



YCPC

POLICY BRIEF:
York City Marijuana Decriminalization

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Executive Summary:

Article 718, an amendment to the civil code of York city, will change the offense of marijuana (under 30 grams) and related paraphernalia from a criminal to civil offense, and introduce a sliding fine system. Fines for using marijuana in the city will start at \$150 for the first offense before doubling to \$300 for a second offense and \$600 for a third offense.

Introduced by: Councilwoman Judy Ritter-Dickson.

Context and Analysis:

Marijuana possession and distribution continues to produce a large number of arrests and criminal cases in the city of York, Pennsylvania¹. 35 cities in the United States have decriminalized Marijuana and another 12 have made it lowest priority². As a result, the dilemma needs to be resolved between the growing incarceration rate for drug-related crimes and whether there is a case for the decriminalization of marijuana in York City, as well.

A major problem in arrest and incarceration for possession of marijuana is that it has disproportionately affected African American communities, with African Americans being charged at a rate of double that of other demographic groups, such as Whites and non-White Hispanics³. This is despite African Americans and Whites having near identical marijuana use proportions. With York having an African American population of 11,000, this means 25% of the York population is statistically at a higher risk of arrest for offences related to possession⁴. The value of decriminalization in reducing incarceration is demonstrated by Baltimore, MD, where preliminary studies have shown that marijuana-related arrests among African Americans have dropped sharply (following Maryland's implementation of decriminalization in 2015), though exact percentages have yet to be recorded. Important to also recognize that Maryland's decriminalization law is stricter than the proposed legislation in York, as it only protects possession of up to 10 grams and has an immediate first-violation fine of \$100, with the fine rate increasing based on the number of violations⁵.

In places similar to York (third-tier cities) that have decriminalized marijuana, such as Harrisburg, PA, have seen a decline in arrests and crime rate. This can likely be attributed to resources that had been allocated for marijuana-related crime and, upon marijuana decriminalization, were shifted to other areas, such as violent crime and distribution of illicit substances⁶. This reallocation of resources has deeper reaches. In places where marijuana decriminalization has taken place, such as California, studies conducted have shown since

¹ York Crime Records

² NORML.com statistics by state.

³ *A General Theory of Preemption: With Comments on State Decriminalization of Marijuana* Lea Brilmayer

⁴ <http://www.city-data.com/city/York-Pennsylvania.html>

⁵ <http://norml.org/laws/item/maryland-penalties-2>

⁶ The Impact of Marijuana Decriminalization: An Update Eric W. Single

decriminalization, teen arrest (-23%), overall death by overdose (-20%) and dropout rates (-22%) have all significantly decreased⁷.

With both Pittsburg and Philadelphia decriminalizing marijuana, there is a significant chance for York to help drop statewide crime, as Marijuana possession related arrests would drop by 14%. In the York area alone, there have been 331 arrests made for the possession of marijuana, in the quantity of less than 30 grams, in 2017. The arrest rate for possession of marijuana in Pennsylvania has reached 1,700 this year, which means 18% of the state arrests regarding marijuana possession come from the York area. This is part of an increasing trend in arrests for marijuana that began in 2016. These facts are important to consider when taking into account the impact marijuana convictions have on York's law enforcement abilities and its cost.

To put this into perspective, look at the current cost of law enforcement activities involving marijuana. With current state and city ordinance, it costs \$25,700 per non-violent marijuana prisoner annually, or around \$70 per day. Advocates for decriminalization suggest that money would be better spent elsewhere. Currently, the county of York spends \$2.5 million on drug-related actions annually⁸. This is not including the city cost of law enforcement, which could transfer the budget used for marijuana-related arrests to dealing with the growing opioid epidemic in York (which resulted in 76 deaths last year, 35 as of March 2017⁹).

Recently, a vote was held by the city council in West York about decriminalization, which resulted in a 4-3 vote against the measure. President Mary Wagner of the West York City Council commented, "Kids know this, so they already know they're committing a crime, so why should I make it easier for them to keep on doing it?"¹⁰.

