

Remove Criminal Penalties for Marijuana-Related Offenses

In November 2022, amid a growing understanding of the harm caused to Black and Brown communities by the racist enforcement of the dangerous ‘war on drugs,’ Maryland voters approved a referendum to legalize marijuana for adult use.

However, under current law, marijuana-related offenses, such as possession with intent to distribute and possession of more than the civil use amount (2.5 ounces), can still result in misdemeanor convictions.

With these criminal penalties still on the books, marijuana is only partially legalized. Black and Brown people will continue to be disproportionately impacted by targeted enforcement of these laws and saddled with the collateral consequences that accompany entanglement in the criminal legal system and unnecessary police interactions.

We urge the General Assembly to pass a bill that would bring these charges down from a misdemeanor to a civil offense, subject to citations and civil fines, rather than imprisonment.

The Enforcement of the ‘War on Drugs’ Has Had Catastrophic Effects

Studies consistently show that people of all races use and possess marijuana at similar rates. Yet, Black people in Maryland are three times more likely than white people to be arrested for marijuana possession. This racist dynamic is true whether the county is majority white or majority Black.

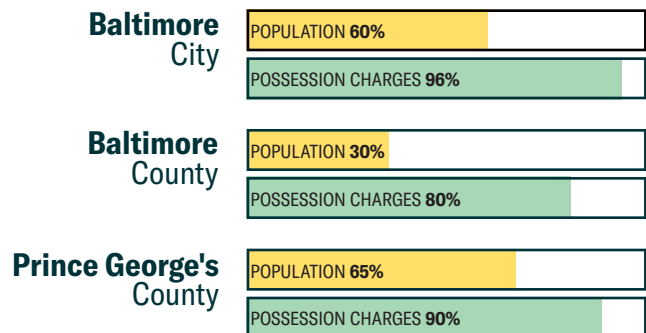
Between 2018-2019, 96 percent of all marijuana possession charges were filed against Black people in Baltimore City, even though Black people only represent around 60 percent of the city’s population.

In those same years in Baltimore County, 80 percent of all marijuana possession charges were filed against Black people, even though Black people only represent 30 percent of the population there.

In Prince George’s County, the numbers are equally as appalling. Even though Black people only made up about 65 percent of the population, 2,903 people were charged with possession of marijuana and 90 percent were Black.¹



POLICE DISPROPORTIONATELY CHARGE BLACK MARYLANDERS WITH MARIJUANA POSSESSION (2018-2019)



According to a 2022 report released by the Maryland State Commission on Criminal Sentencing Policy on the sentencing trends in Maryland Circuit Courts for marijuana offenses, between 2017-2021, 45 percent of people charged with a felony marijuana conviction had no prior record and 49 percent of those charged with a misdemeanor marijuana conviction had no prior record. Yet Black people were sentenced to incarceration more often and for longer periods of time for both felony and misdemeanor marijuana offenses.²

A misdemeanor conviction hinders a person's access to employment, stable housing, and a range of public benefits. Misdemeanor conviction records can also bar people from residing at certain homes and exclude people with low-income from utility payment plans and food stamps. With higher conviction rates, Black and Brown people bear the brunt of collateral consequences stemming from misdemeanor convictions. Without gainful employment and stable housing, people are often forced into livelihoods based on criminal activity.

Furthermore, the vast majority of those currently selling marijuana are subsistence dealers selling to survive. They do not make substantial profit and will not have access to a license to distribute marijuana lawfully. **It is unfair to continue to levy any kind of punishment against them when wealthy, mostly white Marylanders will be able to engage in the same conduct legally and for profit.**

Legalization Will Not Be Enough to Reduce Racial Disparities in Maryland

Decriminalization was never enough. And as we've seen in many states, legalizing possession without eliminating other marijuana related offenses will not be enough either. Disparate arrest rates between Black and white people exist in all states regardless of whether marijuana has been legalized, decriminalized, or remained illegal.

Disturbingly, we see in some states that legalized marijuana that even though arrest rates overall decreased, the racial disparities remained and sometimes even got worse.³

In Virginia, despite legalization of recreational marijuana in 2021, Black adults still accounted for nearly 60 percent of marijuana-related cases even though they are only about 20 percent of the state's population.⁴

In Washington, D.C., despite legalizing marijuana almost eight years ago, almost everyone arrested on marijuana related charges in 2020 was Black despite making up only 45 percent of the city's population.⁵

We must repair the harm done by the dangerous 'war on drugs' and prevent the continued criminalization of Black and Brown people within a legal marijuana landscape. To do that we must close the existing loopholes that allow for the disproportionate arrest, sentencing, and incarceration of Black and Brown Marylanders.

SOURCES:

¹ 2020 Statistics and Data Request for Possession of Marijuana over 10 Grams by Delegate Nick Mosby

² https://msccsp.org/Files/Sentencing_Snapshot/Issue7.pdf

³ American Civil Liberties Union. (2020). A Tale of Two Countries Racially Targeted Arrests in the Era of Marijuana Reform. American Civil Liberties Union. Retrieved November 30, 2022, from <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

⁴ Elwood, K., & Harden, J. D. (2022, October 16). After Virginia legalized pot, majority of defendants are still black. The Washington Post. Retrieved November 30, 2022, from <https://www.washingtonpost.com/dc-md-va/2022/10/16/virginia-marijuana-enforcement-disparities/>

⁵ <https://www.washingtonpost.com/dc-md-va/2022/10/16/virginia-marijuana-enforcement-disparities/>