
Committee Meeting

of

SENATE JUDICIARY COMMITTEE

“The Committee will hear testimony from invited guests and the public on deterring minors and young adults from obtaining and using lawful cannabis items intended for adults over 21 years of age and decriminalized marijuana, as proposed in recently passed bills”

LOCATION: Remote

DATE: February 15, 2021
12:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Nicholas P. Scutari, Chair
Senator Nellie Pou, Vice Chair
Senator Sandra B. Cunningham
Senator M. Teresa Ruiz
Senator Troy Singleton
Senator Bob Smith
Senator Brian P. Stack
Senator Gerald Cardinale
Senator Kristin M. Corrado
Senator Michael J. Doherty



ALSO PRESENT:

David J. Lorette
Office of Legislative Services
Committee Aide

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Meeting Transcribed by
The Office of Legislative Services, Public Information Office,
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Chair

Nellie Pou
Vice-Chair

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NEW JERSEY STATE LEGISLATURE

SENATE JUDICIARY COMMITTEE

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The committee will hear testimony from invited guests and the public on deterring minors and young adults from obtaining and using lawful cannabis items intended for adults over 21 years of age and decriminalized marijuana, as proposed in recently passed bills.

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SENATOR NICHOLAS P. SCUTARI (Chair): Okay, welcome everyone to the Senate Judiciary Committee -- today is February 15, 2021 -- for the purposes of the Public Hearing on Cannabis legislation.

May I have a roll call.

MR. LORETTE (Committee Aide): Roll call.

Senator Doherty.

SENATOR DOHERTY: Yes, I am present.

MR. LORETTE: Senator Corrado. (no response)

Senator Corrado was-- She has logged in earlier and I see her on the screen, so I am going to count her as present for the meeting.

Senator Cardinale. (no response)

I also -- I have Senator Cardinale as well; he's muted at the time, but I am going to mark him as present.

UNIDENTIFIED SPEAKER: Please.

MR. LORETTE: Senator Cunningham.

SENATOR CUNNINGHAM: Yes.

MR. LORETTE: Senator Stack.

SENATOR STACK: Yes, here.

MR. LORETTE: Thank you, Senator.

Senator Smith.

SENATOR SMITH: Present.

MR. LORETTE: Senator Singleton.

SENATOR SINGLETON: Present.

MR. LORETTE: Senator Ruiz.

SENATOR RUIZ: Here.

MR. LORETTE: Thank you.

Senator Pou.

SENATOR NELLIE POU (Vice Chair): Here.

MR. LORETTE: Chairman Scutari.

SENATOR SCUTARI: Here.

MR. LORETTE: You have a quorum, Chairman; and the only one missing is Senator Batemen. You're good.

SENATOR SCUTARI: Great. Thank you very much, everyone, and I appreciate you taking this time for our virtual hearing for continuing discussions of cannabis legislation. It is our hope to have a final draft (indiscernible) tonight, in consultation with members of both houses. Obviously, listening to some of the testimony today, and having that enter into our mindsets as we continue to try to get a dialogue that brings everyone together as best we can, with the hopes of voting on legislation tomorrow, in person.

Senate Judiciary Committee will be in-person tomorrow with the purposes of discussing this legislation. Other pieces of legislation of course; and in-person interviews for nominees to important positions throughout the State.

So today's purpose is just for information, and it's the hearing on cannabis legislation. So for that, we have a list of invited witnesses, and then we have other individuals who have signed up.

So for the first witness -- and I see they are onboard -- I believe we have Jiles Ship here, the President of the New Jersey Chapter of the National Organization of Black Law Enforcement Executives.

Can you unmute Mr. Ship and give him the floor.

J I L E S H. S H I P: Yes, thank you, Chairman Scutari, and thank you for the invitation on this very, very important issue.

I'll make it very brief, but for the benefit of every other Committee member who may not know, NOBLE is an acronym for the National Organization of Black Law Enforcement Executives. We are an organization of Chiefs of Police and Commanders, from the Federal, State, county, and local law enforcement agencies. We have been around since 1976. We have worked on a lot of issues that have improved law enforcement and partnerships with community members, not only in New Jersey, but throughout this nation -- we have 56 chapters throughout the United States, the Caribbean, and the U.K. And we look forward to speaking to you today.

I just wanted to start out, also, by acknowledging the fact that our Governor has appointed me -- and I serve currently -- on the Criminal Sentencing and Disposition Commission as well. I've served over 30 years in law enforcement on the local and State levels, starting out as a Patrolmen in a mid-sized urban center. I also served as a Director in the City of Plainfield. I served 8 years with the New Jersey Attorney General's Office in the Division of Criminal Justice.

So that's just a brief synopsis of my criminal justice background. I had the unfortunate circumstance of having to arrest people for small quantities of marijuana, and over the years, we as law enforcement officers -- we fought the good fight, and we thought that we were going to make a big difference. And in some cases, we may have.

But one of the things that I've learned over my years of experience is that the war on drugs that we had didn't work. As a matter of fact, it was counterproductive. And so was -- we go back even further -- so

was prohibition, during the days of prohibition. And what we found out from prohibition is that we created an underground economy. So what did that produce? That produced more deaths, more illicit activity; and it wasn't successful.

And so, also at the onset, too, I just wanted to say that we have members in NOBLE who are special agents in charge of DEA, ATF, high-ranking members of New Jersey State Police; and we do not support -- we did not support the use of marijuana. But what we do support is the decriminalization of it. Because we know, quite frankly, it doesn't work.

The war on drugs was successful in one way: It was successful in filling up our penal institutions. And we're working right now with the Criminal Sentencing and Disposition Commission to try to undo that bad policy that we had put in place. We used to average about 200,000-300,000 people in prison, and now our country has over 2.3 million people incarcerated. And I would like to say that a large portion of those are because of the draconian drug laws that we have in place in this State and other states throughout the United States.

So what I am proposing is that we deal with this public health problem -- which substance abuse is -- like we deal with other public health problems, and we keep them in the public health arena. We cannot solve a public health problem with a criminal justice response. We cannot do it; it's been proven time and time again.

And I know with specific concern around this Bill, we're talking about people who are underage. People who are underage need treatment, and they need counseling. We know already that treatment and education works. So why not go in that direction? Criminalizing people for

a medical problem has never produced any positive results for us as a nation -- or as a State for that matter. We must address this problem where it really is, and we have to deal with it head-on.

It would do us no good, outside of the fact that it would put law enforcement resources in an area where they can be better used somewhere else. We should be out there -- law enforcement professionals and leaders should be out there having their people take guns off the street; having their people stopping assaults; having their people preventing burglaries.

If we take those law enforcement resources that are already strapped and we direct them towards going after our minors for medical problems, which a substance abuse problem -- an addiction is a medical problem; and if you have an addiction to any substance, there's only two ways to address that, and again I say: treatment and education. And it's proven to work. If you look at the last 20 years, we put a lot of education out around smoking. Smoking has reduced by about approximately 40 percent. So we have the evidence to support this way of addressing these problems.

So I'm going to stop there. I know there's a lot of speakers who have to come on today, but I will make myself available now for any questions of any members.

SENATOR SCUTARI: Thank you, Mr. Ship. I appreciate that testimony. It's nice to hear the argument that I've been making for a decade from more than just me, and I think it has taken a long time. But the theory, and the questioning, and the consideration of moving in a non-criminal direction for marijuana usage has finally taken hold -- evidenced by

our November vote of over two-thirds of the majority of the people in the State of New Jersey voting to legalize marijuana.

So for those purposes, members, any questions for our speaker, our first speaker Mr. Ship? Feel free to chime in -- and then I'll have everyone else mute, if I can get anyone's attention -- if you have any question regarding Mr. Ship's testimony.

SENATOR SINGLETON: Chairman.

SENATOR SCUTARI: Senator Singleton.

SENATOR SINGLETON: Chairman, thank you.

Jiles, a quick question about law enforcement interaction with youth. As the Chairman stated at the beginning, this is sort of a markup of a concept of ideas, ultimately legislation that this Committee will have the opportunity to vote on tomorrow.

I wanted to know from your perspective, someone who spent 30 years in law enforcement: What should the Legislature consider with respect to police interaction, if a policeman's or a policewoman's interaction has overstepped the bounds within the confines of the legislation that we're crafting? Should there be some sort of structural penalty component for law enforcement who oversteps their bounds in their interaction with youth; and if so, do you have a recommendation to what that should look like?

MR. SHIP: Yes; but let me, if I may, Senator, let me first say that any enforcement effort that we attach to this I think should be directed at the retail, which is pretty much a model that we use when we're going after people selling cigarettes to juveniles.

So I think any type of enforcement effort should be at that. Police should be there to advise, counsel -- they should not be bringing young people into the Criminal Justice System, because when that happens, we've found that so many other opportunities are cut off from them -- so many paths. And you also, pretty much, resign a person to just getting involved in some kind of underground economy.

We know there's a lot of licensing -- and I don't have to go over that for this body -- there's a lot of licensing that they may not be available to. So-- And I don't know if I answered your question directly; but specifically, I think that, you know, the Social Service agencies, Human Service agencies, school districts -- they should be the ones dealing with these problems if they identify a problem like that. I think law enforcement should be moved in another direction, not to deal with these young people.

SENATOR SINGLETON: And I don't disagree with that. But let me ask my-- Maybe I'll ask my question more precisely with an example. My friend and colleague Senator Ruiz, in our discussions, often cited this example; so Jiles, with your experience, I wanted to know if you could help me with it.

If there is a group of young adults or young folks on the corner and we don't know the age by sight -- in Willingboro, New Jersey, where I grew up, Black and brown kids were standing on the corner -- a police officer interacts with them under the confines of what we're trying to structurally do here, which is to keep marijuana out of the hands of our young folks-- And if said police officer were to be over-aggressive in their interactions, or take it too far -- where any reasonable person would believe they've taken it too far -- do you think that this body should consider

structurally, in a proposal we're doing, that there needs to be some penalty associated with law enforcement interaction that crosses that line?

MR. SHIP: Oh, absolutely. Absolutely. Any time law enforcement crosses not only that line, but any line, there has to be repercussions. And you know, what that should look like-- It should look like what's normally done.

Any time you go from a law enforcement objective, and you cross over that line-- I can't tell you exactly, specifically, right now, quite frankly, because we're working on a lot of this right now, also, with the Attorney General's Office; and not only police licensing, but also with the various different use of force policies and other things from that office. But I'd be glad to go back to my group and get you something by this evening. I know you guys have an important vote tomorrow.

But yes, the answer, in short, is yes. There should be penalties for anyone who takes their -- abuses the law; and, more specifically, misuses the oath of office.

SENATOR RUIZ: Chairman, if I can follow up.

SENATOR SCUTARI: Sure, Senator Ruiz.

