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TESTIMONY ON HB1071 - POSITION: FAVORABLE WITH AMENDMENTS
HB1071 - Criminal Procedure – Reasonable Suspicion and Probable Cause – Cannabis

TO: Senate Judicial Proceeding Committee, Chair Smith & Vice Chair Waldstreicher

FROM: Carol Stern

My name is Carol Stern, and I am testifying in favor with amendments of HB1071 Criminal Procedure – Reasonable Suspicion and Probable Cause – Cannabis, as a resident of Montgomery County’s District 16 and a member of Adat Shalom Reconstructionist Congregation in Bethesda.

The biblical commentator Rashi, writing in the 11th century, noted when judges (shoftim) rendered a legal decision, it was the police (shotrim) who were charged with enforcing that law even by using physical force. However, throughout the literature of the Jewish sages, attention has been given to the conduct, the decency and the character of both institutions. Both judges and police are expected to comport themselves in keeping with the highest standards of Jewish law and ethical teaching. Further, in the Torah, we find instruction that the law should be applied equally and fairly to all, regardless of social status or origins. When we are working to reform our criminal justice system, we must demand that it operates in accordance with these deeply held Jewish beliefs.

Ending odor searches will reduce police violence, especially towards Black and brown Marylanders. However, if the exclusionary rule is not codified, the bill will be unenforceable and will not deter the police from conducting illegal searches.

While police are required to obtain a search warrant before conducting a search, the smell of cannabis is used as an exception to this constitutional right. Within the last few years, officers in several states were found to have lied about smelling cannabis, which is now legal in Maryland, before conducting a search. In Maryland, Black drivers are more likely to be stopped and searched by police. For incidents involving Black drivers, probable cause (including the odor of cannabis) was used to justify 67% of searches, compared to 46% of incidents involving white drivers.

Traffic stops disproportionately injure and kill drivers of color. Pulling drivers out of their car because of the lingering odor of a legal substance adds further danger to these stops. Banning odor searches would reduce unnecessary, harmful interactions with the police and eliminate a gateway to the unjust criminalization of Black and brown people. Banning odor searches adds much needed reforms for all Maryland residents with equality and the respect that all people deserve.

I respectfully urge a favorable with amendments report on HB1071.