key positions need to be filled by those who have been where we are trying to go.

The Alcohol, Tobacco, and Cannabis Commission and its Executive Director are arguably the most powerful of those being created by this bill and there is no reason that someone with a policing background should be mandated to hold the position. If the state does not wish to remove this

mandate, there should at least be a system of checks and balances on the position. A good example is that the bill provides a lot of language making it clear that Certifying Providers have to be in good standing (Hayes & Feldman, 2023, p. 20). There is no language requiring that The Director or the members of the Cannabis Regulation and Enforcement Division, all of whom must be law enforcement officers, must be in good standing although there should be. When a law enforcement officer ends up in the news, Maryland citizens are told that he or she was just "a bad apple." It is common knowledge, however, that a couple bad apples can spoil the whole bunch and there is no language in the bill to prevent these bad apples from serving in positions that will have great power and require great responsibility and integrity. "Bad apples" are frequently reassigned or fired from one precinct only to get a job in the next county over. As a way to restore trust to the public, this bill needs language explicitly linking a police officer's negative conduct with the inability to serve as The Director or as a member of The Cannabis Regulation and Enforcement Division. Maryland does not need wolves guarding the sheep.

Maryland is very excited to bring adult-use recreational cannabis to its citizens. We cannot let our zeal overtake common sense or the responsibility we have to do what's right by all of our citizens. There is no reason for any position or organization created in this bill to be held exclusively by someone with a policing background given the propensity the police have for unfairly targeting minorities. For this bill and for Maryland adult-use recreational cannabis to work for everyone, The Executive Director and the members of the Cannabis Regulation and Enforcement Division need to be filled by the most qualified person, regardless of whether he or she has a policing background. Individuals with a policing background can be advisors or consultants but no position should be given to someone exclusively because of their policing background. If the state does go forward with mandating that The Executive Director or members of the Cannabis Regulation and Enforcement Division be made of those exclusively with policing backgrounds, then the state needs to ensure that these individuals are not the bad apples that will spoil our bunch; there is no place for bad police officers in Maryland. We need to make sure that our 1st attempt at creating a fair adult-use recreational cannabis program works for all Marylanders. We do not need a system where the wolves guard the sheep.

SOURCES CITED

- American Civil Liberties Union Federation. (2014). *Racial Disparities in Sentencing Hearing on Reports of Racism in the Justice System of the United States*. American Civil Liberties Union Federation.
https://www.aclu.org/sites/default/files/assets/141027_iachr_racial_disparities_aclu_submission_0.pdf
- Hayes, A., & Feldman, B. (2023). SENATE BILL 516. Maryland General Assembly.
<https://mgaleg.maryland.gov/2023RS/bills/sb/sb0516F.pdf>
- Larche, J. (2022, February 21). *Data shows Black men receive harsher punishments than whites for same crimes*. News 3 WTKR Norfolk. <https://www.wtkr.com/investigations/data-shows-black-men-receive-harsher-punishments-than-whites-for-same-crimes>
- National Conference of State Legislatures. (24 May 22). *Racial and ethnic disparities in the criminal justice system*. National Conference of State Legislatures. <https://www.ncsl.org/civil-and-criminal-justice/racial-and-ethnic-disparities-in-the-criminal-justice-system>
- ProCon.org. (2022, November 9). *States where recreational marijuana is legal*. State-by-State Recreational Marijuana Laws; ProCon.org. <https://marijuana.procon.org/legal-recreational-marijuana-states-and-dc/>
- Wood, P. (2019, September 11). *Across the board, Baltimore area police departments are much whiter than the people they serve*. Baltimore Sun.
<https://www.baltimoresun.com/maryland/bs-md-pol-police-diversity-20190911-2zozdposu5hebo6tnkxjcb7ji-story.html>