

Time to Put an End to the Racist War on Marijuana

By **Neydin Milián**

“Where you see wrong or inequality or injustice, speak out, because this is your country. This is your democracy. Make it. Protect it. Pass it on.”

Thurgood Marshall
Former Associate Justice, Supreme Court of the United States

INSIDE THIS ISSUE

- Marijuana Reform
- 2023 Legislative Priorities
- Legal Briefs
- Board Nominations
- Staff Announcements
- Annual Financial Report

It's time to take action and reverse the oppressive effects of the racist War on Drugs. Removing criminal penalties for marijuana related offenses and prohibiting police from using the odor of marijuana as a basis to conduct warrantless searches is a priority for us as we head into the next legislative session. In fact, Maryland voters overwhelmingly approved a bill to legalize recreational marijuana. This is a major victory, but more is needed to realize racial justice.

While marijuana legalization may be a fun topic, particularly for white people who have not been targeted for decades by police, it can be a heavy, painful one for Black people who have been forced to bear the brunt of marijuana enforcement. Back in 2020, the ACLU released a research report, “A Tale of Two Countries,” chronicling marijuana arrests from 2010 to 2018 and examined the extreme racial disparities.

In 2018, Black people were more than 2.1 times more likely to be arrested for marijuana possession in Maryland. Nationwide, those disparities are even worse, with the number reaching 3.6 times more likely. In fact, in some places in the U.S., Black people are 40 or even 50 times more likely to be arrested for marijuana possession.

Between 2018-2019, 96% of all marijuana possession charges were filed against Black people in Baltimore City, even though Black people only represent around 60% of the city's population. In those same years in Baltimore County, 80% of all marijuana possession charges were filed against Black people, even though Black people only represent 30% of the population there.

Read the full article on our blog: aclu-md.org/news

FREE STATE LIBERTIES

Winter
2022

The newsletter of the American Civil Liberties Union of Maryland and the American Civil Liberties Union Foundation of Maryland.

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www.aclu-md.org/staff

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Documents and information filed under the Maryland Solicitations Act may be obtained from the Maryland Secretary of State, State House, Annapolis, MD 21401.

Dear Friends of Civil Liberties –

Our mission is to empower Marylanders to exercise their rights so that the law values and uplifts their humanity.

We center Marylanders directly impacted by oppression in our work, in partnership with a variety of stakeholders. Looking ahead to 2023, as our new governor and state legislators are sworn into office, we hope they will be partners, too. What work can we do together to fulfill the country's unrealized promise of justice and freedom for all?

As Wes Moore begins as the next Governor of Maryland, the ACLU and our allies have urgent issues that we will ask him to champion in order to advance the rights of all Marylanders.

One is the longest running: *Bradford v. Maryland State Board of Education*, where families from Baltimore City Public Schools are in court to defend their state constitutional right to an education despite generations of underfunding by the State of Maryland. Governor Moore has the opportunity to steer the case towards justice, so that Black children in Baltimore finally have the structural equity necessary to realize their education dreams.

Another is a chance to provide access to accountability for families impacted by police violence: *Black et al v. Alexander et al*, where evidence shows a systemic cover up by Maryland Medical Examiners in the police killings of Anton Black and other Black Marylanders. The State of Maryland needs to take responsibility for the harmful role Medical Examiners have played by claiming police did not cause the deaths of people in their custody, perpetuating the lie that we could not save lives like Anton's.

In the General Assembly, the ACLU and our partners are looking to finally, fully end the politicized role of governors in the parole process. Ill and dying Marylanders who need medical parole were mistakenly left out of the law to end governors being able to block the decision of the state's Parole Commission. We need to fix that in 2023.

The many new (and continuing) legislators have the opportunity to champion racial justice changes needed to marijuana enforcement practices by police. Also on tap is an bill to clarify that local jurisdictions have the power to grant their Police Accountability Boards the power to conduct independent investigations. Will our new leaders show themselves to be strong supporters of justice for all?

The ACLU's role is to hold all elected officials accountable to our values. We will criticize governor when needed; it's our job. It's part of how we will make a deep and lasting impact to expand rights and overcome white supremacy. And, hopefully, we'll be able to do it together.