SENATOR RUIZ: Since my example was brought up-- Thank you, Jiles, for citing on the backend. Oftentimes I was bringing up that example, and I think Senator Singleton was maybe asking the same question: What can we do if, in fact, there has to be that kind of -- because there will be that kind of interaction -- what best practices can we do to empower both our youth-- Which I think you've done that, right? We have to do a great awakening of what our rights are and what the law is when it comes to when people are approaching us, when it comes to law enforcement.

But what can we do to better also prepare law enforcement in that interaction, which inevitably, I think, in a structure of this Bill, is going to surface in some way, shape, or form? Have you seen best practices? Does it make sense to be sure that-- You know, we talk about this *community policing*, but so many of our law enforcement employees don't live in our neighborhoods, right.

What elements do you think we can add to better make that first interaction one that's like when I walk down the street and I see somebody that I taught preschool to, and I say, "Put it out or I'm going to go talk to your mom," so it's more of that kind of an interaction, as opposed to an escalated version?

MR. SHIP: Yes, and Senator, I wish it was a very simplistic answer, but quite frankly--

SENATOR RUIZ: I know it's not, we're just trying to, you know--

MR. SHIP: Yes, quite frankly, we are currently in the process of a transformation in policing. And we also have to hold supervisors accountable, quite frankly, because this is not taught to you in the academy. When people get out on the road and they get with senior officers, they learn bad habits. And if the supervision is not holding people accountable, you know, and there's not swift and certain punishment for different types of activities, it's going to continue. But we are in a process now, I would like to think, especially after all of what we saw this past summer -- and the tipping point, I would like to say, was probably the George Floyd homicide -- quite frankly, we have to get back to a more collaborative type of policing, where

the communities at the table leading this effort along with police, along with government, and along with big business and corporations.

And we have to sit down and really determine that. But quite frankly, real quickly, you know, that punishment has to be swift, it has to be -- And people have to be held to a level of accountability. It's as simple as that.

SENATOR RUIZ: Thank you.

SENATOR CUNNINGHAM: Jiles?

MR. SHIP: Yes.

SENATOR CUNNINGHAM: Hello?

SENATOR SCUTARI: Senator Ruiz, are you concluded?
I believe Senator Ruiz is--

SENATOR RUIZ: Thank you. I think Senator -- that's Senator Cunningham, I think.

SENATOR SCUTARI: I just wanted to make sure you were finished.

SENATOR CUNNINGHAM: Yes. Can I just ask a quick question?

SENATOR SCUTARI: Yes, sure. The floor is yours.

SENATOR CUNNINGHAM: Jiles, I'm not sure if you're still operating in Hudson County. At one point you were doing some work, your organization was doing some work working with young people. Is that still taking place in Hudson County or are you not doing that any longer?

Because I'd like to know how that program worked out, and what specifically you were supposed to do, and how successful was it.

MR. SHIP: Yes, Senator, it was -- I believe it was very successful, myself. We actually were working with young people there and letting them know when you are approached by law enforcement-- We have a program nationally, a national program, it's called *The Law in Your Community*. And it basically-- The reason why we came up with that program is because we want encounters with young people and police officers to be positive ones, and to be encounters where the young people can still maintain a level of respect for law enforcement -- but not only young people, it was geared toward the younger group, for the ages of 8 to 18.

But yes, Senator, we were up there with that. One of the misnomers we had-- I also was fortunate enough to go out to Ferguson after the Mike Brown shooting; I was commissioned out there by the Department of Justice. And one of the things that I found, a saving grace I like to call it, is that as much as is going on, people -- especially young people -- they still believe in our Criminal Justice System, and they still believe in the police, and they want to support the police -- they want, believe it or not, more positive interactions with police.

But if we go down the road where we've almost forced our law enforcement officers to be more aggressive, especially with these types of undertakings, we're going to spread that divide. And it's not good. We go around the nation trying to bring back or be the bridge-builder between the community and the police. I think, unfortunately, the way this legislation is written now, will further divide folks by getting more people into the Criminal Justice System.

Because it's not a matter *of*, it's a matter of *when* one of these encounters will go bad.

SENATOR CUNNINGHAM: Okay, thank you.

SENATOR SCUTARI: Thank you, Senator Cunningham.

Okay, anyone else for the President? (no response)

Thank you very much, Mr. Ship, I appreciate your time, being here today. And we're going to call our next witness. Thank you very much.

Okay, the next invited guest is Sarah Fajardo from the ACLU of New Jersey. She has written-- They have provided written testimony, but I believe they'd also like to address the Committee today.

So can we unmute Ms. Fajardo if she's here, and give her the floor?

SARAH FAJARDO: Thank you so much, Chair, and thank you Vice Chair and members of the Senate Judiciary Committee.

I won't repeat my testimony that's written, but I would love to lift up a few points from the written testimony.

So we've already heard from President Ship about some valid concerns that have emerged in the last few months in New Jersey about the need to limit law enforcement contact with youth in the context, specifically, of marijuana.

The ACLU NJ has recommended that New Jersey treat cannabis like tobacco, so trying to shift punitive impacts to those who sell to youth, and provide educational and cessation programming for youth. And short of this approach, we do believe that the approach laid out in S-3454 does contain some important provisions that would limit punitive responses that are currently applied to youth in New Jersey for cannabis.

And Mr. Ship also uplifted an ongoing conversation that I've had with many legislators and advocates on the issue of youth cannabis law enforcement, that really hinges on the structural reality that law enforcement today is expected to respond to far too broad a range of issues. And so I talked with many folks about a real desire for a systems response to community issues, like that of youth and cannabis, that does not result in the automatic deployment or engagement of law enforcement.

And we know the stats about racially biased policing, the reality of harmful escalation of engagement with youth; and we do know that there are models out there in the United States that are research-backed and provide supportive response structures to help communities handle issues without law enforcement being the sole response. And so we would really love to work with New Jersey Legislature to create a more supportive systems response for New Jerseyans.

And more specifically for youth and cannabis, we do know that states that have legalized have demonstrated the need to move away from criminal penalties for youth. This significantly reduces the youth rates of arrest, and it makes sense that shifting away from the criminalization of youth does reduce those arrest rates.

So today I'm here to recommend, again, that we consider the tobacco model, treating cannabis like we do tobacco: directing penalties towards the folks selling to youth, and invest in youth education and cessation programming. But in lieu of this, we do want to lift up several provisions that we thought were meaningful and significant strides in the current legislation that's being considered.

So we understand that the Bill-- Or we read the Bill, as written, with the intent to limit police discretion through defining the terms for police interaction with youth. And we believe that this is accomplished via the warning system that was created, and we do note the limitations on bringing youth into police stations for station house adjustments.

We also acknowledge that the shift towards warnings with data collection will increase the duration and depth of interaction of police and youth further than how a curbside warning could have been handled if it didn't escalate beyond a curbside warning.

However, rather than that escalation to a station house adjustment, we do note this new model's use of referrals to social service programming, which we think is positive; and we also are hopeful that we will see other provisions that align tobacco consequences with this new framework. We're grateful that we've taken a step away in this Bill from suspending licenses; we're hopeful that fines could be removed. And we've offered the Legislature a few suggestions on strengthening the data protections related to youth records, to both protect youth who are not immigrant youth, but also to protect immigrant youth who may be applying for different immigration statuses.

And I'll just say, lastly, that it's a tough issue before New Jersey today. We understand that we're trying to achieve a balance that limits police discretion while interacting with youth, but prevents further escalation and contact with police for youth; and still implements consequences that deter youth cannabis use and actually supports youth's well-being.

So we're grateful for this thoughtful discussion today, and we hope to see this move forward quickly and soon.

Thank you.

SENATOR SCUTARI: Thank you, Ms. Fajardo.

Senators, any questions for Ms. Fajardo or the ACLU before we go on to the next speaker? Feel free to chime in. (no response)

No questions for this witness? (no response)

Okay, great. Thank you so much for being here, Mr. Fajardo. I appreciate all your decades-long efforts. I'm hopeful it's the beginning of the end this week-- But I will say this: I don't think this is the end, I think this is the beginning. I think you're going to see many, many more changes as we learn more and more things.

Just going through this process in the last three months, obviously there's been a lot more concentrated effort with respect to minors than even I had considered during the last 10 years. We were just looking to get it legalized for people over 21, and now we've focused on another area.

I appreciate your input on that, thank you

Okay. Next, I didn't see Mr. Krakora, the State Public Defender for the State -- no? He's not on, right? I see David shaking his head. (no response)

Okay. Mr. Krakora missed his chance. Okay, next on my list I have the Reverend Charles Boyer, the founding Director of Salvation and Social Justice.

If you'd like to unmute him, David; and Reverend, please feel free to address the Committee.

REV. CHARLES F. BOYER: Thank you, Mr. Chair. Thank you for your work on this, to all the Senators who are working on this.

I'm not going to take too long at all, because I believe I'm in a lot of concurrence with what has been said already; and I'm sure whatever hasn't been said, Laura Cohen will certainly address.

But just a couple of things that we'll highlight here. One: the revenue that is generated from the fines here, we have some concerns in how those would be used, and really urge you maybe to consider making sure that none of those dollars -- as we want to disincentivize that kind of enforcement, believing that has been a negative incentive in the past.

Also, we're a little concerned about treatment-based programs, and making sure that they're not mandatory or compulsory, and that families are able to opt-in to treatment if they deem it necessary. But, in agreement with Sarah, that mostly a model around education is the preferable method.

We also think, too, the question that Senator Singleton brought up -- that it's necessary that the Bill explicitly either fines, sanctions, or disciplines officers who violate the smell test prohibitions, the bodycam requirements that are laid out here, or disproportionately targets youth of color. Nationally, and specifically here in New Jersey, we have yet to see law enforcement cease or be held accountable for disproportionate enforcement.

I'll just leave my testimony there, because I think everything will be addressed, or already has been addressed. But again, thank you all for your hard work and for really considering the best way to deal with our young.

SENATOR SCUTARI: Reverend, thanks so much for your comments; and I appreciate your conversations in the past, directly. I look

forward to continuing to work with you on this and other important programs for citizens of the State of New Jersey. Thank you.

Senators, any questions for the Reverend before we move on to the next witness? (no response)

Okay. Seeing none, Reverend, thank you very much for your input and testimony today.

Okay, next we have Laura Cohen, the Director of Criminal and Youth Justice Clinic at Rutgers Law School.

Ms. Cohen.

L A U R A C O H E N, Esq.: Thank you Senator Scutari, and thank you to the Committee for the opportunity to testify on this today. Like everyone else, I applaud and really thank you for all your efforts in this really crucial area, and particularly for focusing on young people and trying to get this right.

So, throughout my time at Rutgers, and before, I represented thousands of kids who have been caught up in the system and have really seen the lifelong harms that can be wrought by system involvement -- even when that doesn't lead to a criminal conviction or delinquency adjudication. Kids are stigmatized, involvement in the court system undermines their sense of self; there are profound collateral consequences; harmful effects just from having to go to court, such as days missed of school and work; and then of course the impact of fines and fees on kids.

