

Draft version 2
Resolution of the Policing Advisory Commission
To convene a hearing of the PAC regarding MCPD Drug Arrests
Proposed by Eric E. Sterling
April 9, 2021

In 2014 the Maryland General Assembly adopted a marijuana decriminalization law providing that possession of less than 10 grams of marijuana was a violation subject to civil citation and not subject to arrest.¹ A primary rationale for the decriminalization law was the pervasive record of invidious racial disparity in marijuana arrests in Maryland.²

On the eve of the new law taking effect, [The Baltimore Sun on September 30, 2014](#) reported on the views of prosecutors around the state. It reported,

“But taking a cue from what he believes was the legislature's intent, [Montgomery County State’s Attorney John] McCarthy has decided that **Montgomery County authorities will now treat all possession cases, even those well above 10 grams, as a civil citation offense.**

"No one will be charged criminally for simple possession, regardless of quantity," McCarthy said in an interview.”³ (emphasis added).

In January 2020, two newly elected Commonwealth’s Attorneys in Northern Virginia (Fairfax County and Arlington County) announced that they would no longer prosecute charges of possession of small amounts of marijuana, according to [The Washington Post, January 2, 2020](#). The Post reported on the situation in the neighboring jurisdictions:

“In Montgomery County, State’s Attorney John McCarthy’s office has not prosecuted personal possession marijuana cases since the state decriminalized pot possession about six years ago, he said. His office, more recently, also has scaled back prosecution of small ‘distribution cases’ that, in reality, are no more than one friend selling a joint to another friend.”⁴

However, the Montgomery County police agencies continue to report that they are making arrests for marijuana possession according to the most recent annual report on Crime in

¹ [2014 Laws of Maryland, Chapter 158](#); Maryland Criminal Law Article, section 5-601(c)(2)(ii) and section 5-601.1.

² ACLU Foundation, “[The War on Marijuana in Black and White](#)”, June 2013.

³ Justin Fenton, “Marijuana possession now a fine, but prosecutors see complications,” The Baltimore Sun, September 30, 2014, <https://www.baltimoresun.com/politics/bs-md-marijuana-decriminalization--begins-20140929-story.html>, (Accessed March 25, 2021).

⁴ Justin Jovenal and Rachel Weiner, “Prosecutors won’t pursue marijuana possession charges in 2 Northern Va. Counties,” The Washington Post, January 2, 2020, https://www.washingtonpost.com/local/public-safety/new-fairfax-county-prosecutor-says-office-wont-prosecute-marijuana-possession/2020/01/02/ab0363a4-2d76-11ea-9b60-817cc18cf173_story.html (Accessed March 25, 2021).

Maryland from the Maryland State Police. Montgomery County reported 3,715 arrests for marijuana possession in 2019, and 5,030 such arrests for 2018⁵. The marijuana possession arrests constituted 86 percent of the 4,322 CDS possession arrests for 2019, and 88 percent of the 5,719 CDS possession arrests in 2018. (p.143).⁶

Given these circumstances, the PAC should hold a public hearing to better understand the purposes, effects and benefits of continuing to make these arrests.

Therefore, be it resolved, that the Policing Advisory Commission of Montgomery County conduct a public hearing to examine drug arrest data and outcomes in Montgomery County, and the policy implications thereof.

###

DRAFT

⁵ Crime in Maryland, 2019 Uniform Crime Reports, pp. 138-144, <https://pilot-mdsp.maryland.gov/Document%20Downloads/Crime%20In%20Maryland%202019%20Uniform%20Crime%20Report.pdf> (Accessed, March 25, 2021) at p. 143.

⁶ Ibid.