Yours in liberty and equity,

**DANA
VICKERS
SHELLEY**
Executive
Director
ACLU of
Maryland



**HOMAYRA
ZIAD**
Board
President
ACLU of
Maryland



2023 Legislative Priorities

The ACLU of Maryland's public policy program is dedicated to protecting the rights and liberties of all Marylanders. We work intentionally with impacted communities to advocate on the most pressing issues facing our state. And our effectiveness depends on the activism of our members and supporters!

In addition to marijuana reform, here are our priorities for the 2023 General Assembly session:

INDEPENDENT INVESTIGATORY POWERS FOR POLICE ACCOUNTABILITY BOARDS

The Maryland Police Accountability Act of 2021 directed all counties in the state to establish a Police Accountability Board (PAB) and Administrative Charging Committee (ACC). After local advocates worked to try to create strong PABs in their jurisdictions, it became clear that PABs must clearly have the ability to conduct independent investigations into officer misconduct. In 2023, the ACLU will work with allies to pass a bill to ensure PABs have the power to issue subpoenas, interview witnesses, and employ all other investigative techniques necessary to draw accurate conclusions about incidents, and to investigate claims prior to ACC adjudication and after.

ELIMINATE MARIJUANA PENALTIES

Maryland voters overwhelmingly approved a bill passed last year to end the criminalization of recreational use of marijuana. Yet there is a growing understanding that the collateral harm caused by marijuana enforcement far outweighs outdated and overblown concerns about the substance.

Under the new law, possession with intent to distribute and possession of more than the civil use amount, 2.5 ounces, can still result in a misdemeanor conviction. Such convictions carry the penalty of six months in jail and a \$1000 fine. Possession with intent to distribute is punishable by 3 years imprisonment and a \$5,000 fine. In 2023, the ACLU and allies will work to pass a bill that eliminates these penalties and designates possession of more than the civil use amount and possession with intent to distribute as civil offenses, subject to citations and civil fines, rather than imprisonment.

STOP MARIJUANA ODOR SEARCHES

The current standards around marijuana odor searches and stops were made under decriminalization and now state law needs to adjust to the passage of the referendum. Police have long been granted the authority to conduct searches based on something that cannot be categorically proven: a claim based solely on their sense of smell. These claims have been routinely used to infringe on individuals' right to

privacy and justify racial profiling. In 2023, the ACLU will work with allies to pass a bill to ensure that the odor of marijuana cannot be used as probable cause to perform a warrantless arrest or search of an individual or their vehicle.

MEDICAL PAROLE FOR MARYLANDERS WITH LIFE SENTENCES

In 2021, the General Assembly successfully removed the Governor from the parole process, eliminating the politicized process of allowing governors to overturn parole decisions for Marylanders serving life imprisonment sentences. But there was a drafting error that excluded medical parole, making it the only type of parole to still require gubernatorial approval. This is serious, because it is arguably most critical for the Parole Commission to be able to act expeditiously where the parole candidate is seriously ill or dying. In 2023, the ACLU will work with allies to support a technical fix bill.

MARYLAND VOTING RIGHTS ACT

Maryland has an extensive history and ongoing record of



↑ Photo credit: Amber Taylor

Board Member Nominations

ACLU of Maryland Board Elections Below is the **Winter 2023 Ballot of Nominees** for the ACLU of Maryland Board of Governors. These nominees were considered by the ACLU Nominating Committee, were provisionally approved by the Board, and are submitted now to ACLU members for a vote. **After voting “yes” or “no,” please clip the ballot and mail it to the Secretary, ACLU of Maryland, 3600 Clipper Mill Road, Suite 350, Baltimore, MD 21211. Votes must be postmarked by January 31, 2023.** You also may recommend yourself or others for membership on the Board, Board Committees, or other ACLU volunteer positions. Mail the name of any interested person(s), contact information, and areas of ACLU interest to the address given above.



AIMY AVILA

☐ YES ☐ NO

Aimy Avila is a queer, Black-Latina immigrant from

the Dominican Republic. She is currently a classroom teacher in Baltimore City Public Schools. She has dedicated her years in education to creating inclusive, rigorous and loving environments for all students who come through her doors through an anti-racist/anti-oppressive approach to education. She enjoys volunteering her time to lead after school clubs such as soccer, kickball and dance. Aimy is passionate about issues regarding education, immigration, sexual orientation and race. Aimy is a graduate of Johns Hopkins University School of Education and Towson University, where she studied Sociology and Spanish. Aimy lives in Baltimore City.