All of these harms are disproportionately and inequitably inflicted on Black and brown children. We know this, but just, you know, as a bitter and crucial reminder, we have one of the highest rates of Black-

white racial disparities in the country in our youth incarceration system. And even in 2018, 24 percent of kids arrested for marijuana possession were Black, when they only made up 13 percent of our State's population of children.

So these questions, as you all know, are profoundly connected to these deep and lasting inequities. Those inequities, in a collective determination to address them, led to the enactment last year of Senate Bill 48 -- for which I give Senator Pou and everyone else involved in that Legislation profound gratitude. But among many other things, that legislation compelled the juvenile legal system, and all the actors in it, to combat racial and ethnic disparities, the identifying policies and practices that disadvantaged youth of color at every stage of the process -- including, I might add, arrest.

One of the key strategies codified in that legislation was the elimination of fines and fees in juvenile court, which have been shown to disparately and negatively impact Black and brown children, and drive them further into the system.

For all of these reasons, like Reverend Boyer, and Mr. Ship, and Ms. Fajardo, I urge you to take a public health approach to cannabis use by young people -- similar to that which the state has used very successfully around tobacco. Rather than adopting policies and procedures that will single out the youngest and most vulnerable New Jerseyans for the harshest consequences, the U.S. Supreme Court, our State Supreme Court, and this body have all recognized that young peoples' development immaturity leads them to take more risks, including experimentation with marijuana.

At the same time, the overwhelming majority of children will simply outgrow risk-taking, particularly with the kind of education -- public health education -- that we've been talking about. And criminalization of these normative adolescent behaviors undermines positive youth development and, again, disproportionately targets and harms children of color.

For this reason, it simply does not make sense to subject children and adolescents to the profound harms of legal system involvement for actions that are about to become completely lawful for adults. So in light of this, the statutory scheme that places the full onus of underage marijuana -- and actually, I would add, alcohol possession -- on those who sell or provide it to young people, rather than the youth themselves, would be more consistent with development science -- and with New Jersey's commitment to undoing racial disparities -- than one that continues to subject young people to the possibility of court appearances, fines and fees, and generations of records.

So in such a system, underage marijuana use could be discouraged through public health strategies and linkages to community-based services without law enforcement tracking or court referral.

I'd like to just take a couple of minutes to address particular -- a few pieces of the Bill that's currently in front of you. Again, I hope that you will reject any kind of even quasi-criminal response to youth cannabis possession, but the Bill that's in front of you does take some really significant and important and helpful steps in the right direction, and if what we end up with is something like this Bill, what I'd like to propose is the following: number one, with regards to the three-tiered system that it creates,

I have some concerns particularly about the response to the third and subsequent violations.

For reasons that I've already outlined, any court involvement can lead to substantial and inequitable harms to young people. The current draft requires court involvement for that civil penalty, or community service to be imposed. It does it without any possibility of challenging probable cause or counsel for youth. But more importantly -- and most importantly -- it feeds them into the court system even in the context of a civil proceeding.

And so for that reason, what I would recommend is that the Bill be amended to provide that for the second contact, a law enforcement officer should only notify the parent, and provide information to the parent and child about community-based services; and that at the third contact, there'd be a referral to community-based services, but there'd never be any contact with the court system at all, or initiation of any juvenile or civil or criminal complaint. And, if the young person and their family chooses not to follow through on treatment, as Reverend Boyer pointed out, that there'd be no law enforcement or judicial response to that.

The second thing I'd recommend is the elimination of anything having to do with fines. Juvenile fines reinforce inequities, they propel youth of color and youth in poverty further into the system, and allow white and wealthier youth to disengage more quickly. It's for this reason that we eliminated fines last year; it's for this reason that we accelerated the elimination of fines over the summer in response to the pandemic. And creating new fines now is retrograde and would be an enormous step backward from the progress we've already made.

And so there should just not be any monetized penalties connected with cannabis use -- use either by children who are younger than 18, or older youth between 18 and 21.

And finally, with regards to segregation, and retention, and destruction of records, I know that the ACLU, in their written testimony, called for a shorter retention period. I join in that call, and urge you to, if there is going to be some sort of a graduated sanctions approach, make that retention period as short as possible -- and certainly no longer than two years, and preferably significantly less than that.

Thank you again for the opportunity to testify today, and for all of your hard work and attention and thought that you're giving to this.

SENATOR SCUTARI: Thank you, Ms. Cohen.

Senators, any questions, comments, regarding Ms. Cohen's testimony?

SENATOR POU: Mr. Chairman, let me just make a-- I'm not sure I want to make it in the form of a question, because I think Laura was very clear in terms of her statement. It was actually something I was thinking about at the time that Mr. Ship was speaking, and that's something that Laura just said in her testimony.

And what I want to make reference-- Laura, you talked about criminal -- cannabis is treated as a criminal issue. Let me just say that the fact that opioids are nowadays treated as a mental health issue, while cannabis is treated as a criminal issue -- as you pointed out -- is nothing more than a discriminatory, you know, issue. But also weaponizing it through the law enforcement field and clearly impacting mostly Black and brown communities.

I wanted to make that statement when Mr. Ship was talking, because in response to Senator Singleton's comment with ideas in terms of what we can do, I think it's important that we point that out -- that we can no longer start looking at it and legalizing it, and then at the same time treating it as a criminal offense. Again, because we're talking about these types of drug use, if you're going to take into effect that opioids is a mental health issue, why would we not look at the same situation when it comes to cannabis?

So I just wanted to make that -- put that out as a statement. I totally agree with the testimony that was provided by Ms. Cohen with regards to that. I just wanted to put that on the record.

Thank you.

SENATOR SCUTARI: Thank you, Senator Pou.

And just, my understanding is that the amendments that Ms. Cohen (indiscernible) criminal referrals, and I'll defer to Senator (Indiscernible) on this.

SENATOR POU: Mr. Chairman, you were breaking up, sir. Can you--

SENATOR SCUTARI: Is that the amendments that Ms. Cohen spoke about, regarding criminal referrals, and under active consideration as far as amendments for tomorrow's vote?

SENATOR POU: Are part of what?

SENATOR SCUTARI: It's my understanding this is -- that part of what she discussed is under consideration for an amendment for tomorrow.

SENATOR POU: Right, okay. Yes, I am aware of that; and thank you Mr. Chairman for that additional point. I really appreciate that you're sharing that. I just wanted to also put that on the record with respect to the way we, today -- and how we deal with that in society. That was my only reason for agreeing with her comment and her testimony, but also placing that on the record. But thank you Mr. Chairman.

SENATOR SCUTARI: Thank you Senator Pou.

Okay, anything else for Ms. Cohen? (no response)

Okay, seeing none, thank you Ms. Cohen, I appreciate your testimony.

Our next speaker that is on our list is the Honorable Carolyn Chang, Esq., the Chair of the Association of Black Women Lawyers of New Jersey, I believe, and a number of other titles. Ms. Chang, will you please address the Committee with your comments?

CAROLYN V. CHANG, Esq.: Good afternoon, Senator Scutari. On behalf of the Social Justice Committee of the Association of Black Women Lawyers of New Jersey, also known as ABWL -- we are the oldest women's bar association in the State of New Jersey -- let me thank the Senator and the Senate Judiciary Committee for your invitation to present testimony this afternoon. I am a past President of the Association of Black Women Lawyers of New Jersey, and Chair of ABWL's Social Justice Committee.

We would like to focus our attention this afternoon on the methods to deter and prevent youth from possession and consumption of otherwise lawful cannabis, and unlawful marijuana or hashish, for people 21 and under.

There has been a tremendous amount of work on the Bill, so our reference point this afternoon is on the bill normally known as the “cleanup bill”, as sponsored by Assemblyman Wimberly. ABWL completed our first review of the Bill on February 1, 2021. We had strong concerns then regarding the disparities in treatment of Black and brown juveniles based upon what was then defined as *station house adjustment*.

We made certain recommendations for changes in the language of the Bill, which would protect the rights of all potential youth offenders, especially Black and brown youth. It is important today to note that the relevant updates of the Bill, as reviewed as of February 10, 2021, reflects a graduated approach offering support and chances for intervention, while reducing the probability of pushing our youth into custodial confinement and acquiring criminal records.

It is even more important that any cannabis bill does not have the consequence, whether unintended or otherwise, of undermining juvenile justice reform efforts. The February 10, 2021, modification to the Bill is, for the most part important, an improvement for the following reasons: The first violation of the law will lead to only a written warning to the juvenile; maintaining the record of that first violation is for tracking purposes only. A copy of the written warning for the first violation is not provided to a parent or guardian.

The second violation of the law will lead to only a written warning to the juvenile, and maintaining the record for tracking purposes only. A copy of the violation would then be provided to a parent or guardian.

A third violation of the law would lead to a civil penalty of up to \$50, or the performance of community service in lieu of payment of

the monetary penalty. We believe that a \$50 civil penalty is punitive in nature, and creates another economic disparity issue.

So it's our proposal that community service be used in lieu of payment of any monetary penalty. Also positive, if the civil penalty is used, is the fact that the State will collect the penalty and use those funds to promote community services, including drug and alcohol counseling.

Again, the modification to the Bill makes it clear: written warning to the juvenile; written warning to the juvenile plus parent and guardian; civil penalties or community service -- but the juvenile must be released. No arrests, no detention, unless the juvenile also committed another violation of law. The modification to the cleanup bill makes it clear a person under the legal age to purchase cannabis is not capable of giving lawful consent to a search to determine a violation of the law.

We believe this should prevent law enforcement officers -- not as a class, not the masses, but perhaps that small population that might need to be deterred -- from becoming creative in their stops of juveniles. Please do understand, Senators, that Black and brown folks want safe communities and unlawful drug traffic distribution diminished. And we also want to protect our youth.

Therefore, we remain concerned that a small population of bad actors may bend the law and become imaginative in their investigative methods. While one piece of legislation may not be able to correct all wrongs, we recommend that lawmakers understand that the language in this Bill matters, and it is important to get it right. We urge you to correct -- to get correct, fair, and impartial legislation to the Governor's desk for signing.

Again, ABWL's support for the cleanup bill is based upon the fact that the modification to the language as of February 10, 2021, presents an approach which appears rehabilitative in nature rather than punitive. We believe that should be the nature of juvenile justice -- preventing young people from being locked up for age-based offenses; require the state to identify and work to reduce racial and ethnic disparities in the juvenile justice system; commit the funds collected -- if collected -- and civil penalties to social justice and rehabilitation programs.

The modification to the language of this Bill we believe is well on its way to help in promoting juvenile justice reform.

Thank you, Senator. Thank you, Committee.

SENATOR SCUTARI: Thank you, ma'am. Any questions for our speaker regarding her testimony or on the topic?

