

MCPA-MSA-SB 396-Odor of Cannabis-Drug Free Roadway

Uploaded by: Andrea Mansfield

Position: FAV



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 2, 2024

RE: **SB 396 – Criminal Procedure – Stops and Searches – Cannabis Odor and Admission
of Evidence (Drug-Free Roadways Act of 2024)**

POSITION: **SUPPORT**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) SUPPORT SB 396. This bill would distinguish stops and searches of motor vehicles from stops and searches of individuals. The bill also removes language excluding evidence from any trial, hearing, or other proceeding.

SB 396 will still prohibit law enforcement officers from stopping or searching a motor vehicle based solely on possession or suspicion of a lawful amount of cannabis. However, SB 396 *removes a prohibition* against stopping or searching motor vehicles based solely on the odor of cannabis. SB 396 does *not* authorize a law enforcement to stop or search a motor vehicle based solely on odor. A law enforcement officer must still comply with the Fourth Amendment's commands regarding traffic encounters: stops require reasonable suspicion that criminal activity is or is about to occur and searches require probable cause to believe that evidence or contraband is present.

Currently, an individual in Maryland is legally able to possess up to 1.5 ounces of cannabis. Possession of any amount of cannabis beyond that is illegal. Possession of cannabis by individuals under the age of 21 continues to be illegal, regardless of the amount.

Prior to the partial legalization of cannabis, the Court of Appeals (now the Supreme Court of Maryland) had held that the odor of cannabis alone provides a law enforcement officer with probable cause to search a vehicle for the contraband, *Robinson v. State*, 451 Md. 94 (2017), and reasonable articulable suspicion to briefly detain to investigate if a criminal offense was occurring, *In re D.D.*, 479 Md. 206 (2022). The Court of Appeals also determined that the odor of cannabis alone did not provide an officer with probable cause to arrest a person. *Lewis v. State*, 470 Md. 1 (2020). The Court recognized the difference between reasonable suspicion and probable cause from burdens of proof in a court proceeding, and the importance of allowing police officers to use information available to investigate and enforce the criminal laws of the State. The Court's reasoning will continue to be completely true for individuals under 21 and for those smoking cannabis in public.

The Attorney General provided an Opinion discussing the impact of partial legalization on search and seizure issues. 107 Op.Att’y Gen. 153 (2022). Given that “probable cause” in the context of vehicle searches “requires only a fair probability that evidence of a crime is present,” *Id.* at 183, the Attorney General concluded that odor of cannabis in a vehicle could continue, by itself, to amount to probable cause. Similarly, the Attorney General concluded that the Supreme Court of Maryland “would hold that officers still have the authority to briefly detain someone who smells of cannabis.” *Id.* at 195.

The Attorney General very carefully and thoroughly discussed the issues surrounding searches and seizures and cannabis. The Attorney General reached the correct conclusions. Using odor of cannabis alone as grounds to briefly detain a person or to search a vehicle will not necessarily violate the Fourth Amendment and would be reasonable.

In general, if the government obtains evidence in violation of the Fourth Amendment’s reasonable articulable suspicion or probable cause requirements, the evidence is not allowed to be used by the government in a *criminal* trial. *See, e.g., Mapp v. Ohio*, 367 U.S. 643 (1961) (applying an evidence exclusionary rule to the States). Removing the exclusion provision from the statute returns the question of exclusion to the courts and will allow evidence to be admitted in civil and administrative proceedings, including police discipline hearings.

For these reasons, MCPA and MSA SUPPORT SB 396 and urge a FAVORABLE Committee report.

Testimony SB0396, Miller CL.pdf

Uploaded by: Christine Miller

Position: FAV

SB0396
Criminal Procedure - Stops and Searches –
Cannabis Odor and Admission of Evidence
(Drug-Free Roadways Act of 2024)
Favorable testimony

Christine L. Miller, Ph.D.
6508 Beverly Rd
Idlewylde, MD 21239
443-520-0485
cmiller@millerbio.com

1. Other states that have legalized cannabis have maintained laws that allow the smell of cannabis to be probable cause to search a vehicle.

I'll focus primarily on Colorado, having recently visited there and observed only the rare instance of a vehicle passing and emitting the smell of pot smoke. In contrast, smelling pot from a passing vehicle is a regular occurrence on Maryland highways and in the residential streets of my neighborhood.

Below are the links to the relevant Colorado laws:

[From a Colorado law firm](#): “They don’t have to see a joint lit to say, ‘There’s the evidence.’ **They can say, ‘I smell something like marijuana.’** That’s enough.” With probable cause that a vehicle has contraband—drugs, weapons, open containers of alcohol, stolen property, etc.—police can engage in a warrantless search.”

[From the Colorado government on probable cause related to open containers](#):

“No open containers:

- Neither drivers nor passengers are allowed to open any marijuana packaging and use the product while in a vehicle, even if you are not moving.
- You can be charged with a traffic offense if the marijuana product seal has been broken, some of the product has been consumed and **there’s evidence that it was used in the car.**”

[From a ruling of the Colorado Supreme Court](#):

“This inquiry is consistent with and reinforced by the Colorado Supreme Court's 2016 decision in *People v. Zuniga*, 372 P.3d 1052, 1057 (Colo. 2016), in which it was asked to review what “role the odor of marijuana can play in the totality of the circumstances test in light of the fact that possession of one ounce or less of marijuana is now allowed under Colorado law..... **The Colorado Supreme Court explained that the odor of marijuana is properly included in a totality of the circumstances analysis “and the possibility of an innocent justification merely affects a fact's weight and persuasiveness, not its inclusion in the analysis.”** Id. at 1058”

2. Traffic fatalities are increasing since legalization of cannabis in Maryland

<https://patch.com/maryland/baltimore/crash-deaths-md-roads-surpass-5-year-average-data>

In keeping with published reports on traffic fatalities increasing in other states that have legalized this drug:

<https://www.sciencedirect.com/science/article/abs/pii/S095539592300049X>

“Consistent with past studies, results from conventional TWFE suggest traffic fatalities increase at a rate of 1.2 per billion vehicle miles traveled (BVMT) after retail of recreational marijuana begins. However, using the CS-DID model, we find slightly larger average total treatment effects (~2.2 fatalities per BVMT). Moreover, the size of the effect changes across time, where cohorts “treated” earlier have substantially higher increases than those who more recently legalized.”

<https://www.cmajopen.ca/content/cmajo/9/1/E233.full.pdf>

“Recreational cannabis legalization in the US was associated with a relative increased risk of fatal motor vehicle collisions of 15% and a relative increase in associated deaths of 16%, with no conclusive difference between the first and subsequent years after legalization. These findings raise concern that there could be a similar increase in fatal motor vehicle collisions and associated deaths in Canada following recreational cannabis legalization.”

<https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2767643>

Change in Traffic Fatality Rates in the First 4 States to Legalize Recreational Marijuana

“Our unadjusted difference-in-difference analysis showed an increase of 2.1 (95% CI, 1.2-2.9; P < .001) traffic fatalities per billion vehicle miles traveled (BVMT) in experimental states relative to control states in the post-commercialization study period. Including covariates, the increase was 2.1 (95% CI, 1.3-3.0; P < .001) traffic fatalities per BVMT.”

- 3. How can any of us forget that the horrific crash on the Baltimore Beltway in 2023 that killed 6 construction workers instantly, involved a woman driving at 120 mph while positive for THC?** We may never know how many more fatalities like this involve driving under the influence of marijuana. In the Beltway case, it was only because the NTSB was involved that drugs had to be tested for. This information was kept quiet by Maryland officials as long as possible, until the court documents were filed by necessity.

In addition to traffic accident fatalities increasing, crime is increasing markedly in my county since legalization (<https://owingsmills.patch.com/>), as has been seen in other states that have legalized, primarily driven by the expansion of black market activities (a simple google search will pull up many examples of this[phenomenon, from California to Colorado to Canada). Without laws like SB0396 to help protect the public health and safety of citizens from the consequences of marijuana legalization, I will consider moving from Maryland to a safer state.

SB 396 - Stops and Searches.pdf

Uploaded by: Scott Shellenberger

Position: FAV

Bill Number: SB 396
Scott D. Shellenberger, State's Attorney for Baltimore County
Support

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF SENATE BILL 396
STOPS AND SEARCHES

I write in support of Senate Bill 396 that moves criminal procedure Article 1 – 211 closer to accepted 4th Amendment principles than the current statute.

For centuries, stops and searches have been covered by the 4th Amendment. For decades, case law has outlined what police were allowed to do and not allowed to do when searching a vehicle. House Bill 1071 from 2023 changed long established 4th Amendment principles for car searches by declaring that the odor of cannabis cannot be the basis for a stop or a search. The Legislature adds that possession of cannabis in an amount that constitutes personal use or the presence of currency near cannabis also cannot lead to a search.

Senate Bill 396 changes this slightly. Under Senate Bill 396 a stop or search of a person or vessel still cannot be based on the odor of cannabis, etc.

Senate Bill 396 changes the rule back regarding the odor of cannabis in a car. The prohibition to stop or search based upon an amount of cannabis that constitutes personal use or presence of currency is preserved.

Senate Bill 396 reaffirms that even if a search is allowed only areas that are accessible to the driver can be searched.

Please remember there is another legal substance that if smelled in connection to a car can allow an officer to take reasonable steps in line with the 4th Amendment. Think about how we handle alcohol. Cannabis should be handled the same way.

I urge a favorable report.

Tibbals_Support SB 396_ - Stops and Searches - Ca

Uploaded by: Trudy Tibbals

Position: FAV

SB 396: Criminal Procedure - Stops and Searches - Cannabis Odor and Admission of Evidence (Drug-Free Roadways Act of 2024): Please support this bill!!

Dear Chair Smith & Vice Chair Waldstreicher and all other esteemed Committee Members:

Please support this bill!!

It is very important to have safe roadways for all drivers. Police officers should be allowed to pull over vehicles for having a Cannabis odor, as well as an alcohol odor.

Please vote to support this bill in order to keep our roadways as safe as possible for all drivers.

Thank you.