President Wagner's argument for keeping marijuana illegal has some support from science. Marijuana has been shown to diminish IQ scores in adults and children. There is a link between marijuana use and 'motivational syndrome,' characterized by reduced determination and drive. It has been linked to increased risk for psychotic disorders like schizophrenia. Studies also show disruption in posture, coordination and balance suggesting that operating heavy machinery is dangerous (i.e. driving a car). 26.9% of seriously injured drivers test positive for marijuana and 20% of all vehicle crashes are attributed to drugged driving.¹¹ The National Institutes of Health finds 30 percent of users form some sort of dependence on the drug, with about 10 percent of those users becoming addicted.¹²

⁷ https://www.washingtonpost.com/news/wonk/wp/2014/10/15/after-california-decriminalized-weed-teen-arrest-overdose-and-dropout-rates-fell/?utm_term=.308ae23d853a

⁸ <http://www.ydr.com/story/news/2016/03/09/nonviolent-marijuana-offenders-cost-pa-25m/81167056/>

⁹ <http://fox43.com/2017/03/22/york-city-police-hold-forum-to-educate-public-on-heroin-and-addiction/>

¹⁰ <http://fox43.com/2017/06/05/measure-to-potentially-reduce-marijuana-penalties-denied-by-west-york-borough-council/>

¹¹ <https://calmusa.org/calmcablog/2015/8/14/the-myths-of-marijuana;>

<https://calmusa.org/calmcablog/2017/5/1/transportation-drugged-driving-eclipses-drunken-driving-in-tests-of-motorists-killed-in-crashes>

¹² <http://www.washingtontimes.com/news/2016/aug/1/a-case-against-legalizing-marijuana/>

More research is needed to confirm these studies, many of which have issues with size, randomization or other research-related problems. Nonetheless, they point to legitimate concerns about the safety of marijuana use. The question we need to decide is what policy works best to accommodate these conflicting positions?

Policy Recommendations

The arguments for and against decriminalization of marijuana both have merit. At a time when state and local governments are decriminalizing or implementing full legalization, the argument has been brought to the center stage in local politics. For clarification: *decriminalization* means that being caught by law enforcement officials with possessing small amounts of or using marijuana results in a civil penalty, like a traffic ticket, rather than a criminal charge; *legalization* is the ending of the current United States law for prohibition and the implementation of taxation on legal marijuana sales.

Currently in Pennsylvania there are two categories that apply to marijuana possession. "possession of a controlled substance" pursuant to 35 Pa.C.S.A. 113-780(a)(16) and "small amount of marijuana" 35 Pa.C.S.A. § 780-113(a)(31)(i). The first statute covers all illegal drugs, including cannabis. It even covers legal drugs like Adderall, in cases where the accused lacks a valid prescription. The maximum penalty for possession of a controlled substance in Pennsylvania is 12 months incarceration and a \$5,000 fine for a first offense, while a second conviction carries up to three years incarceration and a heavy \$25,000 fine. The second statute applies to amounts of 30 grams or less (about 1 ounce) resulting in the charge of criminal misdemeanor, a minimum incarceration of 30 days and a maximum fine of \$500. Larger amounts will likely lead to the first statute being pursued and possibly felony charges with "intent to sell" and could land the accused in much deeper trouble. This is for all of Pennsylvania that has not implemented amendments to the current code of law § 780-113, Prohibited acts¹³. In Pennsylvania, Philadelphia, Pittsburg, and State College are the only cities that have implemented decriminalization laws.

The current national law of the United States, otherwise known as the "Controlled Substances Act"¹⁴ brings these regional governments who decriminalize or legalize in direct contention with national authority. While there has been no backlash against the states or local governing bodies from the federal government yet, Attorney General Sessions has stated he would like to see increased actions from the Drug Enforcement Agency in these regions that have implemented both decriminalization and legalization. If York were to take the decriminalization path it would be opposing regulations and standards imposed by the federal government and, possibly, putting itself in legal peril or at financial risk. The Trump Administration has threatened to withdraw support for cities who oppose it on immigration grounds, although it has been unsuccessful in doing so thus far and has come into conflict with the judicial branch.¹⁵ It is

¹³[https://govt.westlaw.com/pac/Document/N3CCB96B104F911E398FF8EE4090BC63C?viewType=FullText&originati onContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/pac/Document/N3CCB96B104F911E398FF8EE4090BC63C?viewType=FullText&originati onContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

¹⁴ <https://www.dea.gov/druginfo/csa.shtml>

¹⁵ <https://www.reuters.com/article/us-usa-immigration-sanctuary-idUSKBN19X32X>

reasonable to assume they might consider that option for opposing it on drug possession laws; potential of such action would be unclear, given the Administration's lack of success in pursuing similar actions through highly-disputed and legally challenged Presidential Executive Orders.