SENATOR POU: Mr. Chairman, I'm sorry, I just want to make a statement to Ms. Chang to let her know that that particular -- the \$50 penalty is coming out of the Bill with one of the amendments that you mentioned earlier. This also is one of those proposed amendments for tomorrow as well, Mr. Chairman, based on some of, you know, what we've talked about.

MS. CHANG: Thank you, Senator Pou, I think that's wonderful.

SENATOR SCUTARI: Okay, thank you Senator.

I think we have Joe Krakora, our State Public Defender on.
Mr. Krakora.

J O S E P H E. K R A K O R A, Esq.: Thanks Senator, and thank you for inviting me to provide some testimony with respect to the Public Defender's position on this important legislation.

I just have a brief statement; and then if there are any questions pertaining to the impact of the law on our clients and our business, I'll try to answer them.

The past 11 months have tested our Criminal Justice System in ways not even those of us who have been working in it literally for decades could have imagined. I'm proud of my office's three Order to Show Causes filed successfully in the Supreme Court, seeking relief for our clients in pre-trial detention whose speedy trial rights have been compromised due to the suspension of jury trials; and on behalf of State inmates whose presence -- especially low-risk county and State prison inmates -- whose presence in our jails and prisons have put not only them at risk for COVID-19, but also other inmates and the institution's employees.

But the biggest issue facing our Criminal Justice System is whether we as a State can deliver on our stated commitment to social, economic, and racial justice by taking concrete steps to achieve those goals. The marijuana legislation before this Committee, and the sentencing reform legislation that would eliminate the racially discriminatory mandatory minimum sentences for drug offenses, represent such steps.

We need to get them both over the finish line and enacted into law. As the leader of a law firm of over 600 attorneys that represents over 90 percent of New Jersey citizens accused of criminal offenses and juvenile delinquency -- the overwhelming majority of whom are people of color -- I urge you to move ahead with this legislation.

We know that the enforcement of marijuana and drug laws has disproportionately impacted Black people in New Jersey on many levels. This extends to the juvenile realm, in which we've long had a system that targets Black youth in our urban communities in ways that impact the lives of these kids forever. The current version of the legislation strikes a reasonable balance between the need to minimize the contacts between kids caught with pot and law enforcement, while protecting them from drug use.

On balance, the Office of the Public Defender supports the legislation and desperately hopes that it will become law in the very near future. So thank you. If there are any other questions, I'm happy to answer them. But that's, in a nutshell, my Office's position, which is to cut to the chase. It's time for these bills to get passed and to move ahead with some concrete steps designed to achieve racial and social and economic justice.

So thank you, Senator Scutari.

SENATOR SCUTARI: Thank you, Mr. Krakora. Any questions regarding our State Public Defender from the Senators? (no response)

Okay, seeing none, thank you very much--

SENATOR RUIZ: I do have a comment, Chairman, and this is just-- It is time for these bills to pass; but if we would have had a decrim bill that was signed, then we would have been farther ahead in this discussion than we are now. That's just a personal comment. Thank you.

SENATOR SCUTARI: Thank you, Senator Ruiz. Anything else for Mr. Krakora, the State Public Defender? (no response)

Seeing none, I'll excuse that witness. Thank you very much.

And we have another invited guest I skipped over earlier. I apologize. Richard Todd Edwards from the NAACP New Jersey State Conference Chapter. Mr. Edwards, are you on?

RICHARD TODD EDWARDS: I am. How are you, Senator?

SENATOR SCUTARI: Good to see -- well I don't see you, but I hear you, buddy.

MR. EDWARDS: All good. Thank you very much.

I bring greetings from our State NAACP, and our President and national board member, Richard T. Smith. We've come a long way since 2015, and the NAACP applauds the efforts of this Bill, S2354, but feels it falls a little short in certain measures.

For example, the NAACP stands with ACLU and NOBLE in wishing that the youth caught with cannabis get treated the same as if it was tobacco: basically put the onus on the seller. Like others have said on the call, I also have issues with -- we also have issues with police interaction with the youth.

In my world, when I see the police pulling up to youth standing on the corner smoking marijuana, I immediately see those youth in my head dispersing and running. Now we're going to start with eluding and other charges. So if we could get creative in some sort of way -- and I'm all down with trying to figure out the solutions, we obviously identified the problems -- but with getting some way, other than the police, to be the first responders to the youths on the corner or who are smoking marijuana.

And we also would prefer no criminal penalty for the youth; education and public health is obviously going to be the answer to me for this one. We need to definitely track and have data implementation on

the police interaction if we do go that route. We just need to track everything that goes along with that, making for sure we don't put the onus now on our young people.

I agree with Senator Singleton and Reverend Boyer with holding the police accountable who break the law and who go too far with the law. We need to just make for sure we hone in on that.

Also, finally, we at the NAACP once again agree with the ACLU that if tobacco -- if the tobacco example isn't politically doable in the cannabis context, then Senate Bill 3456 is a huge improvement to the status quo. We also join with Ms. Cohen urging the Legislature -- and the ACLU, urging the Legislature to strengthen the data protection provision related to youth records by decreasing the retention from, I believe, two years to six months; and then include provisions that stop data sharing with Federal immigration authorities and other branches of the criminal legal system.

And to start off, I would have basically just said "ditto" with what everyone else said, because all the points that were covered were pretty strong.

That's it for the NAACP. Thank you for allowing us to share.

SENATOR SCUTARI: Thank you, Mr. Edwards. Any questions for Mr. Edwards regarding his testimony or the topic? (no response)

Thank you, Senators.

I appreciate it, Mr. Edwards; good to see you -- good to hear from you, as always.

Next on our list of invited guests, Juan Cartagena of LatinoJustice. Is Mr. Cartagena here?

JUAN CARTAGENA, Esq.: Yes I am, thank you so much, Senator.

SENATOR SCUTARI: Please address the Committee.
Thank you.

SENATOR POU: Mr. -- I'm sorry, Mr. Cartagena, can you-- Mr. Chairman, I believe Mr. Cartagena and Mr. Guillermo Mena were both going to be doing a two-part testimony that they will be doing jointly. So if it's ok with you, perhaps in that sequence, if you can call upon Mr. Mena afterwards so that it's a continuation of whatever it is that they wanted to share with us. That's my understanding, Mr. Chairman.

SENATOR SCUTARI: Sure, that's fine.

SENATOR POU: Thank you.

SENATOR SCUTARI: I'll put Mr. Mena next.

Mr. Cartagena.

MR. CARTAGENA: Much appreciated. Thank you, Senator Pou.

So on behalf of two organizations -- LatinoJustice PRLDEF and the National Hispanic Caucus of State Legislators, we are proposing joint testimony. We've already submitted this in writing to you, and of course we're only going to focus on top lines of the written testimony that we submitted this morning.

Two of our organizations are national Latino organizations that follow, very closely, marijuana legalization efforts throughout the country, because they represent an enormous potential to reverse the

significant harms that prohibitionist marijuana policies have had on Latino communities in the entire country.

As you can tell, marijuana legalization in New Jersey is of utmost importance to the Latino population as well, both here in the state and across the country, for both historical and contemporary reasons. I will defer to our testimony on the historical reasons, that go back to the prohibitionist model that was initiated against Mexicans throughout the Southwest; but our testimony in writing covers that in detail.

Of course, when you fast forward to this century and the last century, we are still dealing with racialized enforcement regimes and a prohibitionist model that of course also effects Latino populations in New Jersey and beyond.

What has happened in New Jersey, of course, is that voters have spoken, and the voters have clearly made sure that a legalized retail market plus legalization of cannabis is something that is clearly important to all of us. And that will has to be enabled by legislation, so we thank the Senate for all of its efforts thus far. And we completely agree with Senator Ruiz's points before about the decriminalization bill that was standing -- that was at the Governor's desk; we would have been much further along.

But the bottom line is this: I want to focus on underage youth issues; and my colleague Guillermo Mena will focus on the other matters that we have in store. For underage youth issues, we cannot allow the State to continue to subject racialized and punitive law enforcement regimes to replicate the worst aspects of that prohibitionist model; in fact, New Jersey must devise alternative approaches to underage marijuana charges.

I am very welcome to the fact you have already thought of that in this vote with the cleanup bill that you have before you. But the fact of the matter is, in the absence of addressing the issue of underage youth marijuana-related issues, then we fall into the same traps of Colorado, which we cite in our testimony; Oregon, which we cite in our testimony; and Washington State, which we also cite.

In each one of those states, legalized markets without a focus on what will happen to underage possession charges created outrageous increases in juveniles in the Criminal Justice System in those respective states.

The second reason why this is important for Latinos in New Jersey is because of our demographics. Latinos throughout the country have the youngest median age of any group -- of any racial or ethnic group in the country -- and in New Jersey, that's borne out by data from the Advocates for Children of New Jersey, as well. So this issue about underage matters will always affect Latinos in a way that -- in disproportionate numbers.

So I'll end this portion of our joint testimony with this, Senators: The model that we have all identified -- that I'm sure you already know -- is the California model. The California model addresses underage matters regarding cannabis, possession matters and other matters, in a very clear way; avoiding completely a criminal justice approach to those matters.

The matter addresses infractions with counseling and education to be provided to youth, all paid and free of charge; and a way to address those matters, in a way to take away from the law enforcement regime that we know has major issues for Latinos throughout the country.

So let me end there and let my colleague Guillermo Mena finish up our testimony. Thank you so much.

SENATOR POU: Thank you, Mr. Cartagena. I will now recognize Mr. Mena at this time.

G U I L L E R M O L. M E N A, Esq.: Thank you, Madam Chairman -
- Madam Chair.

I'd like to again applaud the thrust to minimize, and hopefully eliminate, punitive interactions between underage persons who possess or consume cannabis on the one side, and law enforcement and the courts on the other. We also believe that both disallowing the existence of those interactions to enter into any other public proceeding, and destroying the records after some time -- I think I hear a consensus around two years or less -- will help minimize racial and ethnic disparities in the enforcement of laws, help reduce police abuses of power, and be a good step toward ending the school-to-prison pipeline.

I want to address, again, some top-line issues that I think are important. The legislation that implements the will of the voters to create a Statewide legalization environment cannot permit municipalities to increase penalties within their borders beyond those that the Legislature is adopting for the entire State. So despite the fact that the cleanup bill wants to eliminate the criminal consequences for underage possession or consumption of cannabis, it leaves a huge loophole open by failing to repeal a provision in A-21 and S-21 that allows municipalities to impose up to criminal fines -- not just civil penalties, criminal fines -- for the possession or consumption of cannabis by those 18, 19, or 20 years of age, even in their own homes. And it allows the municipalities to keep the proceeds from those fines, incentivizing them to prioritize collecting them.

Further, many Latinos and other New Jersey residents -- especially in the middle and lower socio-economic indicators -- live in apartments and other residential settings where tenant policies are set by landlords. A legalization scheme must ensure that policies that tenants cannot control do not restrict marijuana use in ways that are more restrictive than reasonable tobacco use. There are valid reasons to restrict smoking in multi-family residential environments -- primarily fire hazards and odors -- but there is no reason for those restrictions to be different for cannabis than tobacco; and if they are kept in, they may push people outside where it is, frankly, illegal to then do these things. So you cannot create a scheme that basically forces people into illegality by then closing doors for them to do what is legal.