Trudy Tibbals

A Very Concerned Mother and Maryland resident

SB0396 (2024) FAV vmcavoy.pdf

Uploaded by: vince mcavoy

Position: FAV

SB0396
favorable
vince mcavoy
baltimore md 21203

Senators of Senate JPR,
Since the permissive effort toward legalization in my state, Maryland and particularly the Baltimore region has seen vast changes due to use of marijuana products. Increased crime. Increased robbery and carjackings. The stench of marijuana on the roads from early in the morning to very late. Large stores we all shop in reeking after only 1 or 2 individuals exhale inside a WholeFoods or a Marshall's.



<https://www.cnn.com/2023/09/06/health/marijuana-traffic-accidents-wellness/index.html>

SB396 is a good start but the repeal should include repealing “personal amount use”. Are you senators not reading the harm this drug has caused in the past 5 years? You should be stopping harm, not just trying to walk back the worst part of a bill that was inane, pathological and against scientific fact. Marijuana is now THE number one drug of addiction in America. It is the number TWO cause of deaths on highways. This notion of “personal use amount” is in direct defiance of the U.S. Constitution and federal supremacy on such matters. I urge you to redo lines 7-10 below.

1 (2) the possession or suspicion of possession of cannabis that does not
2 exceed the personal use amount, as defined under § 5-601 of the Criminal Law Article; or

3 (3) the presence of cash or currency in proximity to cannabis without other
4 indicia of an intent to distribute.

5 (b) A LAW ENFORCEMENT OFFICER MAY NOT INITIATE A STOP OR A SEARCH
6 OF A MOTOR VEHICLE BASED SOLELY ON ONE OR MORE OF THE FOLLOWING:

7 (1) THE POSSESSION OR SUSPICION OF POSSESSION OF CANNABIS
8 THAT DOES NOT EXCEED THE PERSONAL USE AMOUNT, AS DEFINED UNDER § 5-601
9 OF THE CRIMINAL LAW ARTICLE; OR

10 (2) THE PRESENCE OF CASH OR CURRENCY IN PROXIMITY TO
11 CANNABIS WITHOUT OTHER INDICIA OF AN INTENT TO DISTRIBUTE.

Chairman Harris Issues Statement In Response To Study Showing Recreational Marijuana Users Commonly Struggle With Cannabis Use Disorder



August 31, 2023


Washington, D.C. –Congressman Andy Harris M.D. (MD-01), Chairman of the House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies released the following statement in response to the Journal of the American Medical Association Network Open (JAMA) study showing 21% of recreational cannabis users struggle with cannabis use disorder (CUD) after cannabis became legal. According to the National Health Institute, clinicians characterize cannabis use disorder as a problematic use of cannabis. Common symptoms include:


1. A persistent desire or unsuccessful efforts to cut down or control cannabis use.
 2. A great deal of time is spent in activities necessary to obtain cannabis, use cannabis, or recover from its effects.
 3. Craving, or a strong desire or urge to use cannabis. According to the study, recreational cannabis users experienced a more severe form of CUD whereas the disorder was still
- <https://harris.house.gov/media/press-releases/chairman-harris-issues-statement-response-studyshowing-recreational-marijuana>




Fatal crashes in the 5 years after recreational marijuana legalization in Colorado and Washington

Jayson D. Aydelotte ^a, Alexandra L. Mardock ^b, Christine A. Mancheski ^c, Shariq M. Quamar ^d, Pedro G. Teixeira ^a, Carlos V.R. Brown ^a, Lawrence H. Brown ^c  

Show more 

+ Add to Mendeley  Share  Cite


<https://doi.org/10.1016/j.aap.2019.105284>

[Get rights and content](#) 

Referred to by [Corrigendum to “Fatal crashes in the 5 years after recreational marijuana legalization in Colorado and Washington” \[Accid. Anal. Prev. 132 \(2019\)...](#)

Accident Analysis & Prevention, Volume 151, March 2021, Pages 105757

Jayson D. Aydelotte, Alexandra L. Mardock, Christine A. Mancheski, Shariq M. Quamar, Pedro G. Teixeira, Carlos V.R. Brown, Lawrence H. Brown

 [View PDF](#)

Abstract

Colorado and Washington legalized recreational marijuana in 2012, but the effects of legalization on motor vehicle crashes remains unknown. Using Fatality Analysis Reporting System data, we performed difference-in-differences (DD) analyses comparing changes in fatal crash rates in Washington, Colorado and nine control states with stable anti-marijuana laws or [medical marijuana](#) laws over the five years before and after recreational marijuana legalization. In separate analyses, we evaluated fatal crash rates before and after commercial marijuana dispensaries began operating in 2014. In the five

<https://www.sciencedirect.com/science/article/abs/pii/S0001457519310267>

In public, this stench serves as indicators of the products where vaping and smoking marijuana blunts occurs. Unlike decades ago, this stench is often near children now. The widespread use of marijuana places children inside vehicles and on the road at even higher risk. The health hazards which children experience would be of particular concern for most responsible adults. The White paper study attached with this testimony affirms this hazard to children which Annapolis has not yet alleviated.

Each day in Maryland, children are locked into vehicle cabins and forced to inhale marijuana. In addition to the short- and long-term physical, moral, mental and social harm being imposed on children – on MERE CHILDREN - in vehicles in which marijuana is being smoked, this exposure to today’s extremely high-potency THC products means that children are being forced

into a moving vehicle, weighing tons with an operator who is not managing her/his life in a responsible, safe, child-centric manner.

Full length article

Non-smoker exposure to secondhand cannabis smoke II: Effect of room ventilation on the physiological, subjective, and behavioral/cognitive effects

Evan S. Herrmann^{a,*}, Edward J. Cone^a, John M. Mitchell^b, George E. Bigelow^a, Charles LoDico^c, Ron Flegel^c, Ryan Vandrey^a

^a Behavioral Pharmacology Research Unit, Johns Hopkins University School of Medicine, Baltimore, MD 21224, USA

^b Research Triangle Institute, Research Triangle Park, NC 27709, USA

^c Substance Abuse and Mental Health Services Administration, Rockville, MD, USA

ARTICLE INFO

Article history:

Received 10 October 2014

Received in revised form 17 March 2015

Accepted 18 March 2015

Available online xxx

Keywords:

Cannabis

Marijuana

THC

Exposure

Secondhand

Cognitive

ABSTRACT

Introduction: Cannabis is the most widely used illicit drug. Many individuals are incidentally exposed to secondhand cannabis smoke, but little is known about the effects of this exposure. This report examines the physiological, subjective, and behavioral/cognitive effects of secondhand cannabis exposure, and the influence of room ventilation on these effects.

Methods: Non-cannabis-using individuals were exposed to secondhand cannabis smoke from six individuals smoking cannabis (11.3% THC) ad libitum in a specially constructed chamber for 1 h. Chamber ventilation was experimentally manipulated so that participants were exposed under unventilated conditions or with ventilation at a rate of 11 air exchanges/h. Physiological, subjective and behavioral/cognitive measures of cannabis exposure assessed after exposure sessions were compared to baseline measures.

Results: Exposure to secondhand cannabis smoke under unventilated conditions produced detectable cannabinoid levels in blood and urine, minor increases in heart rate, mild to moderate self-reported sedative drug effects, and impaired performance on the digit symbol substitution task (DSST). One urine specimen tested positive at using a 50 ng/ml cut-off and several specimens were positive at 20 ng/ml. Exposure under ventilated conditions resulted in much lower blood cannabinoid levels, and did not produce sedative drug effects, impairments in performance, or positive urine screen results.

Conclusions: Room ventilation has a pronounced effect on exposure to secondhand cannabis smoke. Under extreme, unventilated conditions, secondhand cannabis smoke exposure can produce detectable levels of THC in blood and urine, minor physiological and subjective drug effects, and minor impairment on a task requiring psychomotor ability and working memory.

size of room, amount of cannabis consumed, duration of exposure, and frequency of such exposure are all variables that likely would influence outcomes in the real world. That said, several study participants reported previous secondhand exposure experiences that resembled the unventilated study condition, which indicates our exposure model has some degree of ecological validity. Furthermore, testing the effects of passive exposure among a balanced sample of women and men should be regarded as a strength because it speaks to the generality of our results.

In conclusion, this study indicates that absorption of cannabinoids can result from secondhand exposure to cannabis smoke. Room ventilation had a significant impact on the degree of cannabinoid absorption and on resultant pharmacodynamic effects. Nonsmokers exposed under unventilated conditions reported low to moderate levels of sedative drug effects that corresponded with minor impairment in cognitive performance, while nonsmokers exposed under ventilated conditions reported no significant subjective effects and did not have impairment in cognitive performance. These results suggest that extreme conditions like those examined in this study may result in biological exposure sufficient to produce measurable subjective effects, decreases in behavioral/cognitive performance, and could produce a positive drug test result within a short window of time following exposure.

Author disclosures

Role of funding source

Funding for this project was provided by SAMHSA. Additional resources were provided by: (1) the Johns Hopkins Clinical Research Unit, which is funded by Grant UL1TR001079 UL1RR025005 from the National Center for Research Resources (NCRR), a component of the NIH, and NIH Roadmap for Medical Research, (2) NIDA training grant T32-DA07209, which supported Dr. Herrmann, and (3) The NIDA Drug Supply Program for providing cannabis.