The legislation that the York City Council will be taking a vote on is almost identical to what has been implemented in Harrisburg. This action has been praised by Governor Tom Wolf, who has been a vocal supporter for decriminalization of marijuana in Pennsylvania. While arrests have dropped when looking at 2017 arrest records as compared to 2016 (when the ordinance was passed), enough time to make an accurate judgement has not passed yet.

At first glance, it seems York will benefit greatly from a decriminalization amendment to their civil code. The reallocation of police resources from focusing on marijuana to other substances or crimes could prove decisive in resolving violent crimes and opioid abuse. To put this problem into perspective, consider lab fees, overtime for officers, and costs for shift officers. The average marijuana arrest costs the police between \$1,500 to \$3000 in overtime pay and lab fees for officers. Another major resource lost is time of the officer, who is off the streets for at least two hours while processing the evidence and individual stopped for possession.¹⁶ If decriminalization is passed, the initial money received from fines could be used for police resources, whether that is adding a new officer to the force or purchasing a new police vehicle (average cost of a police cruiser is \$31,175¹⁷).

The revenue raised from fines could also help parts of the city budget that need stimulus. By multiplying this year's arrest number by \$150 (the initial fine for possession under the new legislation), the city would receive \$49,650. This does not account for those who may/will be repeat offenders.

The cost of banning marijuana is high given the enormous cost of enforcement, and saving or reallocating that money through decriminalization makes good economic sense. Legalizing, however, may not carry its economic weight according to research by the Heritage Institute. In 2007, the government collected \$25 billion in tobacco taxes but spent more than \$200 billion every year to cover health and other tobacco-related costs. Alcohol causes a similar dilemma; in 2007 governments in the US collected \$14 billion in alcohol taxes but spent \$185 billion to cover health, crime, and other alcohol-related costs.¹⁸ Since marijuana is similar to both in use and impact, it is probable a similar issue will arise suggesting this is a sunk cost that must be managed rather than eradicated. This cost will remain in a decriminalization ordinance as well but it suggests that an awareness program for the heaviest users might be the best use of some funds saved from decriminalization. It also might help address concerns of those who oppose legalization for this reason.

A case for decriminalization rather than legalization comes from research in markets that have legalized. A report by Vox points out a major concern in allowing for-profit businesses market to

¹⁶ Phone call with Officer Millsaps, Police Chief of West York.

¹⁷ <http://www.autobytel.com/ford/utility-police-interceptor/2016/prices/>

¹⁸ <http://www.heritage.org/commentary/the-case-against-legalizing-marijuana-california>

sell marijuana. It has lead them to market aggressively to heavy pot users, who may have a drug problem. This is similar to what has happened in the alcohol and tobacco industries, where companies make much of their profits from users with serious addiction issues. Among alcohol users, for instance, the top 10 percent of users consume, on average, more than 10 drinks each day dropping of precipitously at each decile.¹⁹ Decriminalizing seems to be the best economic choice; diminishing the cost to the police force while minimizing the impact of marketing to those most at risk. It might be of value for cities considering decriminalization to fund a program for the heaviest users who could be at risk.

Likely, the largest benefit of decriminalization is that those found in possession will be charged only for a civil offense while avoiding a criminal record (See Pager's study about the effects of crime record on employment²⁰). If someone does have a criminal record, there is a 60% chance they will be unemployed a year after release. When they do find employment, they will take home, on average, 40% less annually²¹. In 2015, 46.3% of people in the City of York were under the poverty level. Should decriminalization be implemented, a long-term positive economic growth will likely occur as fewer members of the community would be incarcerated and bear a criminal record. This could potentially make up for other costs of marijuana use, all the while giving York's efforts to revitalize a positive boost.

¹⁹ <https://www.vox.com/cards/marijuana-legalization/case-against-marijuana-legalization>

²⁰ <http://www.journals.uchicago.edu/doi/abs/10.1086/374403>

²¹ "Background Checking—The Use of Criminal Background Checks in Hiring Decisions" (2012).