Further, that legalization under consideration should really clarify the ambiguous definition of cannabis in both the decrim bill and the retail market environment. Cannabis is a taxonomical genus, not a species. The question posed to the voters was as to the legalization of cannabis, not a particular species or strain. And the original strain or species that was forbidden in the United States was *cannabis indica* -- which in that historical testimony was very anti-Latino.

In 1937, marijuana was defined as the Mexican term for *cannabis indica*. The approved A-21 and S-21 only allow the market for *cannabis sativa* products, not *cannabis indica*; so they leave *cannabis indica* products and other hybrid products, that are very popular in other states in the legal market, in a legal limbo in New Jersey; and invite thus, potentially, harassment or other unintended enforcement problems that can be easily solved by just amending that definition now.

Finally, NHCSL and LatinoJustice have not taken a position on this last point: NHCSL urges you to clean up the implied discrimination against Latinos -- that I know is not done on purpose in New Jersey; but in all the enactments in New Jersey, that stems from referring to the legally viable product as *cannabis* in English, but to the illegal drug as *marijuana* in Spanish. Because again, the term marijuana was inserted in Spanish into our laws in the United States specifically to discriminate against Mexican people.

SENATOR CUNNINGHAM: That's true.

SENATOR POU: Mr. Mena, does that conclude your testimony?

MR. MENA: Yes.

SENATOR POU: Okay, with that in mind-- First of all, thank you Mr. Cartagena and Mr. Mena. Are there any questions or comments from our members for either of these two gentleman? (no response)

Seeing none, I appreciate your testimony. Thank you very much.

We are going to continue. At this time, I would like to call upon Mr. McNichol, who is an adjunct professor from Rutgers Law School. I know that Mr. McNichol has provided written testimony, but would like to provide us with some additional comments as well.

Mr. McNichol, welcome, please.

WILLIAM J. McNICHOL, Jr., Esq.: Thank you, Senator, and I would like to thank the Committee for the opportunity to speak with you today. As you mentioned, I have provided some written testimony for the

record. My position at the law school: I teach the Marijuana Regulation course at Rutgers Law School; I've written about the subject, on several topics within the general area, including one regarding the use of *Drug Recognition Experts*, so-called, to enforce the marijuana laws in this State. I know Mr. Krakora's office has been working very long and hard on that particular issue, and he's more than familiar with it.

Today, I would like to speak with the Committee about, of course, the provisions that everybody seems to be talking about today, which deals with how people -- how we deal with people who are under the age of 21 and are found to have used or possessed marijuana.

The Bill as it currently stands has two principle flaws in that regard; and this I say understanding that there have been arguments made -- in many ways compelling arguments -- that it is unwise to involve any person, especially a person under the age of 18, in the court system. But assuming that that's what is going to happen, for reasons that may be sufficient to the Legislature, the law provides that a \$50 fine -- or, I should say, civil penalty -- is imposed on persons in every instance if they are between -- above 17, but less than 21; and after two warnings for people who are below 18. But that civil penalty is predicated only upon a police -- or I should say, a law enforcement officer's own determination, not a judge's determination, that there is probable cause to believe that that underage person has either used or possessed marijuana.

In this State, police officers can't, as far as I know, give so much as a parking ticket on the basis of their belief that there is probable cause that you may have mis-parked your car. The police officer -- and perhaps Mr. Ship, if he's with us, can confirm or deny this -- has to say that

they personally saw your car mis-parked or overtime parked, and sign that document, on their oath as a police officer, that the car was, in fact, mis-parked.

The law as currently drafted in S-3454 simply allows the \$50 civil penalty to be imposed if the police officer says that “I have probable cause to believe that this person may have possessed or consumed marijuana;” probable cause being the standard that’s applied if you -- not to convict anyone, ever -- but simply to get an arrest, or a search warrant to continue an investigation to discern whether something has actually happened in violation of the law.

So I would not want to see any system where a police officer’s own determination is the triggering event for the imposition of a civil penalty -- whether it’s \$50 or \$500 or \$5. And in any event, the mere probable cause standard is so low, that if there was any possibility of judicial review -- and that may not be a practical option -- it’s so low that it would survive almost any judicial review.

Especially difficult in these circumstances is the fact that many, many New Jersey police departments use what are called *Drug Recognition Experts*, who are in fact no experts at all. And this is the subject of the Olenowski case that the Supreme Court has under its review right now; and Mr. Krakora’s office is very active in that case representing the defendant.

That is a system that allows a police officer, using purportedly scientific techniques -- but which in fact have been shown, and found, in many states not to be at all reliable or scientific -- to make their own determination that someone has used a controlled substance -- and in this context, marijuana. And if this law, S-3454, is going to be applied on

the street corner by police officers, making their own essentially unreviewable determination of probable cause that a person may have possessed or used marijuana, the determination made not just by a mere police officer but a *Drug Recognition Expert* police officer is even more problematic.

And taking all this together, S-3454 could actually be a device that empowers the harassment and oppression of the very people that it is intended to protect. So the good news is that there's a very easy fix. We simply require a police officer to do what the police officer would do for a parking ticket, or any other offense: simply say, "I saw the person possess or consume marijuana."

That changes things completely; it doesn't rely on unqualified experts -- that the Supreme Court is within inches of tossing out of all New Jersey courts anyway. And it doesn't impose these civil penalties on New Jersey youth on the basis of a suspicion -- it's little bit more than a naked suspicion, but it's enough of a suspicion to justify further investigation as to whether they had used or consumed marijuana; as opposed to actual evidence that they *did* possess or consume marijuana.

That's not too much to ask; it seems pretty much straightforward. And I've offered to the Committee, as part of my written submission, a small, technical fix that will solve what could be, in practice, a very large problem.

So I offer that to the Committee for whatever help it may be in considering S-3454. And I would be happy to entertain whatever questions the Committee members may have.

SENATOR POU: Thank you so very much, Mr. McNichol. Let me just make two comments, and then I'm going to open it up for our members who might have any questions.

Two things that you said: One was on the Drug Recognition Expert statement; and what your proposed idea is. I know that you've put out a written position on that, I actually read your position that you wrote.

MR. McNICHOL: Thank you.

SENATOR POU: I wanted to also ask you-- We all know that this matter is before the Supreme Court at the moment. First of all, please confirm if, in fact, that's correct.

MR. McNICHOL: That is correct.

SENATOR POU: And secondly, I think that in light of that, it's important for us to also take a moment to understand that because this is currently before the Supreme Court, we may want to just ensure to find out and wait to see what kind of results-- And that's a question I'm asking you.

But it's a statement that I would make: that like anything, when these matters are before a high court, we want to make sure that we understand what it is that's coming forward and what's to be considered. So making any steps or changes to that effect, not knowing what the court is going to decide or do, we may find ourselves having to go back to looking at it and making those changes at a different -- at another time.

So, my point of all of this is that we may find ourselves having to wait for that to occur, but if you would please just share your comments on what I've just said.

MR. McNICHOL: Thank you. And actually that's an excellent observation, and it's one that I'm glad that you gave me the opportunity to speak to.

The short answer is no, there would be no reason to wait. And the reason is the following: the status and use of a DRE -- *Drug Recognition Expert* police officer -- merely aggravates the underlying problem. Any police officer can come forward and say, "I have these following facts in front of me to give me probable cause to believe that this John Doe person in front of me possessed or has used marijuana."

And that determination under S-3454, as it now stands -- made by *any* police officer, forget *DRE* police officers -- is sufficient to trigger a liability for the \$50 civil penalty. If you bring drug recognition police officers into the picture, it simply makes what small judicial review that might be available under the Penalty Enforcement Law of 1999 even less likely to have any teeth.

But the problem exists because -- and I think Mr. Ship will agree -- police officers everyday make determinations to recommend to a judge that probable cause exists. Even police officers who are not *DRE*'s. The problem with this law is that it's a low standard and a judge doesn't decide it -- the police officer decides it.

SENATOR POU: Mr. McNichol, thank you very much for that comment. I probably should have prefaced or started my statement by saying -- and it's unfortunate that we weren't able to make some -- put out in the public some of the amendments that we just agreed upon yesterday. So OLS, through our drafter, Mr. Lorette, is certainly going to be making those changes.

But I just want to point out or make mention to everyone that one of the amendments that our Bill, tomorrow, hopefully will reflect is the fact that we will be removing the civil penalty fines of the \$50. So I know that we've heard testimony here today about the impact of what that may or may not do, which leads to your comment about the *DRE*. But the removal of that civil penalty will certainly avoid having to put forward that particular concern that you've just shared, and also allows for the Supreme Court to make its ruling at the same time.

I just wanted to add that to today's comment, and an update to all those who are listening on this particular issue, because it's something that we've been working around the clock on, trying to get some of these very important issues dealt with and referred to.

But we appreciate your comments. Thank you once again.

Are there any questions from our members for Mr. McNichol? (no response)

With that in mind, Mr. McNichol, thank you very much for your testimony. We appreciate it.

We are going to now move to our next speaker that's on our list, and I believe that's Mr. Chris Goldstein, the Regional Organizer of NORML.

Mr. Goldstein, I see you. Good afternoon, welcome.

CHRIS GOLDSTEIN: Good afternoon, Senator Pou. And again, I want to thank everybody who has spoken already here today. This has been a really pragmatic discussion about this Bill.

Again, as many of the speakers have pointed out, Senate Bill 3454 has a couple of deep pitfalls for New Jersey's youth. And today, the reason we're addressing this is because 2,000 people were arrested just in

January. That's 80 people every day. So in the course of this hearing, 3 or 4 people have already been arrested for marijuana offenses in New Jersey just as we're talking. This has got to stop; we don't need any more delays. So please, no more delays at any level.

But now we have to carefully thread a needle here. We cannot shift policing onto youth. And unfortunately, that's what this Bill would do. I think, as other speakers pointed out, there was a third tier of offenses that would open up the courts to referrals; it would also leave open the possibility of driver's license provisions. And I'm glad to hear that there's amendments for that tomorrow, and I look forward to seeing that being public.

But something that's been hit upon today over and over is that people should be put into treatment, ad hoc, for marijuana, and I'm not sure that's the answer, either. You know, data that I sent by this Committee shows that there is a clear racial bias in people who were referred into treatment for marijuana by courts.

So this is what we're here to talk about: there's a racial bias in arrests, and with outcomes. And we have to accept that being put into drug treatment for possessing marijuana is a racially biased outcome, so we don't want to just throw people into drug treatment, ad hoc, because of this Bill. And again, something that nobody has touched upon so far in this hearing -- I see that in this Bill there's also a 15 percent tax appropriation for the underage deterrents and prevention account. That's something new in this Bill that I haven't seen in other cleanup bills before, and it appears to possibly send that tax money back to local groups -- many of whom have been

working on deterrents and prevention for decades without any measurable impact.

