

SURJ

BALTIMORE

showing up for racial justice

Dear Members of Judicial Proceedings Committee

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Campaign for Justice Safety and Jobs, and the Maryland Coalition for Justice and Police Accountability. I am a resident of **District 43A**. **I am testifying in support of House Bill 1071, Reasonable Suspicion and Probable Cause - Cannabis.**

Many police encounters begin with what courts call “reasonable suspicion”: a reason to think that a crime is happening or about to happen. For decades, police have heavily relied on the odor of marijuana as a reason to stop and question people, and to search their vehicles. After all, police argue, a smell of marijuana might mean someone was carrying more than the legally permitted amount, or smoking in public, both of which are against the law. Although no one has collected data on how often the odor of marijuana is the start of a police encounter, any criminal lawyer or judge will tell you that it’s a very popular explanation when police must explain why they stopped someone.

You might think that the legalization measure passed in November would solve the problem, but it won’t: because possession of too large an amount of cannabis is still illegal, police will continue to use the excuse that they cannot tell whether or not a crime has been committed without further investigation of the odor. And since persons under 21 can’t legally possess or use cannabis, police will argue that the odor of marijuana compels them to investigate any people who appear to be under age. Most police investigative stops are already targeted at teenagers and young adults. Police point to arrests for drug and firearm possession as evidence for the success of odor-based stops. But the cases that wind up in court paint a limited picture of the effect this practice has on the community. What about the many people who are stopped, questioned, or searched by police without being charged with any crime? As long as the odor of marijuana alone remains good cause to intrude on ordinary people going about their lives, it will continue to negatively affect people and communities; particularly young, Black people.

Maryland has voted to legalize the personal possession and use of cannabis. It would be unjust to let police continue to use it as a reason to consider people suspicious and worthy of investigation. Further, you need to make sure that the final bill codifies that evidence obtained in violation of this law will be excluded from court. The exclusionary rule will not be applied by the courts if the legislature has specifically declined to say that it applies. Without the exclusionary rule, HB1071 will be toothless.

The courts of multiple jurisdictions- such as Massachusetts, New York, New Hampshire, and Oregon- have found that the odor of a legal substance cannot be the sole basis for the police to stop and investigate. New York and Virginia’s legislatures have passed laws to this effect. Maryland, having legalized marijuana, should now join them. I have attached a page to this testimony of the actions of neighbor states regarding this issue. Clearly, Maryland is behind Pennsylvania, New York City and Virginia.

It is for these reasons that I am encouraging you to vote **in support of HB1071**. Thank you for your time, service, and consideration.

Sincerely, 

David Wizer 289 W. 31st. St, Baltimore, MD 21211
Showing Up for Racial Justice Baltimore

Marijuana Arrests issues related to smell - **Submission of Testimony**

Legislation Summary: Would ban police from using the odor of marijuana as a basis for stopping or searching a person or car, and banning the use of any evidence obtained in search...

Submission of testimony related to HB 1071.

Bill title: Criminal Procedure – Reasonable Suspicion and Probable Cause – Cannabis

<https://mgaleg.maryland.gov/2023RS/bills/hb/hb1071f.pdf>

Facts to support change in Policing Policies from our neighbor states: NY, PA, & VA.

Summary of arrest patterns are discriminatory and adversely impact black citizens.

In **New York City**, for example, the police arrested black people on low-level marijuana charges at eight times the rate of whites over the last three years, with Latino people arrested at five times the rate of whites. (NY Times Editorial Board, 2018)

These disparities are all the more indefensible because low-level marijuana arrests have no public safety benefit. A [2017 analysis by Harry Levine](#), a sociology professor at Queens College, debunked the oft-heard claim that petty marijuana arrests get serious offenders off the street, noting that 76 percent of those arrested for marijuana possession during the previous year had never been convicted of any crime. (NY Times Editorial Board, 2018)

According to CNN (2019), Minor infractions such as broken taillights, the smell of marijuana, improperly displayed registration stickers ...have been criticized as a pretext for racially motivated traffic stops.

In **Pennsylvania**, Black drivers, who comprise 48% of Philadelphia's population, accounted for 72% of the nearly 310,000 traffic stops by police officers between October 2018 and September 2019, according to data from the Defender Association of Philadelphia. In 2019, the data indicates Black drivers account for 67% of stops compared to just 12% of White drivers. (CNN, 2019)

Virginia lawmakers voted in 2020 to downgrade a range of petty offenses to secondary infractions, arguing that police too often used them as [a pretext to stop and search minorities](#). Black drivers in Virginia are still being pulled over at higher rates than white drivers, per the [second annual analysis](#) of traffic stops under the state's Community Policing Act. Racial disparities in who is being pulled over, Black drivers representing 19% of the driving age population but accounting for 31% of the stops.

- Police are now barred in VA from initiating searches based on the smell of marijuana, as well as other minor infractions.

By the VA numbers: Statewide traffic stops dropped by 7.5% to 567,000 from 2020 to 2021, per the most recent analysis. (Axios, 2022)

- It's **clearly time for Maryland legislature to act & pass House Bill 1071.**