BRIAN SMITH

☐ YES ☐ NO

Brian Smith is Senior Vice President, Chief Human

Resources & Inclusion Officer at the Baltimore Symphony Orchestra. His global HR career has spanned leadership positions in for-profit, nonprofit, and private equity companies across Asia, Europe, and the Americas. At the BSO, and in such global leaders as Allianz SE and Colgate-Palmolive, he has infused his career with a passion to promote inclusivity, education, and social justice. Brian has served as board vice chair of Jobs For Youth in New York City, and a member of the Board of Trustees of Adelphi University. He is a charter member of the ILR Center for Advanced HR Studies at Cornell University, and a member of the Senior Advisory Board of the Center for Effective Organizations at USC’s Marshall School of Business. Brian earned his MBA in Global Finance from Adelphi University. Brian lives in Baltimore City.



CHINYERE OKONKWO

☐ YES ☐ NO

Chinyere Okonkwo is a first-generation

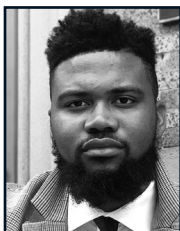
Nigerian American trying to pave her way in this world. She is a junior at the University of Pittsburgh, but is originally from Prince George’s County. She is majoring in Political Science and Sociology with a minor in French. Her education centers on International Relations and how it affects marginalized communities. While in her first year, she became the National Advocacy Institute Intern for the national ACLU. She has also worked as a campaign intern for a Pittsburgh congressional campaign and as a research assistant investigating election procedures nationwide. Chinyere works hard to center the fight for racial and gender equity in all of her career and academic endeavors. Outside of the classroom, she tries to flex her creative muscles through poetry, African dance, and cooking. Chinyere is from Prince George’s County.

Welcome!

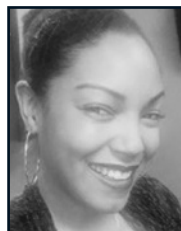
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Learn more about our newest staff members:
aclu-md.org/staff

ACCOUNTABILITY FOR KILLINGS OF BLACK MARYLANDERS BY POLICE

Family members and the Coalition for Justice for Anton Black in August announced resolution of the portion of their federal court litigation charging police and municipal officials with the unconstitutional killing of their beloved son in 2018. The landmark *Black v. Webster* settlement goes far beyond most in police killing cases in that it focuses as much on implementing reforms aimed at saving other families from future police violence as it does on providing monetary relief. This stems from the deep dedication of the Black family and the Coalition to demanding accountability for the officials responsible for Anton's killing and its cover up, and to working for reforms that will help save other families from the horrible grief they still suffer. In October, there again was positive news, when the state's Audit Design Team announced that there will be an independent reexamination of 100 in-custody deaths from the time period when David Fowler – who testified in court in defense of Derek Chauvin, who was convicted for the murder of George Floyd – was in charge of Maryland's Medical Examiner's office.

ALL IMMIGRANT DETENTION FACILITIES NOW CLOSED IN MARYLAND

Facing inhumane conditions in Maryland detention facilities in 2020, six individuals detained in facilities in the DC-Maryland-Virginia area were represented by the National Immigration Project, the national ACLU, the ACLU of Maryland, and the Capital Area Immigrants' Rights Coalition in filing a lawsuit against the U.S. Immigration and Customs Enforcement. The lawsuit's early victories of individual injunctions were instrumental in securing the release for not only the named plaintiffs but were persuasive in several other cases in Maryland, the Fourth Circuit, and nationwide. The case helped other immigration cases across the country and prompted ICE to "voluntarily" release many more people. Now, their case has been dismissed by the court without prejudice. And through a powerful combination of legal and legislative advocacy with local partners, we have successfully closed all immigrant detention facilities in Maryland.

DEFENDING PUBLIC ACCESS TO POLICE MISCONDUCT RECORDS

Acting to defend the community transparency protections at the

core of Anton's Law, the Maryland Coalition for Justice and Police Accountability (MCJPA) has moved to intervene in a dangerous legal effort by the Fraternal Order of Police Lodge 35 in Montgomery County to block access to records of police misconduct that should be accessible to the public. With ACLU legal support, MCJPA is asking the court first to unseal proceedings in the case, and then to reject the FOP's lawsuit. The lawsuit stemmed from a side deal between the FOP and Montgomery County that improperly gives the union notice of requests under Maryland's Public Information Act for police misconduct records that Anton's Law was intended to make available. If the FOP's claims in this case succeed, they will eviscerate a hard-won legislative mandate for transparency meant to build trust between police and community members.