Here at NORML--

SENATOR POU: Mr. Goldstein, I'm sorry, I just want to make mention -- I don't mean to interrupt you, we want to hear your full testimony. I just want to, once again, make sure to provide you that, in the cleanup bill, some of the amendments for tomorrow, the bill does not mandate any treatment; it requires referral to various services. So that has also been removed for an amendment in consideration for tomorrow, okay?

MR. GOLDSTEIN: I appreciate that. And again, to be clear, treatment isn't mandated under criminal prohibition today, Senator.

SENATOR POU: Understood.

MR. GOLDSTEIN: It's something that is essentially a referral just like it is currently in S-3454. That's essentially the problem. On one read, it looks like this bill just gives, you know, some simple penalties and a couple of warnings. On another read, it puts police in the role of social workers, to interdict youth for cannabis possession and refer them into possibly treatment services. That's what's happening today, and it's what we want to interrupt.

So I do hope the amendments-- Not just making it mandatory, but I think the whole practice of referring into treatment simply for possessing cannabis is itself something we want to avoid. So again, I'm glad that we're having this discussion today, I'm glad that so many people agree that we shouldn't have fines, that we shouldn't have tier defenses, that we shouldn't have courts involved. But I also agree -- I hope everyone can

agree that we shouldn't just keep up a treatment referral stream just with our youth caught over cannabis.

So, thank you for hearing us out on this today.

SENATOR POU: Thank you; thank you very much, Mr. Goldstein. Are there any questions for--

SENATOR RUIZ: Chairwoman, if I can, I agree with a lot of the things that Mr. Goldstein was sharing. But I'm going to echo something that I repeated earlier, again: I don't want anyone who is testifying today to think that this delay that's ensuing has come from the Legislature.

Let's be clear: We passed a very progressive piece of legislation in decrim that for the last month could have been preventing all of these arrests that we're talking about, that are happening while this Committee hearing is going.

Our Caucuses have been charged with a very, very particular subject matter that is near and dear to all of us; it is an extraordinary feat that we have accomplished in the last few days, working 24 hours around the clock to be sure that whatever we put on paper doesn't impact our children.

And so I just wanted to share that sentiment. Thank you, Chair.

SENATOR POU: That you so very much. Thank you, Senator Ruiz. Are there any other questions or comments for Mr. Goldstein?
(no response)

Seeing none, thank you very much for your comments; I appreciate that.

Our next speaker will be Bishop Joshua Rodriguez.

Bishop Rodriguez. Joshua Rodriguez -- Bishop Rodriguez.

MR. LORETTE: Senator Pou, it's David Lorette. If I can just interrupt. I just want to let you know that Chairman Scutari, he's back on in the meeting at this time. So at some point, I think he might want to jump in again. Just so you know.

SENATOR POU: Thank you so very much.

SENATOR SCUTARI: I'm going to let Senator Pou continue for now. Thank you, David.

MR. LORETTE: Okay, thanks.

SENATOR POU: Thank you, Mr. Chairman.

Bishop Rodriguez, please.

BISHOP JOSHUA RODRIGUEZ: Thank you, Senator Pou, and members of the Senate Judiciary Committee.

I want to applaud the efforts of the Committee; specifically the New Jersey Legislative Latino Caucus, and my caucus.

Just this morning I had a conversation with a judge that's part of our church that I've mentored. We were discussing S-3454, and how -- at least from our optic -- amendments are needed. And I appreciate all the commentary and all of the input from so many of my colleagues earlier today. We all know that our current incarceration numbers are disproportionate, and inequities are great, and disparities between white and Black and brown are unacceptable.

And so I wanted to briefly testify today, as a Minister and as a Senior Advisor to the largest Latino Coalition of Pastors and Ministers in New Jersey, that we must avoid at all costs what's happened in Colorado

and California, based on all the research thus far, as it relates to the number of arrests for underage Black and brown kids. It's unacceptable.

And so I believe that a lot of what we've heard -- especially proposed in the form of amendments -- will enable us to create a law and modify this law in a way that the friendly and community policing, that happens in the suburbs, happens in the intercity. We all know that policing is subjective, and it has different approaches and responses depending on geography, the contour and profile of the civilian or civilians in question. I believe that we received a brutal lesson on this just several weeks ago in our Capitol.

And so in the same way in which the laws on alcohol consider the prefrontal cortex of a lot of our young people, like my colleague shared moments ago, we need to do the same thing in regards to this legislation.

And so, in closing, I just want to echo the remarks of Senator Pou moments ago: In the same manner in which we saw the opioids challenge, the same way we saw in the approach in New Jersey, is the same manner in which we've got to approach the potential marijuana challenge for underage children of color. I close by asking that any of those proposed amendments under consideration, that address many of the issues that have already been presented today, not only be considered but also adopted.

Thank you.

SENATOR POU: Thank you, thank you Bishop Rodriguez. Are there any questions for Bishop Rodriguez from any of our members? (no response)

Seeing none, thank you Bishop Rodriguez for your testimony. David, I believe we have Christian Estevez from the Latino Action Network to provide us, next, with testimony.

Mr. Estevez, good afternoon and welcome.

C H R I S T I A N E S T E V E Z: Good afternoon Senator Pou, and thank you to yourself and to Senator Scutari, and all the members of the Senate Judiciary Committee, for inviting me to testify on behalf of Latino Action Network.

For far too long, Black and Latino members of our State have been the victim of a drug war that unfairly targets and disproportionately impacts people of color. The Latino Action Network has been a long and strong proponent of legalization of cannabis as a way to end the over-incarceration of our people.

The voters have spoken, the will of the people is that cannabis should be legalized and decriminalized; and it's important that any provisions put in place to discourage underage use of cannabis do not create an alternative pathway to the Criminal Justice System or court system for young people of color.

I really want to thank the Latino Caucus and the Black Caucus for all the work you've been putting in to look closely at this Bill, and putting forth amendments that are aimed at protecting our youth from potential abuses --beginning with the fight against the civil penalties from \$250 down to \$50; and now we're seeing, and I'm happy to hear, that that provision will be removed.

You know, we like the fact that this -- that the amendments make the process less punitive and more restorative and

rehabilitative. We share the concern that any gaps that are still left in there in this Bill may leave room for certain actors to be creative and still target our youth of color, and we ask that those be plugged as much as possible. But we also stand with all of those who have said today, and have been saying, that we need no more delays. Every day that goes by, more and more people are continuing to be arrested; and we need to start the process of healing this, and getting -- moving in the right direction.

So that's why, you know, we're happy to hear that there's amendments. We look forward to seeing the actual language, but with these amendments, with the reduction and removal of civil penalties and with the removal of mandated rehabilitative services, but rather referrals, we support S-3454.

Thank you.

SENATOR POU: Thank you so very much, Mr. Estevez, Christian, for your comments and testimony. Are there are any questions for this speaker from any of our members? (no response)

Seeing none, thank you once again, Mr. Estevez, for your testimony.

I believe that there is-- David, I need your help or that of the Chairman -- I think he is about to come back on, I believe, I'm not sure.

But is there anyone else that we're missing from the list? I want to make sure that I don't omit or leave anyone out. Has everyone who registered to speak, or asked to do, spoken?

MR. LORETTE: Everybody, Vice Chair, who was invited to speak. We do have several members of the public who have signed up to

offer-- In terms of who was invited, we have actually heard from everyone who was invited.

SENATOR POU: Okay, very good. Because I have seen Mr. Duff and Mr. Thompson, I believe, so I want to be able to make sure that we recognize them.

So is there-- I have four names here. David Nathan? Is Mr. Nathan on the call?

DR. DAVID L. NATHAN, M. D.: I am, indeed.

SENATOR POU: Oh, there you are, sir. Okay, Dr. Nathan-- I'm sorry. Following Dr. Nathan will be Mr. Duff.

Okay, Dr. Nathan, I'm sorry, please provide us with your comment and testimony.

DR. NATHAN: Sure. Thank you, and good afternoon Chair Pou and the honorable members of the New Jersey Senate Judiciary Committee. My name is Dr. David Nathan, I am a board certified private practice psychiatrist and educator, and for the past 23 years I have lived and worked in Princeton, New Jersey. I studied at Princeton, the University of Pennsylvania, and Harvard. I'm a Clinical Associate Professor at the Rutgers Robert Wood Johnson Medical School, and a distinguished fellow of the American Psychiatric Association.

Today I speak to you as the Founder and Board President of Doctors for Cannabis Regulation, or DFCR. We are the premiere international medical association dedicated to the legalization, taxation and, above all, the effective regulation of cannabis in the United States and around the world; and we started here in New Jersey some six years ago when I became part of New Jersey United for Marijuana Reform.

Before talking about penalties for underage youth, I would like to take a moment to thank Senators Singleton and Cardinale for their support of limited home cultivation. There are compelling health, public health, and social justice reasons for allowing home grow of a tightly limited number of cannabis plants, and I hope the New Jersey Legislature will support this effort.

I've devoted thousands of hours in the past 11 years to the legalization of cannabis for adults. And throughout that time, as a physician, I have never wavered from my admonitions against non-medical use by minors, as my read of the available evidence suggests that cannabis can, indeed, adversely affect brain development in minors. Further, the health effects are worse when kids start younger and consume more frequently.

So I am grateful that, at long last, New Jersey is creating a legal distinction between cannabis use by adults and minors, embracing a respect for scientific evidence and the sanctity of the law that we want our children to emulate. I'm also grateful that the cleanup bill released three days ago steers us away from reliance on the Criminal Justice System for the prevention of underage use. The criminalization of cannabis has not prevented underage use. For decades, preventive education reduced the rates of alcohol and tobacco use by minors, while underage cannabis use rose steadily despite its prohibition for adults.

The government's own statistics show that 80 to 90 percent of 18-year-olds have consistently reported easy access to the drug since the 1970's. Simply put, the Criminal Justice System is the wrong tool to use in addressing the problem of underage use.

Thanks to effective preventive education in schools, the rates of underage tobacco and alcohol use have been falling for many years, even though they remained legal for adults. And during that same time, underage cannabis use rose, even though it was still illegal in all 50 states. Today, as one state after another legalizes cannabis use, teen use has leveled off throughout the nation -- including in legalized states.

There are good reasons to believe that cannabis legalization for adults in New Jersey will actually decrease underage use. Proper labeling will add health warnings to all cannabis products; Government-regulated retailers will check IDs and only sell cannabis products to adults; and any adult who gives cannabis to kids will be penalized.

Cannabis will no longer be the forbidden fruit that it was for over 80 years, and legalization moves us away from the ineffective, punitive “because I told you so” approach, allowing redirection of resources to evidence-based preventive education.