Contributors

Authors Edward Cone, John Mitchell, George Bigelow, Charles LoDico, Ron Flegel, and Ryan Vandrey designed the study and developed the protocol. Evan Herrmann, Edward Cone, and Ryan Vandrey managed literature searches and summaries of previous work. Evan Herrmann and Ryan Vandrey undertook the statistical analysis. Evan Herrmann, Edward Cone, John Mitchell, George Bigelow, Charles LoDico, Ron Flegel, and Ryan Vandrey wrote the

References

- Casswell, S., Marks, D., 1973. Cannabis induced impairment of performance of a divided attention task. *Nature* 241, 60–61.
- Cone, E.J., Bigelow, G.E., Herrmann, E.S., Mitchell, J.M., LoDico, C., Flegel, R., Vandrey, R., 2015. Non-smoker exposure to secondhand cannabis smoke. I. Urine screening and confirmation results. *J. Anal. Toxicol.* 39, 1–12.
- Cone, E.J., Johnson, R.E., 1986. Contact highs and urinary cannabinoid excretion after passive exposure to marijuana smoke. *Clin. Pharmacol. Ther.* 40, 247–256.
- Cone, E.J., Johnson, R.E., Darwin, W.D., Yousefnejad, D., Mell, L.D., Paul, B.D., Mitchell, J., 1987. Passive inhalation of marijuana smoke: urinalysis and room air levels of delta-9-tetrahydrocannabinol. *J. Anal. Toxicol.* 11, 89–96.
- Cooper, Z.D., Haney, M., 2014. Investigation of sex-dependent effects of cannabis in daily cannabis smokers. *Drug Alcohol Depend.* 136, 85–91.
- Curran, V.H., Brignell, C., Fletcher, S., Middleton, P., Henry, J., 2002. Cognitive and subjective dose-response effects of acute oral Δ^9 -tetrahydrocannabinol (THC) in infrequent cannabis users. *Psychopharmacology* 164, 61–70.
- Fehr, K.O.B., Kalant, H., 1972. Analysis of cannabis smoke obtained under different combustion conditions. *Can. J. Physiol. Pharmacol.* 50, 761–767.
- Gronwall, D.M., 1977. Paced auditory serial-addition task: a measure of recovery from concussion. *Percept. Mot. Skills* 44, 367–373.
- Gueorguieva, R., Krystal, J.H., 2004. Move over anova: progress in analyzing repeated-measures data and its reflection in papers published in the *Archives of General Psychiatry*. *Arch. Gen. Psychiatry* 61, 310–317.
- Hollister, L.E., Gillespie, H.K., 1975. Action of delta-9-tetrahydrocannabinol. An approach to the active metabolite hypothesis. *Clin. Pharmacol. Ther.* 18, 714–719.
- Hollister, L.E., Gillespie, H.K., Ohlsson, A., Lindgren, J.E., Wahlen, A., Agurell, S., 1981. Do plasma concentrations of 89-tetrahydrocannabinol reflect the degree of intoxication? *J. Clin. Pharmacol.* 21, 1715–1775.
- Hooker, W.D., Jones, R.T., 1987. Increased susceptibility to memory intrusions and the Stroop interference effect during acute marijuana intoxication. *Psychopharmacology* 91, 20–24.
- Hunault, C.C., Böcker, K.B., Stellato, R.K., Kenemans, J.L., de Vries, I., Meulenbelt, J., 2014. Acute subjective effects after smoking joints containing up to 69 mg Δ^9 -tetrahydrocannabinol in recreational users: a randomized, crossover clinical trial. *Psychopharmacology* 231 (24), 4723–4733.
- Huestis, M.A., Henningfield, J.E., Cone, E.J., 1992. Blood cannabinoids. I. Absorption of THC and formation of 11-OH-THC and THCCOOH during and after smoking marijuana. *J. Anal. Toxicol.* 16, 276–282.
- Jarbe, T.U.C., Mechoulam, R., Zahalka, J., 1994. Discriminative stimulus- and open-field effects of the enantiomers of 11-hydroxy-delta-8-tetrahydrocannabinol in pigeons and gerbils. *Pharmacol. Biochem. Behav.* 47, 113–119.
- Kosersky, D.S., McMillan, D.E., Harris, L.S., 1974. Δ^9 -Tetrahydrocannabinol and 11-hydroxy- Δ^9 -tetrahydrocannabinol: behavioral effects and tolerance development. *J. Pharmacol. Exp. Ther.* 189, 61–65.
- Law, B., Mason, P.A., Moffat, A.C., King, L.J., Marks, V., 1984. Passive inhalation of cannabis smoke. *J. Pharm. Pharmacol.* 36, 578–581.
- Lemberger, L., Martz, R., Rodda, B., Forney, R., Rowe, H., 1973. Comparative pharmacology of Δ^9 -tetrahydrocannabinol and its metabolite, 11-OH- Δ^9 -tetrahydrocannabinol. *J. Clin. Invest.* 52, 2411–2417.
- Mason, A.P., Perez-Reyes, M., McBay, A.J., Foltz, R.L., 1983. Cannabinoid concentrations in plasma after passive inhalation of marijuana smoke. *J. Anal. Toxicol.* 7, 172–174.
- Matthias, P., Tashkin, D.P., Marques-Magallanes, J.A., Wilkins, J.N., Simmons, M.S., 1997. Effects of varying marijuana potency on deposition of tar and δ^9 THC in the lung during smoking. *Pharmacol. Biochem. Behav.* 58, 1145–1150.

Conflict of interest

All authors declare that they have no conflicts of interest.

Acknowledgements

The authors thank Jeannie M. Leoutsakos for statistical support, the outstanding support of the research, nursing, and pharmacy staff of the Johns Hopkins Behavioral Pharmacology Research Unit (BPRU), the Johns Hopkins Bayview Facilities group, Johns Hopkins Bayview Clinical Research Unit, Support staff at RTI International, and the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA). Without the coordinated effort of all these people, this study would not have been possible.

55, 1209–1217.

- Milman, G., Bergamaschi, M.M., Lee, D., Mendu, D.R., Barnes, A.J., Vandrey, R., Huestis, M.A., 2014. Plasma cannabinoid concentrations during dronabinol pharmacotherapy for cannabis dependence. *Ther. Drug Monit.* 36, 218–224.
- Moore, C., Coulter, C., Uges, D., Tuyay, J., Van der Linde, S., Van Leeuwen, A., Garnier, M., Orbita Jr., J., 2011. Cannabinoids in oral fluid following passive exposure to marijuana smoke. *Forensic Sci. Int.* 212, 227–230.
- Mørland, J., Bugge, A., Skuterud, B., Steen, A., Wethe, G.H., Kjeldsen, T., 1985. Cannabinoids in blood and urine after passive inhalation of Cannabis smoke. *J. Forensic Sci.* 30, 997–1002.
- Niedbala, R.S., Kardos, K.W., Fritch, D.F., Kunsman, K.P., Blum, K.A., Newland, G.A., Waga, J., Kurtz, L., Bronsgeest, M., Cone, E.J., 2005. Passive cannabis smoke exposure and oral fluid testing. II. Two studies of extreme cannabis smoke exposure in a motor vehicle. *J. Anal. Toxicol.* 29, 607–615.
- Perez-Reyes, M., Davis, K.H., Di Guiseppi, S., 1983. Passive inhalation of marijuana smoke and urinary excretion of cannabinoids. *JAMA* 249, 475.
- Ramaekers, J.G., Kauert, G., Theunissen, E.L., Toennes, S.W., Moeller, M.R., 2009. Neurocognitive performance during acute THC intoxication in heavy and occasional cannabis users. *J. Psychopharmacol.* 23, 266–277.



Photo by Michael Jin from Unsplash

MARIJUANA NEWS

Legalizing marijuana linked to spikes in deadly car accidents in several U.S. states

JUNE 19, 2023

6 COMMENTS

by StudyFinds

CHICAGO — The legalization of cannabis in the United States appears to have a link to an increase of 22 percent in fatal road crashes in certain states, according to a startling study. Researchers from the University of Illinois Chicago School of Public Health investigated seven states that permit recreational cannabis dispensaries. Their findings revealed that fatal road accidents had escalated dramatically in four of these states.

On average, fatal crashes have seen a rise of 10 percent. The researchers employed data from death certificates to contrast mortality rates in states where recreational

<https://studyfinds.org/legalizing-marijuana-car-accidents/>

Annapolis Democrats know that the truth is out there showing increased harm to children. These “lawmakers” wish to inflict addiction on our children before adults even know what

current experts are highlighting as the harm toward children. Of course, decent parents and human beings know this. They know that there is no reason to drive and smoke marijuana other than in a dope-addict, recreational-druggy context. This attraction to recreationally killing braincells and inducing marijuana psychosis gives both secular and non-secular reasons to ban the ability to drive using drugs without serious prison time. The use of marijuana brings self-damage and damage of children's lives due to drug use.

The Catechism Condemns Drug Use for Recreational Purposes

The Catechism categorically condemns recreational drug use as sinful and harmful to the individual, noting:

“The use of drugs inflicts very grave damage on human health and life. Their use, except on strictly therapeutic grounds, is a grave offense. Clandestine production of and trafficking in drugs are scandalous practices. They constitute direct cooperation in evil, since they encourage people to practices gravely contrary to the moral law”.

The Catechism's pronouncement condemning recreational drug use, calls it “a scourge”, and proclaiming that there is “no room for illicit drugs, for alcohol abuse, [or] other forms of addiction ”.

It further points out how drug addiction is “a new form of slavery”, and those who abuse drugs have “lost their freedom.” There are serious, suicide-inducing, harmful side effects from marijuana use, especially on young users. It is also prohibited by federal law. The Church unequivocally condemns the use of drugs (including marijuana) for purely recreational purposes.

humbly
~vince

SB0396- Opposition to Drug-Free Roadways Act.pdf

Uploaded by: Alicia Pereschuk

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 MD District 43. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396**.

Thank you for your time, service, and consideration.

Sincerely,
Alicia Pereschuk
321 W 28th St
Baltimore MD 21211
Showing Up for Racial Justice Baltimore

SB0396_Juberg_Unfavorable.pdf

Uploaded by: Arielle Juberg

Position: UNF

Dear Members of the 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, Baltimore County, and Howard County. We are 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 8. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**

I share the bill sponsors' interest in safe and drug-free roadways. However, SB0396 is primarily focused on repealing last year's HB1071, which banned searches based on the odor of marijuana.

The odor of marijuana has long been an excuse to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people trying to live their lives.

Rather than conducting unnecessary and invasive searches, our communities should be focused on evidence-based strategies to reduce drug use, decrease drug use while driving, and increase roadway safety.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396**. Thank you for your time, service, and consideration.