CREATING FAIR ELECTION DISTRICTS

Advocating for Federalsburg officials to bring the Town's racially discriminatory election system into compliance with the Voting Rights Act, the Caroline County Branch of the NAACP, the Caucus of African American Leaders – Eastern Shore, the ACLU of Maryland, and members of the Federalsburg community have demanded that the Town of Federalsburg to adopt a new, fair election system. The Town's at-large election system has diminished and diluted the influence of Black voters such that no Black candidate in all Federalsburg history has been elected to the Town Council, despite the 2020 U.S. Census showing



← Family members and the Coalition for Justice for Anton Black at a press conference on August 12, 2022. Photo credit: Nehemiah Bester

Federalsburg's Black population has increased to 47 percent of the Town's total population, with People of Color making up approximately 53.2 percent. After a compelling community presentation calling on officials to reform the election system to advance racial fairness, the Mayor and Town Council unanimously voted to do away with the at-large system in favor of one that provides all voters in the community a fair opportunity to elect their chosen representatives in next year's elections.

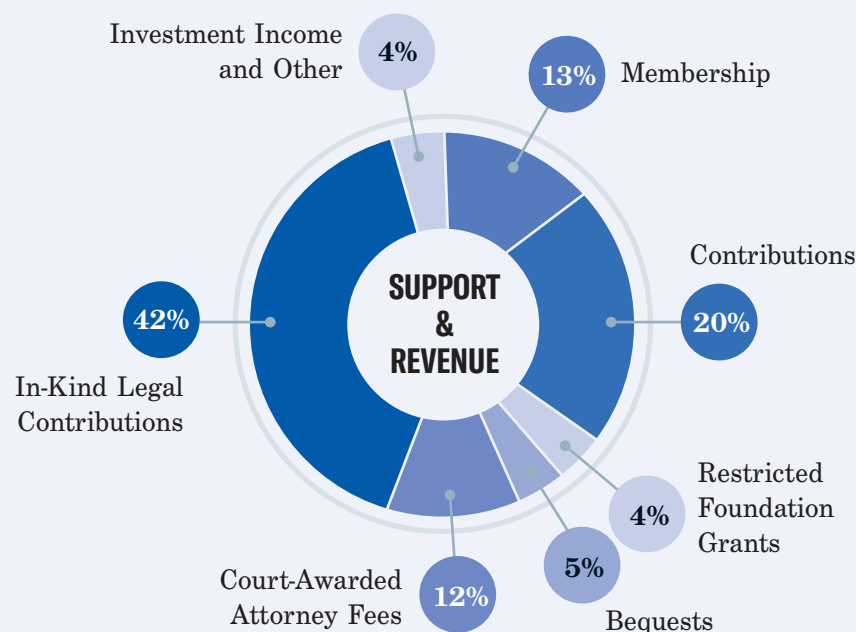
ADVOCATING FOR THE EDUCATION RIGHTS OF ALL STUDENTS

Families of children in Baltimore City public schools, represented by the Legal Defense Fund, ACLU of Maryland, and BakerHostetler, in August filed a motion for summary judgment in *Bradford v. Maryland State Board of Education*. In 1996, 2000, 2002, and