I know that some New Jerseyans remain understandably concerned that cannabis may be a gateway drug to the use of more hazardous drugs. In reality, users of so-called *hard drugs* are actually more likely to have tried alcohol and tobacco than cannabis, and the great majority of those who try cannabis, alcohol, and tobacco never go on to use the harder drugs.

The gateway hypothesis is an archaic, misleading, and oversimplified explanation of substance misuse that distracts us from the real causes. Public health experts now promote the common liability theory, which connects the influence of underlying social problems to underage drug use of all kinds. Common liability theory identifies several factors that predict teen use of all drugs, including poverty, incarcerated family members,

and inadequate education. These societal ills are some of the main unintended consequences of our failed war on drugs.

New Jersey's cannabis legalization bills include robust social justice provisions such as expungement, equity, and promotion of diversity in the industry. And by repairing the harms of the war on drugs, particularly in communities of color, we remediate the conditions that contribute to underage use of all drugs.

The legalization of cannabis marks a new day in New Jersey's efforts to address underage cannabis use. The pending legislation recognizes that criminalization of cannabis -- whether for adults or children -- is not only ineffective, it is also harmful.

I urge the Legislature and the Governor to pass this legislation without delay.

Ms. Chairman and members of the Judiciary Committee, I thank you for your time, and I'm happy to answer any questions.

SENATOR POU: Thank you, Dr. Nathan. Are there any questions for Dr. Nathan at this time? (no response)

Seeing none, thank you very much for your testimony. We appreciate that.

Our next speaker will be Mr. Duff -- Patrick Duff.

PATRICK DUFF: Thank you, Chair Pou.

First -- I know Senator Ruiz has pointed this out a couple times -- the only reason that we're all here today and you guys are in a meeting here on President's Day is that the Governor refused to sign the bills that are currently sitting on his desk.

Now, what I find so sad is that -- take no offense to this legislation -- but the Governor didn't sign these bills because he wanted some sort of a deterrent for people who are 18 to 21 years old to not want to indulge in cannabis use. And he wanted that deterrent to be a large fine, right? When, as the speaker before me pointed out, that even criminalization and the threat of imprisonment did not deter people from using cannabis.

And now, you know, we have a Bill here which has absolutely no teeth, no fines, no jail; you know, just some referrals. And it's going to waste the time of law enforcement. So my opinion is, that I understand it was placed on the ballot saying, "Hey, you know, people 21 and over -- legalize cannabis." And I do understand that it's been talked about that you're going to make a new ballot question asking the voters if they -- lump 70 percent of the tax -- excise tax to be placed towards social equity programs.

Maybe you should just ask the New Jersey voters, with another question, if they think people 18 and over should be able to access legal cannabis. I mean, people who are 18 can access the military and sign up to go to war. But you know, comparing it to tobacco and or alcohol is just-- You know, tobacco literally kills 480,000 people a year. In 15,000 years of use of cannabis, humans using cannabis, there's been zero deaths.

So I'm trying to figure out, number one, what the public health problem in that would be if you're-- By the way, there's literally been studies done over and over on opioid use and or methamphetamine use -- the usage of hard drugs -- and how they diminish -- they also diminish opioid deaths. When there's more medical marijuana or more legal marijuana available in areas of California, Colorado -- wherever it may be -- they actually

did a study that when you increased from one dispensary to two in a locality, that opioid deaths went down 17 percent with access to cannabis.

So, you know, alcohol causes complete impairment to the point where people are dissociative, put themselves in really dangerous situations, can die from alcohol overdose -- you cannot die from any cannabis overdose, it's impossible.

So I'm here, kind of, to speak on the, you know-- I'm glad there's no treatment involved, but as Mr. Goldstein pointed out, if one of the referrals is for treatment, it kind of pushes people towards that. I'm glad there's no fines involved. But then, at that point, I don't know what we're here for.

I mean, listen, they arrested New Jersey Weedman in Wanaque. New Jersey Weedman was arrested in Wanaque, New Jersey. We know -- I mean, he drives in a car that has "Weed Pot Trooper" on the side of the car. We know he's got small amounts of cannabis, and the troopers in Wanaque arrested him. So I just don't know what we're here for, what this is-- And also, I don't know if this is going to satisfy the pallet of the great Governor, who wants penalties to deter people who are 18 to 21 who use cannabis, when, as I said, jail has not done that.

So great Governor, please just sign the bills. I don't really understand this cleanup legislation, now that it literally has no teeth and has just been a waste of time of law enforcement.

And that's my two cents. And again, they arrested the Weedman in Wanaque, and marijuana is supposed to be legal in this State. So that'll tell you -- that just adds to his little case that the cannabis laws are enforced unequally, with African Americans being the brunt of that.

And I'm sure if we looked at the 2,700 arrests that happened since January, you'd see a majority -- based upon, especially, population -- would probably be African Americans and Hispanics.

So I appreciate the time to speak today. Also, I just want to say pages 38, 11 through 15, it says people should get 30 days in jail who are strawman purchasers for people who are 18 to 21. That's going to be used in college settings. If somebody buys pot and there's a 20-year-old or a 19-year-old, there's a 21-year-old who just happened to purchase pot, is he going to have to go do 30 days in jail?

I think you should get any imprisonment out of this Bill. No jail for cannabis if you're going to allow people to sell hundreds of thousands of plants legally and become billionaires upon that.

Thank you very much for your time.

SENATOR POU: Thank you, Mr. Duff. Are there any questions for Mr. Duff? (no response)

Seeing none, thank you for your testimony. I know we have -- is there a Charlana McKeithen? I don't see her, but I know she's listed. I just-- If she's not -- David, am I correct, do you see her?

MR. LORETTE: I'm looking through the list right now. I didn't see her, but I'm going to take one more look.

SENATOR POU: Well, she's listed as in favor, so I just wanted to have her position recorded accordingly.

Our last speaker I have on the list -- and again, correct me if I'm wrong, is Mr. Thompson. Randy Thompson.

Mr. Thompson?

RANDY THOMPSON: Hello, Vice Chairwoman. Thank you, I just had to get my muting off. Thank you to members of the Committee, great to see you.

I really quickly want to thank you for persevering in what's been -- to watch and participate in an exhaustive legislative process. And to see you struggle for civil and human rights versus oppressive prohibition is just inspiring. Thank you, to all of you, for your commitment towards that, and to keep the conversation open and ongoing.

I want to make just a couple of points that I think would help you achieve your goal of keeping marijuana out the hands of youth, and just kind of back out of the conversation as to the bills that have passed and how that may impact it.

So one is including communities, like Asbury Park -- that's an impact zone. There's a strong social justice mandate celebrated by holding up Black communities that would be impact zones because of how heavily they are impacted. But unfortunately, Black communities like Asbury Park have been excluded from those funds and those benefits. So I'll speak just quickly about that, as well as addressing police violence and police sexual assault; as well as the remaining drug war apparatus -- what could be done within the confines of the Bill that could prevent those institutions from pre-dating and undermining your efforts.

I just want to very quickly paint a background here of Asbury Park. It was founded by James A. Bradley, a nationally renowned racist who segregated the city. He was the original Jim Crow who put segregation policies in place decades before Jim Crow laws were codified. And he would be very proud about those racially segregated lines, and lines that

are segregated by other prejudices in the Asbury Park of today. And marijuana prohibition is one of the biggest pillars of them, as well as the remaining drug war infrastructure.

And what I mean by that is, you have sections of the community that are not just under total government surveillance and policing, but multiple overlapping layers of predatory policing and surveillance.

So when we talk about Asbury Park needing to be designated as an impact zone, this is literally--

UNIDENTIFIED SPEAKER: Surveillance impact zone.

MR. THOMPSON: Excuse me?

SENATOR POU: So Mr. Thompson, I'm just going-- I don't know who was speaking just now, but I just want to alert you, or ask you, to please keep your comments to the issue at hand; with the Bill that we have in front of us. I understand what you're saying, but we'd like you to please just make your comments specific on the Bill.

MR. THOMPSON: Understood, Chairwoman and Chairman. I'll make it very narrow.

Engaging communities like Asbury Park, that have been devastated by marijuana prohibition, would be best if resources could be put at their disposal to bring the impacted members of the community, activists, and organizations online as part of the solution. I understand we can't address everything in every bill, but perhaps something could be in here in that.

It was wonderful to hear Senator Singleton and Senator Ruiz talk about penalties for police. I think if you see police going against

this new law, which has its roots in human rights and civil liberties, then you should literally make that a criminal penalty and put in there hefty fines. And those fines should go to repair the damage of the drug war.

I think that would make a lot of sense, there's a direct nexus there. So those are ways to put resources at the disposal of the community, so to speak. I think something that would also help is the phrase "harm reduction and police accountability." You can take those funds from fining police -- because we all know, unfortunately, police interactions do not go as they are written in laws in black and white. We know from George Floyd, we know from things that happened before Mr. Floyd's murder and that happened after -- and certainly in hyper-police communities, like Asbury Park -- they're not going to go that way.

Just to paint an example: You could have a youth -- which I think is the scope of your Bill -- not arrested for marijuana, not molested in any way by law enforcement, but now he comes around the corner and a Tactical Narcotics Unit jumps out and grabs him, says, "I just saw you coming from that crack house there." That is not at all out of the scope of what has happened in the factual history of Asbury Park, and communities like it across the State and across the nation.

So harm reduction and police accountability, I think, are two really strong pillars that would help you achieve the goals that you want to in this Bill. And I just want to speak about -- I think you said the forced treatment is being addressed in the amendment, so I'll leave that alone; I'll thank you for that in advance.

And again, if any possibility is there to take the poster child community, Asbury Park -- or Central Jersey, and possibly the State -- and

not deny that that Black community -- not to legislatively whitewash its history of being deliberately destroyed by the drug war. If you could make it an impact zone or call for it in this legislation, that community would be greatly helped, it would be greatly appreciative.

Thank you to all of you.

SENATOR POU: Thank you, Mr. Thompson, thank you for your comments and your testimony. Do we have any questions from our members for Mr. Thompson? (no response)

Seeing none, I see that-- Thank you very much, Mr. Thompson.

I'd like to hand over the Committee Public Hearing back to our Chairman, Chairman Scutari. Thank you, Mr. Chairman.

SENATOR SCUTARI: Thank you, Vice Chair, I appreciate that. And thank you to the speakers and to everyone who has given information with regard to the topic. And most importantly to our colleagues in the Senate: Senator Singleton, Senator Ruiz, Senator Nilsa Cruz-Perez, yourself, Senator Pou; and all the members of the Legislative Black Caucus and Latinx caucuses that have been tirelessly working to come to grips with an amendment that will satisfy -- I'm not going to say all parties, but as many parties as possible, a majority of the people who are involved; so we can get this done and, as I said, move on with our lives.

Obviously this is a topic that's not going to be over with this week. Even if we get it successfully passed and signed, it's going to be continuous. So I'm glad to see that we're having this continuing dialogue that I've been speaking about for over a decade; and I see so many like-minded people understanding that the drug war has been a complete,

miserable failure, and how it has harmed the citizens of New Jersey more and more -- and more particularly, those of Black and brown communities.