Sincerely,

Arielle Juberg
3411 Upton Road
Baltimore, MD 21234
Showing Up for Racial Justice Baltimore

SB0396- Opposition to Drug-Free Roadways Act.docx

Uploaded by: Christina Nemphos

Position: UNF

Dear Members of the 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, Baltimore County, and Howard County. We are also working in collaboration with the Campaign for Justice Safety and Jobs (CJSJ) and the Maryland Coalition for Justice and Police Accountability (MCJPA). I am a resident of

District 40. I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based solely on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, **Black drivers in Maryland are stopped by police at vastly disproportionate rates**; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives. **Undoubtedly, maintaining the ban on odor-based searches will save lives.**

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

Searches based solely on the alleged odor of marijuana act as a racial profiling tool. Banning odor-based searches (and rendering any evidence gained in those illegal searches inadmissible in court) is the logical next step now that recreational use of marijuana is legal. Additionally, while Black and white folks use marijuana at nearly identical rates, Black folks are far more likely to be criminalized for marijuana use, as the majority of people that are arrested for possession are Black. This is related to a popular narrative that cannabis use among white folks is recreational or medicinal, while use among Black folks is related to criminal activity.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396.**

Thank you for your time, service, and consideration.

Sincerely,

Christina L Nemphos
1301 W 42nd Street
Baltimore, Md 21211
Showing Up for Racial Justice Baltimore

SB0396- Opposition to Drug-Free Roadways Act.pdf

Uploaded by: Daryl Yoder

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 44A. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396.**

Thank you for your time, service, and consideration.

Sincerely,
Daryl Yoder
309 Glenmore Ave.
Catonsville, MD 21228
Showing Up for Racial Justice Baltimore

SB 396 PJC testimony Unfavorable.pdf

Uploaded by: Debra Gardner

Position: UNF



Jeniece Jones, Executive Director
Albert Turner, Attorney
Debra Gardner, Legal Director
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409
jonesj@publicjustice.org
turnera@publicjustice.org
gardnerd@publicjustice.org

SB 396 Criminal Procedure - Stops and Searches - Cannabis Odor and Admission of Evidence
Hearing before the Senate Judicial Proceedings Committee, February 2, 2024

Position: Unfavorable

The Public Justice Center (PJC) is a nonprofit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. The PJC envisions a just society where Black, Latine, Indigenous, Asian, and other historically exploited people are free from systems of oppression, exploitation, and all expressions of discrimination. This will shift power and resources to BIPOC (Black, Indigenous, and other people of color) across Maryland.

SB 396 is an attempt to rollback critical criminal justice reform legislation enacted just last session, 2023 Md. Laws ch. 802, a scant seven months after it took effect. Last year's landmark legislation protects against unlawful searches in Maryland post-legalization of cannabis. In the past, officers routinely relied on the plain smell of marijuana for probable cause, reasoning that the odor alone was evidence of a crime—and that individuals had no right to maintain the privacy of their criminal activity. The smell of cannabis alone no longer implies criminal activity. **Thus, there is no justification for this rash repeal.**

Police encounters that begin based on the odor of marijuana undermine the right to privacy and enable racial profiling. Racial disparities in policing are perpetuated by systemic exclusion and discrimination and fueled by implicit and explicit bias. **This is especially true in motor vehicle stops.** In 2021, Black people were nearly 41% of all police stops in the state of Maryland despite being only 31.4% of the state population. Police are twice as likely to search Black drivers **and their vehicles** during traffic stops as white drivers. These disparities are not by accident but are a byproduct of the long history of white supremacy in this state and country. Allowing police to use the smell of a legal drug to establish probable cause exacerbates existing disparities and its prohibition must remain the law of Maryland.

It remains the logical and necessary extension of the General Assembly's work in 2022 to legalize recreational marijuana to maintain all the 2023 limits on the use of marijuana odor in police encounters.

For the foregoing reasons, the PJC urges an unfavorable report on SB 396. Should you have any questions, please contact Jeniece Jones, Executive Director, at 410-400-6952, or jonesj@publicjustice.org.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

SB0396- Opposition to Drug-Free Roadways Act.pdf

Uploaded by: Erica Palmisano

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 12. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396.**

Thank you for your time, service, and consideration.

Sincerely,

Erica Palmisano
5580 Vantage Point Rd, Apt 5, Columbia, MD 21044
Showing Up for Racial Justice Baltimore

SB0396- Opposition to Drug-Free Roadways Act.pdf

Uploaded by: Holly Powell

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 46. I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396.**

Thank you for your time, service, and consideration.

Sincerely,

Holly Powell

2308 Cambridge Street

Baltimore, Maryland 21224

Showing Up for Racial Justice Baltimore

Drug Free Roadways Act 1FEB 2024.pdf

Uploaded by: Jan Kleinman

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 40. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police. Odor is a subjective basis on which to justify a stop. Even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result! As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates. This bill, if passed, would lead to Black people –again–being the victims of excessive and unnecessary searches.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396.**

Thank you for your time, service, and consideration.

Sincerely,

Jan Kleinman

816 Union Ave

Baltimore, MD 21211

Showing Up for Racial Justice Baltimore

SSJC Testimony in Opposition to SB396 - Cannabis O

Uploaded by: Joanna Silver

Position: UNF



TESTIMONY IN OPPOSITION TO SB396
Senate Judicial Proceedings Committee, February 2, 2024

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 opposition to SB396.

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, we supported last year's legislation that prohibited police officers from relying solely on the odor of cannabis as the basis for stopping or searching a person or a motor vehicle. We also insisted that the legislation must include an exclusionary rule in the body of the statute so that evidence seized in violation of this prohibition cannot be used against a defendant in a criminal proceeding.

After hearing extensive testimony from many members of the community in support of a prohibition on odor-based stops and searches with a strong exclusionary rule, and no opposition except from law enforcement and prosecutors, the General Assembly did the right thing and passed HB1071. You and your colleagues recognized that this legislation is critical to decreasing the racially disparate and harmful effects that odor-based stops and searches have on Black and brown community members; as you heard over and over again last year, they are the ones who suffer the brunt of these invasive and often dehumanizing practices.

This Committee should reject any attempts to roll back this crucial racial justice reform. Let me remind you of relevant data I shared when I testified last year. Where I live in Montgomery County, from 2018 to 2022, when Black people were only 18% of our population, they were the subject of 31% of all traffic stops and 43% of all searches conducted during a traffic stop.¹

I also testified last year about the human cost of these disparate interactions: I shared that in 2021, Black people were the targets of 54% of all use of force incidents by Montgomery County

¹Office of Legislative Oversight Memorandum Report, October 25, 2022.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2022_reports/OLORReport2022-12.pdf

◆ silverspringjustice.wordpress.com ◆ Facebook: ssjusticecoalition ◆ Twitter: @SilverCoalition ◆

◆ silverspringjustice@gmail.com ◆

police officers. That number rose to 59% of all use of force incidents in 2022.² There is simply no excuse to continue to subject so many members of our community to such a significant risk of harm because an officer claims to smell a substance that is now legal in the state of Maryland.

As I explained last year, the need to get firearms off our streets is not an excuse to keep engaging in this harmful practice; not when you consider how infrequently firearms are seized during traffic stops. In Montgomery County in 2022, 172 guns were seized during 35,000 traffic stops³ – that’s less than ½ of 1% of all traffic stops resulting in gun seizures in my County.

Data from around the country reflect similar numbers. For example, a study of traffic stops and policing strategies in Nashville, Tennessee, found that only 1.6% of all traffic stops resulted in custodial arrests, for all offenses, including firearms.⁴ Similarly, a study of 20 million traffic stop records in North Carolina from 2002-2016 showed that, of all stops, just .03% led to the discovery of contraband and an arrest.⁵ Moreover, a recent analysis of the eight largest police departments in California found that officers confiscate firearms in an average of 0.5% of searches conducted during vehicle stops.⁶

We cannot allow these fishing expeditions to continue in the name of fighting gun violence; not when the costs are so high and the benefits are so few. For these reasons we respectfully urge you to issue an unfavorable report.

²Montgomery County Department of Police Use of Force Report, 2022.

https://www.montgomerycountymd.gov/pol/Resources/Files/Annual-Reports/UseOfForce/2022/20MCPD%20Use%20of%20Force%20Report%20FINAL_ED3_saf_dh_df_mj_03222023.pdf

³Briefing to the Transportation/Environment and Public Safety Committees of the Montgomery County Council, February 6, 2023, beginning at approximately minute 1:30:00. https://montgomerycountymd.granicus.com/player/clip/16676?view_id=169&redirect=true&h=3eb410096b7046c63f6e892648d30832

⁴Chohlas-Wood, A., Goel, S., Shoemaker, A., & Shroff, R. (2018, November 19). *An Analysis of the Metropolitan Nashville Police Department’s Traffic Stop Practices*. Stanford Computational Policy Lab. <https://policylab.stanford.edu/media/nashville-traffic-stops.pdf>

⁵Baumgartner, F. R., Epp, D. A., & Shoub, K. (2018). *Suspect citizens: What 20 million traffic stops tell us about policing and race*. Cambridge University Press. pp. 54, 230.

⁶Premkumar, D., Skelton, A., & Lofstrom, M. (2023). How Often Are Firearms Confiscated During Traffic Stops? Public Policy Institute of California. <https://www.ppic.org/blog/how-often-are-firearms-confiscated-during-traffic-stops/>

SB0396- Opposition to Drug-Free Roadways Act.pdf

Uploaded by: John Ford

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 46. I am a resident of the City of Baltimore and work in the City's Workforce Development. I know how important transportation access is, especially to vulnerable populations, as a barrier to employment and driver of recidivism. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396**.

Thank you for your time, service, and consideration.

Sincerely,

John Ford

529 S East Ave

Baltimore, MD 21224

Showing Up for Racial Justice Baltimore

Karen Caplan SB0396.pdf

Uploaded by: Karen Caplan

Position: UNF

Feb. 2, 2024

Karen Caplan
Silver Spring, MD 20902



TESTIMONY ON SB0396 - POSITION: UNFAVORABLE
Criminal Procedure - Stops and Searches - Cannabis Odor and Admission of Evidence (Drug-Free Roadways Act of 2024)

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Karen Caplan, on behalf of Jews United for Justice

My name is Karen Caplan and I am a resident of District 18, in Silver Spring. On behalf of Jews United for Justice (JUFJ), I am submitting this testimony in opposition to SB0396, Criminal Procedure—Stops and Searches—Cannabis Odor and Admission of Evidence. JUFJ organizes 6,000 Jewish Marylanders and allies from across the state in support of social, racial, and economic justice campaigns.

