

Decriminalization of Possession of Marijuana under New York State Law Position Paper

This paper was adopted by the membership at the April 15, 2014 General Membership Meeting.

(A brief history of marijuana in the U.S. can be found at the beginning of the Medical Marijuana Position paper.)

This paper addresses decriminalizing the possession of marijuana in public view under New York State law. The Staten Island Democratic Association (S.I.D.A.) has already taken a position in our medical marijuana issues paper to reclassify marijuana under the federal Controlled Substance Act from a Class I drug to a Class III drug.

The Controlled Substances Act (1970) made marijuana a Class I drug (Heroin is also a Class I drug.) and made possession a misdemeanor. Those arrested for possession of any amount of marijuana by federal authorities still face a misdemeanor charge.

In 1977, New York State downgraded possession of 25 grams (25 grams is less than an ounce) or less of marijuana to a violation from a criminal offense. "Marijuana in public view" remained a misdemeanor offense. Those currently arrested for possession of marijuana by New York State or local law enforcement officials are subject to New York State law.

Under the 1977 New York State Law, which is still in effect, a violation for possessing 25 grams or less is a fine of \$100 for the first offense and up to \$250 for the third or subsequent offense. Possession of 25 grams or less "in public view" is a Class B misdemeanor punishable by a fine of \$250 with a maximum sentence of 90 days.

In 2011 there were over 50,000 marijuana arrests in New York City. Under Mayor Bloomberg the NYPD made more marijuana arrests between 2007 and 2011, than in the 24 years from 1978 through 2001 under Mayors Giuliani, Dinkins, and Koch combined.

Between 2002 and 2012 the New York City Police Department spent a million man-hours to make 440,000 marijuana arrests. This raises the question as to whether devoting so many man-hours to marijuana arrests is a good use of police resources. A 2013 report by Comptroller John Liu estimates that the City could save \$31 million a year by reallocating time and resources expended by law enforcement and the judicial system on marijuana-related arrests. A better use of the millions of dollars now spent to arrest and prosecute possession of small amounts of marijuana would be to use the money to address more serious crimes. When someone is stopped by the police and they comply with an order to "empty your pockets" the marijuana that was in their pocket, and therefore an infraction, becomes a misdemeanor.

There is a correlation between the increase in marijuana arrests and the increase in the number of stop and frisks during the Bloomberg Administration. Since around 85% of those who were stopped during this time period were either Black or Hispanic it is not surprising that around 85% of those arrested for marijuana were Black or Hispanic. However marijuana use is not higher for Blacks and Hispanics than it is for Whites.

In September 2011, responding to complaints about the extraordinarily high number of marijuana arrests in Black and Hispanic communities, Police Commissioner Kelly issued a directive to clarify the standards required to charge someone with a misdemeanor for possession of marijuana. The directive stated that an officer cannot charge someone with a misdemeanor for possession in public view by obtaining the marijuana by ordering the person to empty his pockets. In June of 2012 the Legal Aid Society filed a lawsuit claiming the Police Officers were ignoring the Commissioner's directive and were continuing to make arrests for small amounts of marijuana. In 2012, Governor Cuomo proposed downgrading the possession of 25 grams or less of marijuana in public view from a misdemeanor to a violation. The Governor's proposal was supported by Mayor Bloomberg, Police Commissioner Kelly and the five district attorneys in New York City. In 2013 the State Assembly passed the decriminalization legislation. The State Senate did not bring the legislation up for a vote. Therefore, possession of 25 grams or less of marijuana "in public view" has not been downgraded to a violation

A criminal record does affect employment and earnings potential. As the City searches for solutions to poverty, arresting thousands of our residents for marijuana, conflicts with the City's anti-poverty goal?

S.I.D.A supports decriminalizing marijuana in New York State by downgrading the possession of 25 grams or less of marijuana in public view from a misdemeanor to a violation.

The Staten Island Democratic Association (S.I.D.A.) does not, at this time, support the legalization of marijuana for recreational use in New York State for the following reasons:

- The Obama Administration has stated that that they will refrain from interfering with how states enforce and regulate the recreational use of marijuana and has issued new banking guidelines (State-licensed marijuana businesses were having difficulty finding a bank willing to do business with them. Banks feared breaking federal law by allowing these businesses to open bank accounts.) A change in administration, however, could bring a change to the enforcement of federal laws affecting the sale, use and possession of marijuana.
- Colorado and Washington give us an opportunity to evaluate the impact of legalized marijuana.

- We need to consider how legalization will affect medical marijuana. Will it limit or eliminate clinical trials into its medical benefits?

S.I.D.A.'s position on the legalization of marijuana for recreational use may change after we have had an opportunity to evaluate the impact it has had on those states which have legalized recreational use, an opportunity to evaluate its impact on clinical trials into marijuana's medical benefits, and after legislation to legalize medical marijuana and to decriminalize possession in public view become law.