

**Testimony for the House Judiciary Committee  
Thursday, March 9th, 2023**

**HB 1071 - Criminal Procedure - Reasonable Suspicion and Probable Cause  
- Cannabis**

**FAVORABLE**

Dear Chair Clippinger, Vice Chair Moon, and committee members,

My name is Dr. Matthew Fogg. I'm a retired Chief Deputy U.S. Marshal with 32 years of Federal Service and I'm speaking as the Heritage Chapter President of Blacks In Government (BIG). I'm also, a member of the [Caucus of African American Leaders](#) in the Great State of Maryland (CAAL).

BIG is a 501(c)3 Black employee advocacy organization Chartered in Washington, DC, in 1976 with chapters nationwide and seeks to represent approximately 2.5 million Federal, State, and municipal employees. Visit <http://www.bignet.org/>

I have previously [testified before the Annapolis, Maryland legislators](#) calling for Whistleblower protection of law enforcement officers who expose rogue colleagues. I agree with SB 1071 for the following reasons: I spent my entire 30-year Federal career in law enforcement with the U.S. Marshals Service (USMS) under the supervision of the U.S. Department of Justice (USDOJ) involving nationwide enforcement operations. In nearly half of my tenure, I became an advocate for internal racial equality and inclusion that garnered a Federal civil rights Jury Verdict—finding that my federal career was an [environment that was racially hostile to African American deputy U.S. marshals](#).

I supervised and worked in tandem with the Federal task force and dragnet operations involving state and municipal police in many major cities, including Maryland. As a result, I observed firsthand policing in various jurisdictions, involving extensive manhunts of 'America's Most Wanted' fugitives and being cross-designated as a U.S. Drug Enforcement Special Agent(DEA) that spearheading the Federal law enforcement initiative known as the 'War-on-Drugs' (WoD).

Soon after arriving at my duty station in Washington, DC, my White supervisor told me, *"Fogg, I know you have all that fancy training, but let most of that go because this is how we do things here."*

It was clear to me I was now in a culture of indifference by default in a predominately Black community, making up the rules of engagement as the (law enforcement) culture deemed necessary and in opposition to our training, policy, and proper procedures. It was as though Black lives didn't matter!

Within that same culture, law officers were expected to follow the non-policy operational procedures, which meant [supporting excessive force, misconduct, testy-lying and whatever the illegal culture called for](#) against the people we swore to protect and serve and to get our arrest numbers up by providing a media image that we were warring on crime and illegal drugs in Black communities.

After decades of proof of the economic and racial harm deliberately caused by marijuana criminalization and enforcement, Marylanders have voted to legalize adult use and possession of the substance. This is a major step forward in repairing the harms done by the "war on drugs", which, as the data has made clear, is really a war on Black and Brown people. But, there are still dangerous loopholes left that can be used to racially profile Black and Brown Marylanders and violate their Fourth Amendment protections. The preservation of these loopholes is fueled by the "war on drugs" mentality that has destroyed so many communities and lives in our state. One of the more egregious loopholes is the police having the power to conduct investigatory stops and vehicle searches based *solely* on their belief that they smelled marijuana.

I'll never forget my DEA Supervisor and Special Agent-In-Charge telling me we could not enforce the drug laws in affluent White neighborhoods like we did in Black communities. His rationale was the White violators had support from Judges, good lawyers, politicians, money, and influence that would bring scrutiny on our procedures and could end up shutting down our operations, our arrest, overtime, and property seizures.

I've come to the realization early on in my Law enforcement career that absolute public transparency at all levels was necessary, and any shroud of secrecy becomes an albatross to police integrity and creates absolute power that corrupts absolutely.

Marijuana odor has been used as a loophole to justify racial profiling, intrusive searches, and police escalation for far too long. As we look forward to legalization, this body must ensure that the smell, or perception of a smell, of a soon-to-be legal substance cannot be used to justify a stop and search of an individual or their vehicle.

For the foregoing reasons, as President of the Blacks In Government Heritage Chapter we urge favorable report on HB 1071