The concept of *tzelem elohim* — the idea that all people are created in the Divine image and therefore are equally precious and worthy — is central to Judaism. Jewish tradition makes it clear that we are obligated to respond when this core value is threatened. Our sacred texts tell us “Do not stand idly by the blood of your neighbor” (Leviticus 19:16), and we must not stand idly by as our neighbors are unjustly criminalized and needlessly placed at risk.

Last year, the General Assembly acted justly when it voted to prohibit police officers from conducting stops and searches without a search warrant merely because they claim to detect the odor of cannabis. SB0396 would roll back this important change, amidst recent state changes that partially legalized cannabis.

It makes no sense for the odor associated with the use of a legal substance to be used as a gateway to entanglement with police and the legal system. The odor of cannabis should not be used as an excuse to violate constitutional rights and perform warrantless searches. Passing SB0396 would also be an affront to racial justice. Black and brown people are disproportionately stopped by police, both nationwide and in Maryland. 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.

There is no way for an officer to prove that they smell cannabis, and no way to disprove it either, leaving Black and brown Marylanders significantly more vulnerable to police violence. Restoring the ability of police to pull drivers out of their cars based solely on the alleged odor of a legal substance would re-open a door to discriminatory pretextual stops and makes Black and brown people even more likely to be injured or killed by police — especially during traffic stops — that we know happens far too often.

Driving while under the influence of cannabis remains illegal. Police officers can still investigate this while respecting the rights of individuals. The existing law protects Black and brown Marylanders from violence, from unnecessary police interactions, and from unnecessary introduction into a criminal legal system that data makes clear is weighted against them.

On behalf of Jews United for Justice, I respectfully urge this committee to return an unfavorable report on SB0396.

SB0396- Opposition to Drug-Free Roadways Act.docx.

Uploaded by: Lindsay Keipper

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 46** as well as an attorney with sixteen years of criminal law experience. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law- banning searches based on seeing marijuana or marijuana near cash- is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote **in opposition to SB0396.**

Thank you for your time, service, and consideration.

Sincerely,

Lindsay Keipper
2425 Fleet St.

Showing Up for Racial Justice Baltimore

MPP ON SB 396 testimony opposition.pdf

Uploaded by: Olivia Naugle

Position: UNF



February 2, 2024

SB 396

Testimony from Olivia G. Naugle, senior policy analyst, MPP, in opposition to SB 396

Dear Chair Smith and members of the Senate Judicial Proceedings Committee:

My name is Olivia Naugle, and I'm the senior policy analyst for the Marijuana Policy Project, the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policies for over 25 years. MPP has played a leading role in most of the major cannabis policy reforms since 2000, including more than a dozen medical cannabis laws.

The Marijuana Policy Project strongly supports legalizing and regulating cannabis for adults 21 and older and doing so in a way that repairs the damage inflicted by criminalization.

MPP strongly opposes SB 396, which would repeal the current law that prohibits police searches based solely on the odor of cannabis.

In the 2022 election, Maryland voters voted overwhelmingly in favor (67.2 percent) of Question 4 — a constitutional amendment to legalize cannabis for adults in Maryland beginning July 1, 2023. In fact, the passage of Question 4 was the highest margin of any ballot measure to legalize cannabis.

Last year, the General Assembly passed HB 1071 to protect Marylanders from searches and unnecessary police interactions based on the odor of cannabis — a now legal substance — alone. This was a critical reform to Maryland's cannabis policy to dismantle the unequal enforcement of cannabis prohibition.

The odor or supposed odor of cannabis is often used as a pretext to stop and search residents, and we know that traffic searches are disproportionately performed on cars with Black or Latino drivers.¹ Traffic stop interactions have led to violence and death for Black Americans.²

In addition to Maryland, *most* recent legislatively-enacted legalization states have also explicitly provided that the odor of cannabis isn't grounds for a search. This includes Connecticut, New Jersey, New York, and Virginia.³

¹ Phillip Smith, "States that legalized marijuana see dramatic drop in police traffic searches," *Alternet*, April 1, 2019. (Before legalization 1.3% of black drivers were subject to traffic searches in Colorado. After legalization, the rate was under 0.2%. Among Hispanic drivers, the rate dropped from 1% to 0.1%. Among whites, the rate of searches dropped from 0.4% to 0.1%. Thus, black drivers went from being 6.5 times as likely to be searched as whites to twice as likely, and the total likelihood of black drivers being subject to a traffic search dropped eightfold.)

² Tanvi Misra, "Uncovering Disparities In Policing By Analyzing Traffic Stop Data," *Pacific Standard*, June 7, 2018.

³ Citations are available at: <https://www.mpp.org/assets/pdf/issues/criminal-justice/2021.11.19%20State%20Analysis%20Chart.pdf>

Finally, it is important to note that under current law in Maryland, driving under the influence of cannabis remains illegal. If an officer has a legal basis to believe the driver is impaired, they can do a DRE exam with a field sobriety test. And, if they have a legal basis, blood can be drawn by a medical professional.

In the last couple of years, Maryland has made tremendous progress in enacting cannabis policies that are equitable and focused on repairing the decades of harm cannabis prohibition has caused, particularly in Black communities. SB 396 is unnecessary and would roll back critical protections and progress. I respectfully urge an unfavorable report on SB 396.

If you have any questions or need additional information, I would be happy to help and can be reached at the email address or phone number below.

Sincerely,

Olivia Naugle
Senior Policy Analyst
Marijuana Policy Project
onaugle@mpp.org
202-905-2037

SB 396 _UNFAV_MCJPA.pdf

Uploaded by: Olivia Spaccasi

Position: UNF



Testimony for the Senate Judicial Proceedings Committee

February 2, 2024

SB 396 - Criminal Procedure - Stops and Searches - Cannabis Odor and Admission of Evidence (Drug-Free Roadways Act of 2024)

OPPOSED

The Maryland Coalition for Justice and Police Accountability opposes SB 396, which seeks repeal the prohibition of police from using the alleged odor of marijuana to search a vehicle.

Marylanders should not fear police interactions because of the lingering odor of a now-legal substance. For decades, the alleged smell of marijuana has been used as a sole, unbridled justification for a warrantless search, infringing on individuals' right to privacy and a rubber stamp for police to justify racial profiling. Banning odor stops and searches was both a logical and necessary extension of the work lawmakers did in 2022 to legalize the recreational use of marijuana.

Marijuana odor stops and searches by police facilitate and too often justify racial profiling.

While the bounds of probable cause are outlined by the courts, in practice, probable cause is determined by individual law enforcement officers who may hold inherent biases or suspicions towards certain racial groups. In Maryland, police are **four times** more likely to search Black drivers and their vehicles during traffic stops than white drivers.¹ And despite nearly identical rates of usage, Black people are criminalized for marijuana use at significantly higher rates in both arrests and sentencing. From 2018 to 2019, of those arrested for possession in Maryland, 75% were Black.² These disparities speak to the popular belief that marijuana use among Black people is linked to criminal activity. In contrast, marijuana use by white people

¹ Criminal procedure - reasonable suspicion and probable cause - cannabis.(n.d.). Retrieved February 20, 2023, from <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-SB0051-REIN.pdf>

² 2020 Statistics and Data Request for Possession of Marijuana over 10 Grams by Delegate Nick Mosby



MARYLAND COALITION FOR JUSTICE & POLICE ACCOUNTABILITY

is seen as recreational and medical. These biases inevitably spill into traffic enforcement, sometimes with horrific, life-altering, or deadly results for Black people who are racially profiled.

Marijuana odor claims are overused and unreliable.

The mere scent of marijuana cannot denote the amount of time the odor has been present, where the odor came from, or if the odor is a result of unburnt or burnt marijuana. Additionally, there is no way to confirm or deny the presence of the odor after a search, which allows officers' claims to go virtually unchecked. As a result, officers' claims of marijuana odor have become ubiquitous, with some judges even determining many are highly suspect, if not outright lies.³ Inevitably, unlawful odor searches become a situation of "he said, she said" in which the word of law enforcement is taken at face value and victims are given no opportunity for redress.

Prohibiting Marijuana odor searches does not come at the expense of public safety.

Driving under the influence of marijuana is illegal under Maryland law. The current law does not impede law enforcement's ability to investigate incidents of impaired driving. The bill specifies that the odor of marijuana may be a factor in the totality of circumstances when investigating a DUI. Just as with alcohol, in the marijuana DUI context some evidence of impairment must be observed before an officer conducts a search or arrest.

Additionally, smoking marijuana in a car is also illegal. Penalties for such violations vary based on whether the individual was the driver or simply a passenger of the vehicle. However, any occupant of a vehicle, whether driver or passenger, is already prohibited from smoking cannabis in a vehicle.

With that in mind, however, it should be noted that many searches effectuated after an officer claims they smell marijuana **are not** necessarily related to DUI enforcement. Instead, they are actually used as opportunities to look for illegal weapons or contraband. However, pretextual traffic stops are not an effective or necessary crime-fighting tool. In 2022, there were almost 36,000 traffic stops in

³ <https://www.startribune.com/federal-judge-rules-minneapolis-police-illegally-searched-frey-staffers-car/600159885/> ; <https://casetext.com/case/united-states-v-gray-366>; <https://www.>



MARYLAND COALITION FOR JUSTICE & POLICE ACCOUNTABILITY

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.⁴

Similarly, a study of the New York City Police Department's electronic stop-and-frisk database found that, in 2012, 87% of the individuals stopped were Black or African American or Hispanic or Latino, and more than 90% of stopped individuals were never arrested or cited. Of those individuals that were subsequently frisked, weapons or contraband were recovered in less than 2% of these searches.⁵

Under legalization, the idea that the odor of a legal substance could, in any way, reasonably suggest that someone has a weapon or is engaging in illegal activity is just wrong. Public safety is of the utmost importance for all our communities, but diligent law enforcement can and should solve a crime using honest and evidence-based techniques without relying on pretextual bases (like the alleged odor of marijuana) for stopping and searching people.

The majority of Marylanders support ending police stops based solely on the odor of marijuana.

A statewide poll conducted prior to legalization found that 65% of voters were more likely to support legalization if it includes stopping the practice by police of using the odor of marijuana as the only probable cause or justification to perform a warrantless search.⁶

Ensuring that the odor of marijuana no longer provides probable cause to search a vehicle or reasonable suspicion to stop a person will close a major gateway to criminalization and unnecessary interactions with police. Let's ensure that Marylanders do not have to fear police interactions because of the lingering odor of a now-legal substance.

