



Position Paper

Increased Penalties for Marijuana: Protecting Families and Promoting Community Health

Question

Do increased civil penalties for marijuana possession at the municipal level, such as mandatory jail-time, large fines, and alcohol/drug safety classes, protect families and teens from the harm of drug abuse and promote a healthier, safer community?

Background

When municipalities consider imposing a minimum fine or jail sentence above that which the state requires for possession of marijuana, it is frequently out of a desire to protect families and youth from the potential harm marijuana can cause and to promote a healthier, stronger community.

There can be no doubt that creating laws surrounding the possession, sale, or use of illegal drugs distributed by organized crime on the black market, are some of the most difficult any elected body can contemplate. Finding a balance between compassion for the afflicted and punishing the lawless is complicated.

The obligation to seek a remedy for someone who is suffering is often clouded by the impulse to harshly punish a drug offender with a large fine, jail or both. This is done in the hope it will stop the person convicted from continuing to use, and that it will be a deterrent to others. These punitive measures are also undertaken to send a message to the citizens that local officials do not tolerate illegal drug use.

Position

A charge of first-time possession of marijuana does not suggest the person necessarily require substance abuse treatment. On the other hand, it may be an indicator of emotional disorders, which may require professional medical attention. The only way to make a determination is through an evaluation by a qualified, licensed medical professional.

Successful drug abuse intervention can only be accomplished by identifying a problem and treating it.

Decreasing marijuana use by adults and teenagers can only be accomplished with *effective* preventative education and substance abuse treatment.

Directing a person charged with first-time possession of marijuana toward the public health system for evaluation is consistent with the values of a caring, nurturing society and provides a healthier environment for the whole community.

Mandatory fines, jail, or alcohol-drug safety education classes do not:

- protect families and teens from the harm of drug abuse because they do not address addiction¹
- promote a healthier community because they do not decrease use²

Research and findings supporting the position

Footnote 1

A 2001 National Research Council study sponsored by the U.S. government found “little apparent relationship between the severity of sanctions prescribed for drug use and prevalence or frequency of use, and ... perceived legal risk explains very little in the variance of individual drug use.” The primary evidence cited came from comparisons between states that have and have not decriminalized marijuana.

National Research Council, *Informing America's Policy on Illegal Drugs: What We Don't Know Keeps Hurting Us*, National Academy Press, 2001; pp. 192-93.

In the Netherlands, where adult possession and purchase of small amounts of marijuana are allowed under a regulated system, the rate of marijuana use by teenagers is far lower than in the U.S. 3,18 Under a regulated system, licensed merchants have an incentive to check ID and avoid selling to minors. Such a system also separates marijuana from the trade in hard drugs such as cocaine and heroin.

Abraham, Manja D., Kaal, Hendrien L., and Cohen, Peter D.A., *Licit and illicit drug use in the Netherlands 2001*. Amsterdam: CEDRO/Mets en Schilt, 2002.

Severe punishment for those caught with alcohol and other drugs do not affected use rates among high school students. Deterrent punishment (expulsion, suspension, or exclusion from activities) undermines a sense of connection leaving young people feeling isolated and believing that “the system” is unfair, uneven, and cruel. All secondary schools should coordinate student assistance with their drug education program. The student assistance program should identify, assist, and when appropriate, refer students with problems to counseling and/or treatment.

Sources: *Skager, Rodney, Beyond Zero Tolerance: a reality-based approach to drug education and student assistance, 2005.* Available at www.beyondzerotolerance.org.

Footnote 2

Commissioned by President Nixon in 1972, the National Commission on Marihuana and Drug Abuse concluded that "Marihuana's relative potential for harm to the vast majority of individual users and its actual impact on society does not justify a social policy designed to seek out and firmly punish those who use it. This judgment is based on prevalent use patterns, on behavior exhibited by the vast majority of users and on our interpretations of existing medical and scientific data. This position also is consistent with the estimate by law enforcement personnel that the elimination of use is unattainable."

Source: *Shafer, Raymond P., et al, Marihuana: A Signal of Misunderstanding, Ch. V, (Washington DC: National Commission on Marihuana and Drug Abuse, 1972).*

The United Kingdom officially downgraded the classification of cannabis from Class B to Class C effective Jan. 29, 2004. The London Guardian reported that "Under the switch, cannabis will be ranked alongside bodybuilding steroids and some antidepressants. Possession of cannabis will no longer be an arrestable offence in most cases, although police will retain the power to arrest users in certain aggravated situations

- such as when the drug is smoked outside schools. The home secretary, David Blunkett, has said the change in the law is necessary to enable police to spend more time tackling class A drugs such as heroin and crack cocaine which cause the most harm and trigger far more crime."

Source: Tempest, Matthew, "MPs Vote To Downgrade Cannabis," The Guardian (London, England), Oct. 29, 2003.

UK Home Secretary David Blunkett announced in July 2002 that "We must concentrate our efforts on the drugs that cause the most harm, while sending a credible message to young people. I will therefore ask Parliament to reclassify cannabis from Class B to Class C. I have considered the recommendations of the Home Affairs Committee, and the advice given me by the ACMD medical experts that the current classification of cannabis is disproportionate in relation to the harm that it causes."

Source: "All Controlled Drugs Harmful, All Will Remain Illegal" - Home Secretary," News Release, Office of the Home Secretary, Government of the United Kingdom, July 10, 2002, from the web at http://213.219.10.30/n_story.asp?item_id=143 last accessed July 31, 2002.

In May of 1998, the Canadian Centre on Substance Abuse, National Working Group on Addictions Policy released policy a discussion document which recommended, "The severity of punishment for a cannabis possession charge should be reduced. Specifically, cannabis possession should be converted to a civil violation under the Contraventions Act." The paper further noted that, "The available evidence indicates that removal of jail as a sentencing option would lead to considerable cost savings without leading to increases in rates of cannabis use."

Source: Single, Eric, Cannabis Control in Canada: Options Regarding Possession (Ottawa, Canada: Canadian Centre on Substance Abuse, May 1998).

"Our conclusion is that the present law on cannabis produces more harm than it prevents. It is very expensive of the time and resources of the criminal justice system and especially of the police. It inevitably bears more heavily on young people in the streets of inner cities, who are also more likely to be from minority ethnic communities, and as such is inimical to police community relations. It criminalizes large numbers of otherwise law-abiding, mainly young, people to the detriment of their futures. It has become a proxy for the control of public order; and it inhibits accurate education about the relative risks of different drugs including the risks of cannabis itself."

Source: Police Foundation of the United Kingdom, "Drugs and the Law: Report of the Independent Inquiry into the Misuse of Drugs Act of 1971", April 4, 2000. The Police Foundation, based in London, England, is a nonprofit organization presided over by Charles, Crown Prince of Wales, which promotes research, debate and publication to improve the efficiency and effectiveness of policing in the UK.