



NEUTRAL TESTIMONY RE HB 2389 – Authorizing a notice to appear for unlawful possession of marijuana and defining complaint in the Kansas code of criminal procedure to include such notice to appear.

Testimony of Kendall Seal, Director of Advocacy, American Civil Liberties Union of Kansas

House Judiciary Committee – February 23, 2021

Chairman Patton and Members of this Committee,

Thank you for the opportunity to present testimony today. My name is Kendall Seal, and I am the Director of Advocacy for the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the constitutional liberties of all Kansans. We are neutral on HB 2389.

We support, as do the majority of Kansans, decreasing penalties for possession of marijuana. Although this bill will not reduce the criminal penalties for marijuana possession, this bill will reduce the collateral consequences of arrest and jail that Kansans would face by allowing police officers to issue citations in lieu of arrest. Citation in lieu of arrest is a better policy for many offenses, including marijuana possession. This bill leaves much discretion to individual officers and police departments on this issue, and for this reason, among others, the bill fails to address the root problem -- systemic racial inequalities in drug arrests and policing policies.

Data on this issue show there are significant racial inequities present in the current system, where people of color account for 33.6% of drug arrests, but they represent only 23.9% of the state's population. For Black Kansans, the racial inequity is even starker. They represent 5.6% of the state's population, and they account for 18.9% of the drug arrests.¹ Kansas' racial disparities in drug arrests is higher than the national average, ranking 12th worst in the country for largest disparities in marijuana arrests. To help address the systemic issues noted, this bill could be amended to mandate the issuing of citations in lieu of arrest with clearer parameters.

As a broader matter, personal drug use should be viewed as a public health issue and not one that involves citations, arrests, jail, fines and fees, prison, or a nexus to the criminal legal system such as diversion or probation. Such a perspective would help thousands of Kansans avoid the harmful collateral consequences of an arrest, such as a loss of job or housing.

The ACLU of Kansas urges this Committee to amend HB 2389 to broaden its reach to more Kansans who are in possession of controlled substances other than just marijuana. As a more pressing issue, we urge this committee to not replace marijuana prohibition with a system of fines, fees, and citations. Thank you again for the opportunity to present testimony. I am happy to answer questions from this Committee at the appropriate time.

¹ KBI data 2015-2019 and 5-year census American Community Survey data. Missing data from the following agencies: Kansas City, KS; Olathe, KS; Lawrence, KS; Douglas County Sheriff; and Topeka, KS Police Department.

<https://dashboards.mysidewalk.com/aclu-ks/arrest-disparities>

KANSAS

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2018 SUMMARY

Kansas ranks

12th

in the nation for largest racial disparities in arrests for marijuana possession

Black people were

4.8x

more likely than white people to be arrested for marijuana possession ↑

Arrests for the **possession** of marijuana made up

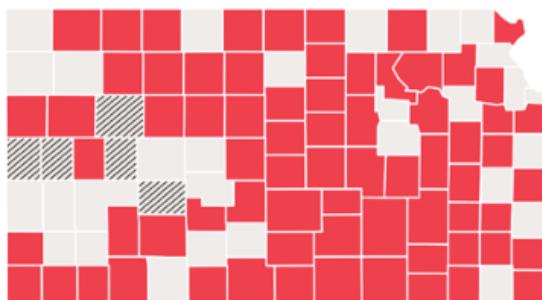
52%

of all drug arrests in the state ↑

Direction of → indicates increase or decrease since 2010.

BY THE COUNTY

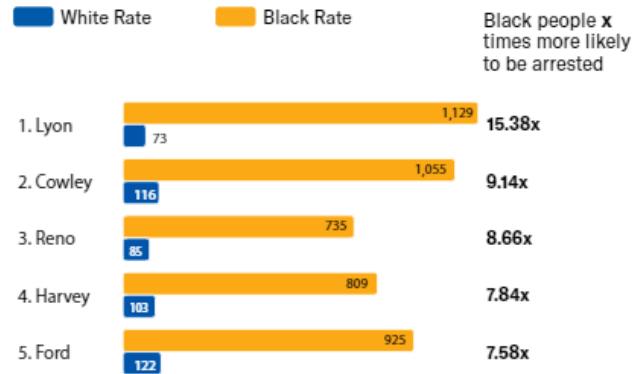
All counties with **racial disparities** above the national average (3.64x)



Counties with missing data are striped.

Counties with the largest racial disparities

Counties with a pop. of >30,000, a Black pop. of >1%, a data coverage of >50%, and at least 25 marijuana possession arrests are included.



Arrests per 100k

SOURCE: <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

Additional county-level info is available at: <https://graphics.aclu.org/marijuana-arrest-report/KS>