4 Testimony provided to the Montgomery County Council Public Safety Committee on February 6, 2023 by Captain Brian Dillman Traffic Operations Division Director Montgomery County Police Department.

5 Criminal procedure - reasonable suspicion and probable cause - cannabis.(n.d.). Retrieved February 20, 2023, from <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-SB0051-REIN.pdf>

6 https://www.aclumd.org/sites/default/files/field_documents/aclu_bpi_md_cannabis_legalization_march_3_2022.pdf



MARYLAND COALITION FOR JUSTICE & POLICE ACCOUNTABILITY

For the foregoing reasons, the Maryland Coalition for Justice and Police Accountability urges this committee to issue an unfavorable report on SB 396.

Respectfully,

Maryland Coalition for Justice & Police Accountability (members listed below)

ACLU of Maryland
ACLU of Maryland, Montgomery County Chapter
Amnesty International
Arts Education in Maryland Schools (AEMS) Alliance
Baltimore Action Legal Team
Baltimore Bern Unit
Baltimore City Civilian Review Board
Baltimore for Border Justice
Be More Unified
Council on American-Islamic Relations (CAIR) - Maryland
CASA
Caucus of African-Americans Leaders
Citizens Policing Project
Coalition for Justice for Anton Black
Coalition of Concerned Mothers
Coalition of People Opposed Violence and Extremism
Common Cause Maryland
Community Actively Seeking Transparency (C.A.S.T.)
Community Justice
Court Watch & Judicial Accountability
Democratic Socialists of America – Baltimore City
Democratic Socialists of America – Greater Baltimore
Democratic Socialists of America – Prince George’s County
Disability Rights Maryland
Do the Most Good
Drug Policy Alliance
Equality Matters
For Kathy’s Sake



MARYLAND COALITION FOR JUSTICE & POLICE ACCOUNTABILITY

FreeState Justice
Greenbelt People Power
Helping Ourselves to Transform
Hispanic National Law Enforcement Association
Homeless Persons Representation Project
Innocence Project
InterFaith Action for Human Rights
Jews United For Justice
Justice Policy Institute
The JustUs Initiative
The Talking Drum
Kevin L. Cooper Foundation
Law Enforcement Action Partnership
Leaders of a Beautiful Struggle
League of Women Voters Maryland
LGBTQ Dignity Project
Life After Release
Making Changes LLC
Mama Sisterhood of Prince George's County
March for Our Lives Maryland
Maryland Alliance for Justice Reform
Maryland Center on Economic Policy
Maryland Consumer Rights Coalition
Maryland Defenders Union
Maryland Justice Project
Maryland Office of the Public Defender
Maryland Poor People's Campaign
Maryland Prisoners' Rights Coalition
Maryland Restorative Justice Initiative
Montgomery County Civil Rights Coalition
Montgomery County Democratic Socialists of America
Mothers on the Move
NAACP Legal Defense and Educational Fund
National Coalition for Drug Legalization
Nigerian American Lawyers Association - Washington DC Chapter
Organizing Black
Our Maryland



MARYLAND COALITION FOR JUSTICE & POLICE ACCOUNTABILITY

Our Prince George's
Our Revolution Maryland
Power Inside
Prevent Gun Violence Ministry, River
Road Unitarian Universalist Congregation
Policy Foundation of Maryland
Prince George's People's Coalition
Prisons to Professionals
Progressive Maryland
Public Justice Center
Racial Justice NOW!
Rebuild, Overcome, and Rise (ROAR) Center at University of Maryland-Baltimore
Reproductive Justice Inside
Sanctuary DMV
SEIU 1199
Showing up for Racial Justice, Annapolis and Anne Arundel County
Showing Up for Racial Justice, Baltimore
Showing Up for Racial Justice, Montgomery County
The Shriver Center at UMBC
Silver Spring Justice Coalition
Takoma Park Mobilization
The Talking Drum Incorporated
The Women of Color for Equal Justice Law Center
West Wednesdays
Wicomico County NAACP Branch 7028
Young People for Progress

NORML_testimony_opposing_SB_396_pdf.pdf

Uploaded by: Paul Armentano

Position: UNF



February 1, 2024

To: Members of the Senate Judicial Proceedings Committee

RE: Oppose SB 396 (Repealing prohibitions on warrantless searches)

From: Paul Armentano, Deputy Director – National Organization for the Reform of Marijuana Laws (NORML): Washington, DC (paul@norml.org)

I am a Maryland resident who has worked professionally in the field of marijuana policy for nearly 30 years. I am currently the Deputy Director of NORML – the National Organization for the Reform of Marijuana Laws, a nationwide public interest advocacy organization based in Washington, DC.¹

During my professional career, I have authored several books on cannabis, health, and public safety and my writing has been featured in over two dozen academic anthologies. In 2022, I was the lead witness before Congress at the hearing “Developments in State Cannabis Laws and Bipartisan Cannabis Reforms at the Federal Level,”² which was convened by the House Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties.

I am providing testimony today in opposition to Senate Bill 396, which repeals existing restrictions on police that prohibits them from engaging in warrantless searches based solely upon the alleged odor of cannabis.

The possession and use of cannabis products, including low-THC hemp-derived products, is legal in Maryland. **Those adults who engage in the use of these state-legal products should not surrender their 4th Amendment rights to be free from warrantless searches by police.**

State law currently prohibits driving under the influence of cannabis, and it further prohibits motor vehicle passengers from smoking cannabis. There is no need for this additional legislation.

Historically, Maryland police have used allegations of ‘smelling marijuana’ as a pretext to disproportionately search the vehicles of Blacks and other minorities. Specifically, African Americans constitute 60 percent of all traffic stops in the state despite comprising only 29% of

¹ <https://norml.org/about-norml/staff/>

² <https://oversightdemocrats.house.gov/legislation/hearings/developments-in-state-cannabis-laws-and-bipartisan-cannabis-reforms-at-the>



Maryland's population.³ And they are four times as likely to have their vehicles searched.⁴ A significant portion of these searches do not result in police finding cannabis in the vehicle, and peer-reviewed data raises questions as to whether police can even properly identify the smell of cannabis under real-world circumstances.⁵ **Passage of SB 396 will perpetuate this discriminatory conduct by Maryland's police officers.**

In my own life, **I have been falsely accused by police of operating a vehicle that 'smelled like marijuana' as a pretext for a warrantless search.** In this instance, the vehicle I was driving had been purchased from an auto dealership days earlier and had been extensively cleaned and detailed. No marijuana had ever been possessed in the vehicle. Nonetheless, a police officer alleged that he smelled the odor of cannabis from my open window during a traffic stop. He then proceeded to search my vehicle despite my protests. His search yielded no contraband of any kind. Ultimately, I was not even issued a traffic ticket following this encounter.

These unconstitutional police encounters will be exacerbated if lawmakers move forward with SB 396.

Lawmakers acted wisely when they enacted HB 1071 last year forbidding police from engaging in these interactions. Please keep the current law in place **and reject SB 396.**

###

***AUTHOR'S NOTE:** Paul Armentano has nearly three decades of professional experience in cannabis policy. He is the Deputy Director of NORML – The National Organization for the Reform of Marijuana Laws – the nation's oldest and only consumer-oriented cannabis reform advocacy organization.*

*His writing on cannabis and cannabis policy has appeared in over 1,000 publications, scholarly and/or peer-reviewed journals, and in over two dozen textbooks and anthologies. Mr. Armentano is the co-author of the book *Marijuana is Safer: So Why Are We Driving People to Drink?* (2009, 2013: Chelsea Green), which has been licensed and translated internationally. He is also the author of the book *Clinical Applications for Cannabis and Cannabinoids* (2021: National Organization for the Reform of Marijuana Laws), which summarizes over 450 peer-reviewed studies specific to the safety and efficacy of cannabis among different patient populations.*

³ <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-SB0051-REIN.pdf>

⁴ <https://www.marylandmatters.org/2023/03/15/commentary-the-smell-of-marijuana-and-the-stain-of-racism/>

⁵ Doty et al., 2004. Marijuana odor perception: Studies modeled from probable cause cases. *Law and Human Behavior* 28: 223-233. <https://pubmed.ncbi.nlm.nih.gov/15141780/>

“Our findings suggest that the odor of marijuana was not reliably discernable by persons with an excellent sense of smell in either case. These studies are the first to examine the ability of humans to detect marijuana in simulated real-life situations encountered by law enforcement officials and are particularly relevant to the issue of probable cause.”



Mr. Armentano works closely with politicians and regulators to draft and enact cannabis policy reforms, and he is a frequently sought-after speaker on the topic at legal and academic seminars.

Mr. Armentano was the principal investigator for defense counsel in the federal case U.S. v Schweder et al., one of the first legal cases in decades to challenge the constitutionality of cannabis as a Schedule I controlled substance. He was also an expert in the successful Canadian constitutional challenge, Allard v Canada, which preserved qualified patients' right to grow cannabis at home.

He is the recipient of the 2013 Alfred R. Lindesmith Award for Achievement in the Field of Scholarship and the 2019 Al Horn Memorial Award in appreciation of advancing the cause of justice.

Testimony opposing SB0396.pdf

Uploaded by: Richard KAP Kaplowitz

Position: UNF

SB0396_RichardKaplowitz_UNF

2/2/2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON SB#/0396- POSITION: UNFAVORABLE

**Criminal Procedure - Stops and Searches - Cannabis Odor and Admission of Evidence
(Drug-Free Roadways Act of 2024)**

TO: Chair Smith, Jr., Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Richard Keith Kaplowitz

My name is Richard Keith Kaplowitz. I am a resident of District 3. I am submitting this testimony in opposition to SB#0396, Criminal Procedure - Stops and Searches - Cannabis Odor and Admission of Evidence (Drug-Free Roadways Act of 2024)

Last year, in response to documented use of alleged cannabis odor as a pretense for stopping a profiled motorist, the General Assembly removed the ability of police to stop or initiate a search based solely on the odor of burnt or unburnt cannabis.

