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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.