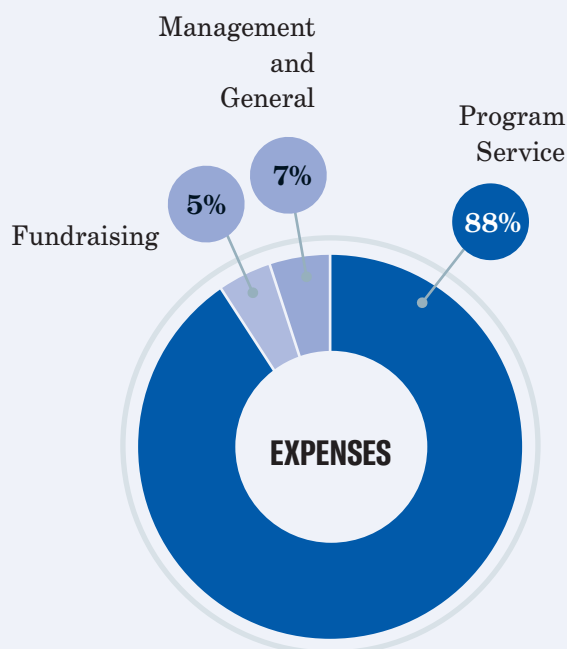
2004, Maryland courts repeatedly found funding for Baltimore City schools to be constitutionally inadequate. Yet, a permanent plan is still needed to realize structural equity for students in Baltimore City, where generations of Black and Brown children have been denied adequate and equitable resources compared to the wealthier school systems that surround them. By the State's own calculation, the estimated gap between what the State should have provided since 2017 and what it has provided is more than 1/3 of a billion dollars per year. It is the State of Maryland's duty to ensure that the education rights of all students are upheld by meeting that funding gap. **FSL**

Learn more about our legal work:
aclu-md.org/cases

Audited Financials Report - Fiscal Year 2022




Membership	\$ 1,686,400
Contributions	2,514,286
Restricted Foundation Grants	561,770
Requests	563,645
Court-Awarded Attorney Fees	1,454,637
In-Kind Legal Contributions	5,234,038
Investment Income and Other	529,073
Total	\$ 12,543,849



Program Service	\$ 9,340,323
Fundraising	480,391
Management and General	763,102
Total	\$ 10,583,816

discrimination against racial, ethnic, and language minority groups in voting. Although Maryland has made significant strides to improve access to the franchise over time, many discriminatory practices remain in place. And judicial decisions over the last 30 years – most notably by an increasingly right-wing Supreme Court – have chipped away at protections under the federal Voting Rights Act. Most worrisome, the Supreme Court is poised to decide a case from Alabama that could render Section 2 of the Voting Rights Act altogether unenforceable. That is why in 2023, the ACLU will work with coalition partners and allies to introduce a Maryland state Voting Rights Act, building on models enacted recently in New York and California, to ensure the protection of minority voting rights no matter what damage a right-wing majority on the Supreme Court does to undermine the federal Voting Rights Act.

ADEQUATE AND EQUITABLE EDUCATION FUNDING FOR MARYLAND PUBLIC SCHOOL CHILDREN

Maryland children have the right to a “thorough and efficient” public education, as guaranteed by the state constitution. This right includes funding so that all students have the full range of academic programs, supports, and resources they need to succeed. After decades of underfunding, the legislature passed the Blueprint for Maryland’s Future (aka “Kirwan”), which is projected to increase funding for public schools by \$3.8 billion annually, phased in over a decade. In 2023, the ACLU will work with partners to ensure that the full increase in education funding required by law is passed in the FY24 budget. The ACLU will also advocate to maintain the current high levels of school construction funding in the state capital budget, as school districts statewide continue to rebuild deteriorating school facilities and address large backlogs in building maintenance. 

WAYS TO GIVE

What will you give to ensure “WE THE PEOPLE” means all of us?

Want to learn more about ways to give?
Our Development staff welcomes the chance to meet and talk with you about supporting the work of the ACLU.

ONLINE

Give securely at www.aclu-md.org and click ‘Donate’.

MAIL

Mail your contribution using the enclosed envelope. Checks can be made out to **ACLU Foundation of Maryland** (tax-deductible donations) or the **ACLU of Maryland** (membership contributions).

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Ask your broker to transfer the securities you wish to donate to the ACLU-MD’s account (**#30A121398**) at T. Rowe Price (**DTC# 0443**).

IRA-QUALIFIED CHARITABLE DISTRIBUTION

Make a donation to the ACLU Foundation of Maryland from your Individual Retirement Account (IRA) and count it toward your Required Minimum Distribution.

Contact your IRA custodian to request a “Qualified Charitable Distribution” (QCD) to be made payable to the **ACLU Foundation of Maryland – 3600 Clipper Mill Rd., Ste. 350, Baltimore, MD 21211**. Our Tax ID # is **23-7209538**.

DONOR-ADVISED FUND / MORE INFO

Recommend a gift or recurring gifts from your donor advised fund to the ACLU Foundation of Maryland.

For more information about additional giving opportunities, email development@aclu-md.org or call **(410) 889-8550 ext. 153**.

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