With cannabis now a regulated sale to adults for personal use and with medical usage permitted returning the ability to the police to stop or search from an odor would permit the perception that presence of that cannabis was illegal even if purchased legally. It provides an opportunity for uneven application based on profiling. A few years ago a co-worker, a teenage African-American male, was pulled over and asked to permit a drug sniffing dog to check his vehicle even though he insisted and had no drugs of any kind on his person. The stop and ask to search was based on his appearance, he was not in violation of any traffic related offense.

The General Assembly, noting that cases such as my former coworker's stop, seemed to be predominately minority populations being checked out for alleged violations. Accordingly, the bill was based on removing odor searches as a possible cause for stops or searches. I see no reason to return to what was occurring before last year's bill passage.

. I respectfully urge this committee to return an unfavorable report on SB#/0396

SB0396- Opposition to Drug-Free Roadways Act.pdf

Uploaded by: Sarah Johnson

Position: UNF

Dear Members of the 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, Baltimore County, and Howard 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 **the** Roland Park neighborhood in District 41 in Baltimore City. **I am testifying in opposition to SB0396, the Drug-Free Roadways Act of 2024.**



Despite the name given this bill by its sponsors, SB396 is not about safer roadways; it is about repealing last year's HB1071, which banned searches based on the odor of marijuana. SB396 would make it once again legal for police to search a vehicle based solely on a claim that they smelled marijuana. Even worse, it completely removes the provision that deems any evidence found by violating the law inadmissible. Without this provision, the remains of the law – banning searches based on seeing marijuana or marijuana near cash – is rendered useless because there is no disincentive for police to ignore the statute.

Police and their advocates fought to keep HB1071 from passing and now want the law repealed, but the ban on odor-based searches is necessary now for the same reasons it was last year. The odor of marijuana has long been a go-to excuse for police who want to conduct vehicle searches because it is completely subjective and even when a search reveals no evidence of cannabis possession or use, the courts have held that the lack of evidence doesn't disprove that the officer smelled marijuana. Countless unnecessary and invasive searches are the result of police suspicion based on the odor of marijuana. As the Department of Legislative Services pointed out in the Racial Equity Impact Note on last year's HB1071, Black drivers in Maryland are stopped by police at vastly disproportionate rates; which means Black people are the ones most affected by policies that result in excessive and unnecessary searches of ordinary people just trying to live their lives.

Cannabis is now legal for recreational use, and the odor can be long-lasting: smelling marijuana therefore does not suggest illegal activity. It is therefore unjust to let the odor of cannabis serve as a reason for police to conduct searches on the off chance that they might find some kind of contraband.

It is for these reasons that I am encouraging you to vote in opposition to SB0396.

Thank you for your time, service, and consideration.

Sincerely,

Sarah Johnson
1 Merryman Court
Baltimore, MD 21210
Showing Up for Racial Justice Baltimore

MOPD - SB 396 - JPR_2.2.24 - UNF_Written Testimony

Uploaded by: Tia Holmes

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 396 - Criminal Procedure - Stops and Searches - Cannabis Odor and Admission of Evidence (Drug-Free Roadways Act of 2024)
FROM: Maryland Office of the Public Defender
POSITION: UNFAVORABLE
DATE: 2/2/2024

The Maryland Office of the Public Defender respectfully requests that this Committee issue an UNFAVORABLE report on Senate Bill 396. Senate Bill 396 would permit police officers to stop and search motor vehicles based solely on the odor of cannabis. The bill would also permit the admission and use of any evidence obtained or discovered during a stop or a search of a person, a motor vehicle, or a vessel that was initiated on a cannabis-related justification.

For decades, the odor of cannabis emanating from a vehicle, standing alone, authorized a police officer to search a vehicle during a traffic stop. That changed last year when this Legislature passed House Bill 1071, which prohibits stops and searches of motor vehicles based solely on the odor of burnt or unburnt cannabis and precludes the admission of evidence obtained from those searches.¹ 2023 Md. Laws, ch. 802 (codified at Md. Code Ann., Crim. Proc. § 1-211 (eff. July 1, 2023)). Senate Bill 396 repeals those key provisions in order to return the law to its previous form.

To be sure, the new law was enacted primarily to remedy the disproportionate impact that those types of stops and searches had on Black or African American people.² In passing House Bill 1071, this Legislature sent a clear message to all Marylanders—specifically the racially profiled minorities—that they would no longer be subjected to warrantless (and sometimes pretextual) searches and seizures based on the smell of a now-legal substance. Senate Bill 396 revokes that remedy and reneges on that message.

As this Committee considers Senate Bill 396, members of this Committee should also consider the following reasons that the former law on cannabis-odor-related searches and seizures would have been untenable under Maryland's cannabis legalization scheme and should remain the law of the past.

Condoning searches based solely on the odor of cannabis exposes people to predatory and arbitrary policing practices. These interactions do not improve public safety and often result in avoidable harm. As the stories of Demonte Ward-Blake, Derrick Thompson, and Jason Serrano demonstrate, condoning the use of cannabis-odor-based justifications re-exposes people—particularly impacted minorities—to violent encounters and unwarranted intrusions.

- Here in Maryland, Demonte Ward-Blake was stopped for driving with expired tags. The officer claimed that he smelled cannabis and Mr. Blake informed the officers that he had smoked cannabis earlier in the day. The traffic stop escalated from there: Mr. Blake was taken to the ground and his neck was severely injured. Mr. Blake was paralyzed following the traffic stop and later died.³
- Right across the border in Virginia, Derrick Thompson was stopped for driving with an expired registration sticker. The officer claimed that she smelled cannabis and called for backup. After Mr. Thompson refused to exit the vehicle to permit a search, the stop escalated: an officer yanked Mr. Thompson by his neck, pulled him from his vehicle, and took him to the ground. No cannabis was found in the vehicle.⁴
- In New York, Jason Serrano was the passenger of a vehicle that was stopped for a broken taillight. When the driver rolled down the window, an officer claimed he smelled cannabis then asked Mr. Serrano and the driver to step out of the vehicle. Mr. Serrano, who had recently been treated for abdominal wounds, asked to remain in the vehicle. The stop escalated from there. With Mr. Serrano cuffed and lying on the ground, an officer searched the vehicle. After finding no cannabis or other evidence, the officer planted a cannabis bud in the cup holder to justify the search.⁵

These cases (and likely many others) demonstrate that the use of cannabis odor as a justification for vehicle searches was and still is ripe for abuse.⁶ Certainly, testimony during last year's hearing on House Bill 1071 demonstrated that the odor of cannabis was a *tool* that police officers used to justify their searches of vehicles for firearms rather than the cannabis they claimed to smell.⁷ These were patent violations of people's constitutional rights. The new law does not make us less safe just because an officer can no longer rely on this tool. Reasonable and prudent officers have many other investigative techniques left in their arsenal. There is no need to reverse course and allow these predatory and arbitrary policing practices to resume.

The odor of cannabis, standing alone, is insufficient indicia of crime or criminal activity. Cases establishing a police officer’s authority to search a vehicle based solely on the smell of cannabis is supported by Prohibition-era reasoning that was once consistent with the absolute prohibition on the use and possession of cannabis.⁸ The reasoning in those cases also derives from what is known in constitutional criminal procedure as the “plain view” doctrine.⁹ Under the plain view doctrine, an officer has probable cause to associate an object with criminal activity or evidence of a crime when the incriminating character of the evidence is “immediately apparent” to the officer viewing the object.¹⁰ When applied in the cannabis context, the “plain smell” doctrine made an officer’s reliance on the odor of cannabis—when it was completely illegal in all forms—entirely reasonable because the incriminating character of the smell of cannabis made it immediately apparent to the officer that the driver was or had been engaged in illegal activity.

Today, an officer can no longer smell the incriminating character of cannabis because cannabis and other variants of the plant “*Cannabis sativa L.*” are legal. Both cannabis and hemp come from that plant species.¹¹ While cannabis is legal to possess in small amounts, hemp is entirely legal. But the reality is that their smells are indistinguishable.¹² Similarly, a police officer cannot smell the difference between a legal amount of cannabis and an illegal amount of cannabis. This makes continued reliance on an officer’s sense of smell for probable cause determinations untenable and unreasonable.¹³

Furthermore, the odor of cannabis lingers. It is not difficult to come up with scenarios where the smell of cannabis would attach to someone who had smoked cannabis earlier in the day or to someone who was merely in the presence of others who were smoking cannabis.¹⁴ What this means is the *smell* of cannabis does not necessarily equate to the *presence* of cannabis. For this reason, the title of Senate Bill 396—“Drug-Free Roadways Act of 2024”—is completely detached from the bill’s actual effect. When a person is driving while impaired or smoking in the vehicle, circumstances beyond the odor of cannabis will lead a reasonable and prudent officer to that conclusion. The odor of cannabis (or something that smells like cannabis) is no longer a reasonable basis for permitting an officer to engage in an exploratory search of a person’s vehicle until something incriminating emerges.

The odor-of-cannabis justification is impossible to challenge or verify; this significantly imbalances the scales of justice. The use of evidence obtained or discovered based solely on the odor of cannabis creates practical problems for Marylanders who wish to challenge the admission of evidence and/or their convictions in a later proceeding. It is beyond dispute that neither a prosecutor nor a police officer can memorialize the odor that an officer smelled and present it as

evidence in a proceeding. Similarly, no one can test whether the officer detected the odor of cannabis rather than something that smelled similar (*i.e.*, an entirely legal derivative of the plant species).¹⁵ This leaves many people defenseless in courts when an officer asserts that they searched a person's vehicle because they smelled cannabis. Court proceedings must be fair as a matter of constitutional law.

Permitting searches based solely on the odor of cannabis reinforces racist policies and practices and legitimizes racial profiling. It is no secret that Black people were direct targets of the war on drugs and bore the brunt of the disproportionate effects of the policies that came out of it.¹⁶ The enforcement of cannabis laws in this manner is simply a vestige of that war. There was no shortage of advocates testifying in favor of House Bill 1071, who reminded this Committee of that fact last year.

