



**TESTIMONY IN SUPPORT OF HB1071, WITH AMENDMENT**  
**Criminal Law and Procedure - Cannabis - Fines for Smoking in Public, Stops,**  
**and Searches**  
**Senate Judicial Proceedings Committee, March 30, 2023**

**My name is Joanna Silver. I am a resident of Silver Spring, in District 18. I am testifying on behalf of the Silver Spring Justice Coalition in support of HB1071, with a critical amendment to codify the exclusionary rule.**

The Silver Spring Justice Coalition (SSJC) is a coalition of community members, faith groups, and civil and human rights organizations from throughout Montgomery County committed to eliminating harm caused by police and empowering those communities most affected by policing. In furtherance of this goal, it is essential that we prohibit officers from relying solely on the odor of cannabis as the basis for reasonable suspicion or probable cause to believe someone is engaged in criminal activity. *It is also essential that this prohibition be enforced by a clear and codified enactment of the exclusionary rule so that evidence seized in violation of this prohibition cannot be used against a defendant in a criminal proceeding.*

The odor of cannabis has long served as a pretext for officers to conduct stops, to prolong stops, and to search in the hopes that they will find evidence of some other criminal activity. We know that the weight of these invasive and often dehumanizing stops and searches falls most heavily on Black and brown community members because they are the ones who are most frequently targeted by police. Where I live in Montgomery County, from 2018 to 2022, Black drivers were the subject of 31% of all traffic stops, despite being only 18% of our population, and Black drivers constituted 43% of all searches conducted during a traffic stop.

These racially-biased stops and searches come at a great cost: in 2022, Black people were four times more likely to have force used against them by Montgomery County police officers than White people. Now that Marylanders have voted to legalize cannabis, there is simply no excuse to continue to subject so many members of our community to an unnecessary risk of harm.

I want to address two of the excuses we frequently hear for allowing officers to continue to rely on odor alone, particularly in traffic stops.

First, this law will not prevent officers from investigating drivers who are under the influence of cannabis; they simply need some evidence of impairment other than odor. This rule makes sense and does not hamstring officers because we know that odor does not equal impairment. Moreover, in my day job I have been a public defender for over 20 years and I can't remember a single case in which cannabis was the substance that caused my client's impaired driving - it is almost exclusively alcohol and PCP that I've seen in DUI cases.

Second, pretext traffic stops are not a necessary crime-fighting tool. Last year there were almost 36,000 traffic stops in Montgomery County and we've learned that those stops resulted in the seizure of 172 guns. This is an incredibly ineffective way to find guns and is certainly not worth the racially disparate harms to our community. This suburban form of stop and frisk is not good policy and should not be embraced as a reason to continue to stop and search people for the odor of cannabis. That police clearly use the odor of cannabis as a pretext to search the cars of people they suspect (based on racial profiling) may have contraband inside is precisely why this bill must be amended with a codified exclusionary rule to make it clear that if evidence is seized in violation of this new law, it cannot be admitted against a defendant in a criminal proceeding. Anything short of that will fail to deter police from violating the law and leave people wrongfully stopped or searched with no redress.

For these reasons I respectfully urge you to amend HB1071 to add a codified exclusionary rule and to issue a favorable report.