



June 15, 2021

The Silver Spring Justice Coalition believes Montgomery County's drug enforcement practices alone, and in combination with its traffic stop practices, is a source of over policing of our Black and Brown community members. With the advent of social media, citizens have videotaped egregious stops by police and the local news outlets have brought them to the attention of the public. We applaud the Policing Advisory Commission for offering the local community a much needed forum to discuss encounters with members of the Montgomery County Police Department (MCPD).

According to MCPD's 2019 crime and safety report, 91% of all drug offenses are for simple possession and 75% of all drug offenses are for marijuana. It is outrageous that MCPD is concentrating its drug enforcement resources on marijuana when possession of 10 grams or less is not even a crime; and, Maryland, like many other states, is on a path to decriminalizing marijuana altogether.

The law governing when police can stop and search people and places based on the odor of marijuana continues to change, narrowing the scope of permissible police conduct. Recently, courts in Maryland have issued rulings changing police powers when marijuana is suspected. In April 2021, the Maryland Court of Appeals ruled that the smell of marijuana no longer justifies an officer approaching and questioning a person, in non-traffic stops, based on the suspicion of possessing drugs, citing the fact that less than 10 grams of marijuana is no longer a crime in the state:

<https://www.courts.state.md.us/data/opinions/cosa/2021/2616s19.pdf>

However, traffic stops and vehicle searches can still be conducted on the basis of an odor of marijuana. Based on the data, such stops are often racially disproportionate.

Data on traffic stops by race, ethnicity, and gender show that Black male drivers have the highest rate of traffic stops at 38%. Black drivers overall account for 27% of traffic stops, despite black residents accounting for approximately 20% of the population in Montgomery County. Native

American drivers overall account for 11.6% of traffic stops despite American Indians and Alaska Natives accounting for just 0.7% of the population in Montgomery County. Conversely, White and Asian drivers overall account for just 14% and 7% of traffic stops despite these groups accounting for 60% and 15% of the population in the county. These inequitable outcomes continue through the spectrum of traffic enforcement with violations, searches, and rate of stops throughout various county places. Black drivers received the highest rate of violations compared to other racial and ethnic groups in Montgomery County. Additionally, when stopped, Latinx and Black drivers are most likely to be penalized with four or more violations during a single stop, as noted in Table 5.5 of the September 2019 Office of Legislative Oversight report Local Policing Data and Best Practices. See the Reimagining Public Safety Taskforce Report :

<https://www.montgomerycountymd.gov/rps/Resources/Files/reports/rps-task-force-recommendations-report.pdf>

The use of pretext in traffic stops, while legal, leaves a great deal of discretion to individual officers when making traffic stops. Recently, Fairfax County's State's Attorney announced evidence of racial bias in nearly 400 convictions---many of them stemming from traffic stops.

<https://wjla.com/news/local/why-a-fairfax-county-prosecutor-wants-400-cases-linked-to-one-former-cop-thrown-out>

In Montgomery County, we have seen highly publicized cases where MCPD practices cause harm. For example, MCPD stopped, searched, and held a grandmother and her family, including a two-year old, on the side of the road for more than an hour. K-9 dogs were called to the scene to search for drugs. More than an hour later, nothing was found. The family sued for damages. <https://www.washlaw.org/wp-content/uploads/2019/04/Montgomery-County-Police-Complaint-4.30.2019.pdf>

That same year, an officer was recorded using the N-word while she and other officers harassed a group of young Black men at the McDonald's in White Oak. The officers said they smelled marijuana on the men, patted them down, and issued civil citations for possession of less than 10 gms to two of the men.

Montgomery County's State's Attorney repeatedly claims he doesn't prosecute marijuana possession. This is not true. The State's Attorney's Office does not screen and dismiss the many marijuana possession cases that MCPD brings them. Rather, people charged must come to court and some have the option to have their criminal possession case treated like a civil possession case and pay \$100 to have the case dismissed. Those who cannot pay, have to fight the case or plead guilty. As well, people subject to other charges brought simultaneously do not have this option, even if the marijuana was the initial reason for the police encounter. This is very different from not prosecuting marijuana cases and does not remove the racially disparate impact of

marijuana prosecution in the way that dismissing charges outright and telling the police not to enforce it on the street would. Even those who can afford \$100 and have the option for a civil case have to take off work to come to court, and hire a lawyer or apply for a Public Defender. The charge remains on their record unless they go through the expungement process, and the police can use those prior charges against them in future interactions, as any past arrest can serve as a basis to suspect a person was in possession of drugs at the time. Finally, non-citizens not able to pay \$100 face serious immigration consequences.

The State's Attorney also prosecutes possession with the intent to distribute marijuana cases and these cases continue to result in more Black men filling our jails while White business owners throughout the state are profiting from the sale of medical marijuana, and are preparing to profit further once the state decriminalizes the drug.

In sum, the Silver Spring Justice Coalition urges this Commission to study the recommendations made by the Reimagining Public Safety Task Force and to engage our County officials on adoption and enforcement of said recommendations.

*The Silver Spring Justice Coalition aims to create a paradigm shift in police-community engagement. Race, class, ethnicity, religion, immigration status, gender identity, sexual orientation, ability, and mental health status must never again put people in Montgomery County at risk of state-sponsored discrimination and violence.*