The Racial Equity Impact Notes Unit projected that the prohibition on these types of stops and searches could remedy the disproportionate impact that the proliferation of Nixon-era policies had on Black or African American people. Because the new law has been in effect for less than a year, the impact of the law has yet to be realized. Thus, the timing of Senate Bill 396 is inappropriate and appears to reject the reality that Black people were negatively impacted by decades of policies that were aimed directly at their communities. Black people deserve better.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an UNFAVORABLE report on Senate Bill 396.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

**Authored by: Tia L. Holmes, Esq.
Assistant Public Defender
Appellate Division
Tia.Holmes@maryland.gov**

¹ This Committee approved House Bill 1071 (2023) with a 7-4 vote for a favorable with amendment report.

² See Dept. of Leg. Svcs, Racial Equity Impact Note: House Bill 1071 - Criminal Procedure - Reasonable Suspicion and Probable Cause – Cannabis (Mar. 3, 2023), mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-HB1071-REIN.pdf (“Maryland traffic stop data since 2018 indicates that Black or African American drivers consistently constitute at least 60% of all vehicle traffic stops in the State despite comprising only 29% of the State’s population. They are also over four times as likely to be subject to a warrantless vehicle search than white drivers. Data from other jurisdictions also suggests that Blacks or African Americans are disproportionately subjected to warrantless investigative stops in those jurisdictions. **A significant portion of these investigative stops and vehicle searches involve the odor of cannabis, and to the extent the bill’s provisions reduce these stops and searches based solely on the odor of cannabis, Black or African American individuals will be significantly impacted by reduced exposure to law enforcement activity.**”) (emphasis added).

³ Jess Arnold, & Kiley Schultz, *Takedown arrest leaves Prince George’s County man partially paralyzed, family says*, WUSA9.com (Updated Oct. 20, 2019), www.wusa9.com/article/news/crime/takedown-arrest-pgcpd/65-b626363e-05ce-4c62-af37-d1bccff8442c.

⁴ Drew Wilder & Andrea Swalec, *Virginia Trooper’s Conduct in Stop of Black Driver on Beltway Is Under Investigation: Derrick Thompson was on the way to work when he was stopped for having an expired inspection decal*, NBC4 (Updated July 16, 2020), www.nbcwashington.com/news/local/virginia-troopers-conduct-in-stop-of-black-driver-on-beltway-is-under-investigation/2362938/.

⁵ Jose Martinez, *Footage Appears to Show NYPD Officer Planting Marijuana Inside Car for Allegedly the Second Time*, Complex (Mar. 18, 2020), www.complex.com/life/2020/03/nypd-officer-caught-on-camera-planting-marijuana-inside-car-for-a-second-time (detailing the encounter that occurred between Officer Erickson and Mr. Serrano and the events that led to Mr. Serrano’s arrest).

⁶ See Shawn Stout & Andy Elders, *“I Smell Marijuana”: How Virginia Gave Cops License to Harass*, Just Forward Va. (July 13, 2020), justiceforwardva.com/blog/2020/7/13/i-smell-marijuana-how-virginia-gave-cops-license-to-harass (explaining that the words **“I smell marijuana” have become magic words** and “police have learned that they don’t need to actually find marijuana to make the search legal. They just have to say those three magic words, and the Fourth Amendment disappears”) (emphasis added); Ned Oliver, *When Police Say They Smell Pot, They Can Search You. Lawmakers Worry Decriminalization Won’t Change That.*, NBC 12, www.nbc12.com/2020/01/25/when-police-say-they-smell-pot-they-can-search-you-lawmakers-worry-decriminalization-wont-change-that/ (Jan. 24, 2020, 8:48 PM) (noting officers frequently claim the odor of burnt marijuana as a basis for probable cause to conduct a warrantless search of a vehicle and that a judge was cognizant of the fact that **there is a high frequency in which officers falsely cite the odor of marijuana**) (emphasis added); Joseph Goldstein, *Officers Said They Smelled Pot. The Judge Called Them Liars*, N.Y. Times (Sept. 12, 2019), www.nytimes.com/2019/09/12/nyregion/police-searches-smelling-marijuana.html (stating that New York City police officer Pedro Serrano, admitted that often times his colleagues conduct a vehicle stop and report the odor of marijuana, but once he arrives at the scene he does not smell any odor in the vehicle) (referring to a decision written by Judge April Newbauer wherein she stated **“[t]he time has come to reject the canard of marijuana emanating from nearly every vehicle subject to a traffic stop”**) (emphasis added).

⁷ Last year during the hearing on House Bill 1071, the state’s attorneys who testified touted their firearm seizures as a reason this practice should continue, but they could not account for the number of people they stopped and searched but found nothing. See Jonathan Blanks, *Thin Blue Lies: How Pretextual Stops Undermine Police Legitimacy*, 66 Case W. Res. L. Rev. 931, 942 (2016) (“Discussing *Whren* in particular, whatever putative utility investigatory stops provide is concentrated heavily fighting the War on Drugs. Contraband seizures look good on arrest reports and big scores look good for cameras. But those **busts say nothing about the humiliating experiences of countless innocent people stopped before finding that one car full of drugs and guns out of many fruitless and invasive searches.**”) (emphasis added).

The likely reason for the lack of statistics is that the majority of those searches were fruitless, and Maryland’s law enforcement agencies are not required to report the statistics of each of their cannabis-related searches. In Philadelphia, where reporting was required, data showed that odor-based searches increased after decriminalization, but officers found no drugs during many of those searches. See Samantha Melamed, *Philadelphia Police are Searching More Cars for Marijuana - but Finding Less of It, Critics Say*, Phila. Inquirer (Oct. 31, 2019, 5:00 AM), www.inquirer.com/news/philadelphia/philadelphia-police-racial-profiling-marijuana-vehicle-stops-20191031.html (emphasizing the contradiction between the fact that while the number of times police officers listed the odor of marijuana as a justification for traffic stops and searches increased, the number of “hit rates” at which drugs were found inside of the vehicles decreased).

⁸ *Carroll v. United States*, 267 U.S. 132 (1925), is a Prohibition-era case in which the U.S. Supreme Court established a police officer’s authority to conduct a warrantless search of a vehicle based on probable cause that the vehicle contains contraband. This is known as the “*Carroll* doctrine.” In *Carroll*, an officer stopped a vehicle, searched it, and found “contraband liquor” that was being “illegally transported.” *Id.* at 156. Maryland cases have applied the *Carroll* doctrine in holding that an officer has authority to search a vehicle based solely on the odor of cannabis because cannabis was contraband, *i.e.*, illegal to use or possess. See, *e.g.*, *Robinson v. State*, 451 Md. 94 (2017) (applying the *Carroll* doctrine); *Wilson v. State*, 174 Md. App. 434 (2007) (same); *Ford v. State*, 37 Md. App. 373 (1977) (same). See also CONTRABAND, Black’s Law Dictionary (11th ed. 2019) (defining “contraband” as “[g]oods that are unlawful to import, export, produce, or possess”).

⁹ See *Ford*, 37 Md. App. at 378 (“Generally evidence acquired by unaided human senses from without a protected area is not considered an illegal invasion of privacy, but is usable under doctrines of plain view or open view or the equivalent. Odors so detected may furnish evidence of probable cause of ‘most persuasive character, physical fact(s) indicative of possible crime.’”) (cleaned up).

¹⁰ *Wengert v. State*, 364 Md. 76, 88-91 (2001) (citing and discussing *Coolidge v. New Hampshire*, 403 U.S. 443 (1971)).

¹¹ In the Maryland Code, both “cannabis” and “hemp” mean “the plant *Cannabis sativa* L.” Md. Code Ann., Crim. Law § 5-101(e-1); Md. Code Ann., Agric. § 14-101(c)(1).

¹² See Debra Cassens Weiss, *After Decriminalization, Pot Smell and Joint Didn’t Justify Search, Court Says; Hemp Laws Also Raise Issues*, A.B.A. J. (Aug. 14, 2019, 1:46 PM), www.abajournal.com/news/article/after-decriminalization-pot-smell-and-joint-didnt-justify-search-court-says-hemp-laws-also-raise-issues (“New laws legalizing hemp also are raising concerns among prosecutors and police. Some fear that probable cause to search a vehicle is destroyed in such states because **marijuana’s smell can’t be distinguished from that of hemp.**”) (emphasis added); see also *Simms v. State*, No. 1850, Sept. Term, 2021, 2022 WL 17412916, at *4 (Md. Ct. Spec. App. Dec. 5,

2022) (“At the suppression hearing, Corporal Samuel testified that **he could not distinguish between the odor of cannabis and the odor of hemp.**”).

¹³ See Cece White, *The Sativas and Indicas of Proof: Why the Smell of Marijuana Should Not Establish Probable Cause for A Warrantless Vehicle Search in Illinois*, 53 UIC J. Marshall L. Rev. 187, 222-23 (2020) (highlighting that an issue related with the plain smell doctrine is that police officers cannot accurately detect the odor of cannabis and smell is usually less reliable than sight).

¹⁴ See *Lewis v. State*, 470 Md. 1, 23-24 (2020) (quoting *Lewis v. State*, 237 Md. App. 661, 691 (2018) (Arthur, J., concurring)) (discussing the ways that the odor of cannabis attaches and lingers on a person); see also *id.* at 24 n.7 (quoting *People v. Brukner*, 25 N.Y.S.3d 559, 571 (N.Y. City Ct. 2015) (“An odor of stale or burnt marihuana on clothing, without more, is equally susceptible to the innocent non-criminal explanation that the Defendant smoked marihuana previously in private, and not in public.”)).

¹⁵ See *Lewis*, 470 Md. at 24 (quoting *Lewis*, 237 Md. App. at 703 (Nazarian, J., dissenting)) (“There is no way to challenge or verify what the officer smelled, no way to test whether a person actually smelled of marijuana, ... and no way to control for the fully legal and otherwise non-criminal or second-hand ways someone could come to smell like marijuana.”).

¹⁶ See generally American Civil Liberties Union, *The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests*, 1, 155 (June 2013), www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report; see also The Balt. Story, “1971: Nixon’s War on Drugs,” <https://www.thebaltimorestory.org/history-1/1971-nixons-war-on-drugs> (last visited Jan. 31, 2024) (quoting John Ehrlichman) (“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and [B]lack people. You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or [B]lack, but **by getting the public to associate the hippies with marijuana and [B]lacks with heroin, and then criminalizing both heavily, we could disrupt those communities.** We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”) (emphasis added).