Senators, I'll give you all an opportunity now if you'd like to comment generally on the piece of legislation or what you've heard today. And tonight we'll be working on our final piece and hopefully voting on it tomorrow without comment.

Obviously you're always free to make a comment tomorrow on your vote, but we won't be taking any more public testimony tomorrow with respect to the Bill.

Senators, anyone?

SENATOR CORRADO: I have a couple questions, Chairman.

SENATOR SCUTARI: Oh, sure. Is that Senator Corrado?

SENATOR CORRADO: Yes, it is, thank you.

And I think we can all agree that nobody wants to see a child or a young adult have their life ruined for having a couple joints on them. But one of my questions is, when we're talking about possession under this Bill, is it up to six ounces just like it would be for an adult?

SENATOR SCUTARI: I'm going to defer to Senator Singleton or Senator Ruiz with respect to the particulars on that level of possession. I don't know, Senator Singleton, if you know what that level is at for this Bill? Or staff-- Quite frankly, if the staff can answer that question--

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SENATOR RUIZ: Alison was on, I don't know--
Senator Singleton.

SENATOR SINGLETON: Yes, I mean, it specifies that without possessing-- Anyone possessing above the legal authority to possess what the law would have in place for us – it has already been done through A-21 and the decrim. Dave Lorette can give you, Kristin -- sorry, Senator Corrado -- more clarity on it.

But it's my understanding that those limits that were in the other proposals are -- again, still sitting on the Governor's desk -- would be the limits for this one here.

SENATOR SCUTARI: Yes, I'd defer to Dave Lorette, but I think it is the same limits as in the other one.

SENATOR POU: It actually is; but, David?

MR. LORETTE: I mean, you've all weighed in at this point; I don't know if I have anything else to add to the conversation at this point.

SENATOR CORRADO: Okay, so what would happen if it was over that limit? The same penalties, or we'll address that down the road?

SENATOR SINGLETON: Again, I think that is what the crux of what the Bill, that we're hopeful that we'll have in front of everyone tomorrow -- which was a lot of discussion here, today, for underage individuals -- what that mechanism looks like. The first offense, second offense, third offense, as a tiered approach -- what that looks like; as well as the conversation around referrals, that were said, for treatments or a referral to get help.

Those components of it fall in place to what will happen for underage folks. It is my understanding, and I don't want to speak for the

Chairman, that he is still culling through some of the input that has been gathered here today; it is being synthesized from all the great speakers we have -- and thoughts of other legislators -- to put in place.

But it is a tiered thing about a first offense, a second offense, and a third offense, if my memory serves me correctly.

SENATOR SCUTARI: I believe that's correct, Senator.

MR. LORETTE: And is it okay, Senators, if I jump in and kind of backtrack on what I said earlier? So, having again-- I'm looking at what we by currently have in terms of some of the initial proposals for amendments that are not finalized at this time; and I understand after this Public Hearing, we're going to continue to have further discussions, and I'll be drafting based upon some further input.

One of the aspects, in terms of the change at this point, that's being proposed -- and again, it's not finalized and I'm able to change - - we would in fact eliminate a distinction between an individual who is underage who would have possession of an amount of cannabis that one could lawfully have -- so generally speaking, that would be the one ounce of marijuana. We would simply just be putting in, for under 21 -- but no longer separating the 18- to 21-year-olds -- under 21 years old, any possession and any consumption would fall under the statute that's been mostly focused on -- that's 2C:30-15.

So it would eliminate any type of amounts in terms of the underage possession or consumption violations to be considered. What would come into play, if you look at what's sitting on the Governor's desk, in particular A-21 -- actually both the decriminal and A-21 -- they do decriminalize, with no penalty, generally up to six ounces of marijuana.

My reading is, because we're putting something so very specific in terms of underage consequences in this section -- which is wholly and entirely outside of the traditional 2C:35-5 possession scheme that's in place -- that an underage individual would not be subject to any type of consequences under that other section.

So even if it's seven or eight ounces, you wouldn't necessarily be looking at any type of criminal possession. But what does come into play at this point is, at a certain point, an amount that's possessed is going to be looked at if it reaches a certain quantity that the individual may be in possession with an intent to distribute.

And that's where you're still going to have that potential for some criminal sanctions, quite frankly, or juvenile delinquent actions if we're talking about the under age 21 individuals.

SENATOR CORRADO: Okay. And I guess along those lines, too-- One of my concerns is -- and it's no different than driving while drunk or driving while impaired -- but if there was an accident or, you know, bodily harm was caused in an accident by somebody who was driving while high, then I guess those penalties that would have been there anyway would still be in place; this wouldn't eliminate them.

SENATOR SCUTARI: No, not eliminate (indiscernible) after passage of this. This is narrowly focused on criminal, not motor vehicle.

SENATOR CORRADO: Well, yes, so-- Okay. So those penalties would still be there.

SENATOR SCUTARI: Yes.

SENATOR CORRADO: Okay. I think that's all I had.
Thank you.

SENATOR SCUTARI: Thank you, Senator Corrado.

Any other Senators, any other discussion or commentary on today's events?

SENATOR RUIZ: I just want to take an opportunity to just thank all of my colleagues, both in the Latina Caucus and in the Black Caucus. You know, it's difficult for me to have started this conversation -- as someone who worked very tirelessly on decrim -- and then have to be charged with coming up with a comprehensive approach to deal with an issue that, at one point, many of us didn't think was a substantive issue because we had done so much leg work on the front side.

But that being said, you know, I still think that there's just been such collaboration and such courage in the words that we've put on documents to protect our communities, that I'm just so proud to be a member of this team that's put forth what we hope to see in a good, rounded piece of legislation tomorrow.

And I just wanted to share one statement. These conversations are difficult to have because New Jersey sent this loud message that we were moving a drug substance into a legalized market, and yet sometimes we're having conversations that are charged to tell us that we still want to create policies and regulations to still treat it as a drug substance. And that's where a lot of the confusion sits, and that's where a lot of my frustration sits, and that's where the difficulty is in making sure that we create responsible policy that will not impact our kids in the future.

So I just want to say thank you to everyone who has lent their voice to this.

SENATOR SINGLETON: Chairman, if I could; I want to thank, first of all, every speaker who we had here today. I think their commentary is helpful to those of us who ultimately have to vote on this legislation, and look through it through various prisms. And I think the information that we gathered here today from the selected speakers, as well as the general public who came to be a part of this hearing -- I think it's critically important to help all of us in our maturation of this policy.

Chairman, I also want to thank you. Because I know how long this has been an issue for you, and your commitment to making sure we get this done right. Long before some of us were in the Legislature, you were screaming this issue -- long before it became popular. So I think that's a credit to you -- that you also charged many of us, your colleagues, with taking on ownership in trying to draft something and work through these issues to present a product that we can get broad support for.

And Senator Nellie Pou, as well as Senator Ron Rice -- the Chairs of both the Black and Hispanic Caucuses -- have been instrumental in trying to gather that information and bring us all together so that we could put forth something -- based on the input that we gathered here today and our own understanding of this policy -- that will help us to make sure we protect our children; but at the same token be respectful and understanding of what the will of the people, that first Tuesday in November, struck. So I think that is also critically important and should not be understated.

Again, I just have so much pride in the fact of this great conversation about how to really discern a good public policy; and this sort of markup conversation, as it were, I think is helpful for all of us as we continue to try and figure out what the next steps would be.

So Chairman, thank you for allowing me a few minutes to talk about that. Thank you, sir.

SENATOR SCUTARI: Thank you, Senator Singleton, and thank you for your efforts as well in helping to finish this off. It's been a long road, as you mentioned. And I appreciate everyone on this call, as well as the other Senators who aren't, who spent so much time trying to get this last little piece of the puzzle done so we can get this stuff to go on.

Senators, any other comments or questions?

SENATOR POU: Mr. Chairman, I just want to-- I would be remiss if I did not also, just very quickly -- I know I've already shared some of my thoughts or comments through the testimony. I wanted to also thank you for your leadership and for your willingness to move some of, if not -- a lot of what we've been talking about and doing throughout these last several days. As Senator Singleton and Senator Ruiz have mentioned, you know, basically around the clock we've been working to try to deal with a very tight timeline.

That being said, I want to take a moment to also express our appreciation. As it was pointed out earlier, we are coming together for all the members, every single member of the Judiciary Committee; every one of you, thank you for taking the time to be present for this Public Hearing.

I know that oftentimes there's a different path you could have taken; but you've taken the time, and your responsibility to your oath, making sure that you have been present. So I want to express my sincere appreciation, Senator Scutari, for putting this on a holiday.

I want to thank OLS and David for working -- unbelievable. I mean, Alison Accettola from our office, who has just been

remarkable. And most especially, I wanted to thank my colleague Senator Rice -- who I know will be joining us tomorrow, I believe -- but he and members of the Black Caucus and the members of the Latino Caucus for all the great work. It's been a real concerted and very -- concerted effort overall and, you know, everyone has worked so hard.

So to all the speakers, I thank you for your wisdom, thank you for your words, and thank you for your support.

Thank you, Mr. Chairman; that's all.

SENATOR SCUTARI: Thank you, Senator Pou.

SENATOR CUNNINGHAM: Mr. Chairman, if I might say something.

One of the great things about what we've seen with this legislation -- and it's wonderful because it's given our constituents an idea of what it's like. We take this very seriously; we take creating bills very seriously. We take it very, very seriously to do what's best for our constituency.

So I'm proud today that so many people came in and were witnesses to what really happens; that we just don't make up this stuff, but we do it because we care and we do it when we think we've got it right, and we keep working until we've got it right. So I just wanted to add that. And to thank, of course, Chairman Scutari, for leading the way for something that is in his heart and has been in his heart for a long time.

Thank you.

SENATOR SCUTARI: Thank you for those kind words, Senator Cunningham. Any other Senators wish to comment or have a question regarding this? (no response)

Okay, seeing none, I do want to give a final thanks to our staff. They have worked so tirelessly -- Alison and David; and even my guys, Tony and Harris -- just constantly working on this Bill like you would not believe. And we all have lots of other stuff going on at the same time and under these tight time constraints.

So, again, I can appreciate the hard work that everyone has done as well. Not to mention all the Senators that have been involved in it, picking up the pieces from us not being able to get our last couple of bills passed, and not giving up. And I really appreciate you filling in the gaps there -- not just for the Senate, but for your individual constituencies. I couldn't appreciate that enough.

So I think we're done for today. We will reconvene tomorrow at 1:00 p.m. for an in-person meeting -- not just for this Bill. We have some other important business to handle, we've got a couple of bills, we have some nominees for tomorrow that we're going to screen; and then we'll take votes on this Bill as well as some others.

So with that, the Public Hearing is closed. The meeting is adjourned.

(MEETING CONCLUDED)