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WILLIAM CAPOTE

Deputy Mayor
BRIAN ANDERSON

Councilmembers
HARRY SANTIAGO, JR.
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AGENDA WORKSHOP TUESDAY

**May 7, 2019 - 6:00 P.M.
City Hall Council Chambers**

CALL TO ORDER:

ROLL CALL:

PUBLIC COMMENTS:

BUSINESS:

1. Discussion of proposed ordinance for civil penalties for the possession of cannabis (marijuana) for amounts under twenty (20) grams and possession of drug paraphernalia. (Councilman Johnson)

ADJOURNMENT:

If an individual decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required, and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

Pursuant to Council Policies and Procedures, members of the public wishing to use electronic media when addressing City Council must provide the electronic file to staff for screening no later than 2:00 P.M. on the day of the meeting; audio presentations must be submitted to the City Clerk at least twenty-four (24) hours prior to the meeting.

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE

ORDINANCE 2019-25

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XIII, GENERAL OFFENSES, CHAPTER 130, STATE MISDEMEANORS, BY INCLUDING PROVISIONS FOR CIVIL PENALTIES FOR THE POSSESSION OF CANNABIS (MARIJUANA) FOR AMOUNTS UNDER TWENTY (20) GRAMS AND POSSESSION OF DRUG PARAPHERNALIA; SETTING FORTH PENALTIES AND ENFORCEMENT RESPONSIBILITIES FOR A VIOLATION OF THIS SECTION; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has home rule power to enact an ordinance that does not conflict with State law, and

WHEREAS, the City has adopted §130.01, which makes any act that is or shall be recognized by the laws of the State of Florida as a misdemeanor, thereby being criminally prohibited through the City, and

WHEREAS, a person convicted for commission of an act defined as a misdemeanor pursuant to section §130.01, will be punished by a fine or imprisonment or both, but in no case shall the fine and/or imprisonment imposed be greater than the maximum fine or penalty for the same offense under the Florida Statutes, and

WHEREAS, several states and localities have modified their drug laws to create civil violations for possession of *de minimis* amounts of marijuana, which is only enforceable by a monetary fine and does not subject that person to arrest or criminal prosecution, and

WHEREAS, this ordinance will provide an alternate and additional mechanism under the City's Code to enforce these violations that are based upon the commission of certain enumerated misdemeanors, and

WHEREAS, the City Council has an interest in enacting monetary civil penalties for certain violations of Chapter 130, which civil penalties will act as an additional deterrent to such violations when encountering officers from the City of Palm Bay Police Department for a misdemeanor being the possession of twenty (20) grams or less of marijuana or paraphernalia, and

WHEREAS, the City of Palm Bay Police Department will have the discretion to issue a civil citation pursuant to this ordinance, or arrest or not arrest a person for the commission of a misdemeanor under State Law.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title XIII, General Offenses, Chapter 130, State Misdemeanors, is hereby amended by including the following language as Section 130.02:

"**SECTION 130.02 CIVIL PENALTIES FOR POSSESSION OF MARIJUANA.**

(A) Definitions.

(1) Cannabis: means all parts of any plant of the genus *Cannabis*, whether growing or not, or the seeds thereof. The term does not include "low-THC cannabis," as defined in Section 381.986, Florida Statutes, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed in conformance with that section. "Cannabis" also does not include the resin extracted from the plants of the genus *Cannabis*, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(2) Notice of violation: A notification by a law enforcement officer of the initiation of a civil penalty against an individual for an alleged violation of possession of 20 grams or less of cannabis or possession of drug paraphernalia.

(3) Special magistrate: An attorney designated by the City Attorney to conduct hearings related to a notice of violation issued for possession of 20 grams or less of cannabis or possession of drug paraphernalia.

(B) The following misdemeanors under State law are eligible to receive a civil violation notice, at the discretion of a law enforcement officer:

(1) Possession of 20 grams or less of cannabis, as set forth in section 893.13(6)(b) of the Florida Statutes, as such may be amended from time to time; and/or

(2) Possession of drug paraphernalia, as set forth in section 893.146 and 893.147(1)(b) of the Florida Statutes, as such may be amended from time to time.

(C) Qualifications. A law enforcement officer shall have the discretion to issue a civil violation notice under this section in lieu of a state misdemeanor charge for the offense, subject to the following limitations:

(1) The violator is 18 years or older;

(2) Provided that such violations are not charged in conjunction with any charge that is a felony, driving under the influence, incident involving domestic violence, or violent crime, as those terms are defined under State law; and

(3) No person may receive more than three civil violation notices pursuant to this section.

(D) Penalties. An individual issued a civil violation under this section is subject to the following penalties:

(1) For the first violation, the violator shall pay \$100.00.

(2) For the second violation, the violator shall pay \$150.00.

(3) For the third violation, the violator shall pay \$200.00.

(E) Enforcement. The City of Palm Bay Police Department shall enforce this section. This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws. If a law enforcement officer finds a violation of (B)(1) or (2), the officer will be authorized to issue a notice of violation.

(1) Notice of Violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special magistrate within ten (10) business days after service of the notice of violation, and that the failure to appeal the violation within ten (10) business days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(F) Rights of violators.

(1) A violator who has been served with a notice of violation must elect to either:

(a) Pay the civil fine in the manner indicated on the notice of violation; or

(b) Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten (10) business days of the service of the notice of violation.

(2) Applications for hearings must be accompanied by a fee as approved by a resolution of the City Council, which shall be refunded if the named violator prevails in the administrative hearing.

(G) Failure to pay civil fine or to appeal.

(1) If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by report from the law enforcement officer.

(2) The failure of the named violator to request a hearing on the decision of the law enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

(H) Procedures governing contesting notice of violations.

(1) The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the petitioner has failed to request an administrative hearing within ten (10) business days of the service of the notice of violation.

(2) If a petitioner requests a hearing but later chooses to cancel the hearing or fails to appear at the hearing, the hearing application fee shall be forfeited.

(3) If the petitioner requests a hearing and does not appear at the hearing, the violator waives the rights to present additional evidence or additional defenses at the hearing. The special magistrate may decide based on the Notice of Violation.

(4) All testimony at the hearing shall be under oath. Formal rules of evidence do not apply, but due process shall be observed and govern the proceedings.

The special magistrate shall not have discretion to alter the penalties prescribed in section (D).

(5) At the conclusion of the hearing, the special magistrate shall determine whether a violation under this section has occurred, in which case the special magistrate shall uphold or dismiss the violation. The special magistrate shall issue a final administrative order including the determination and, if the violation is upheld, require the petitioner to pay the fine previously assessed pursuant to section (D) and order the forfeiture of the hearing application fee to the City.

(6) If the violator fails to pay the fine within 30 days after the special magistrate issues an order, a certified copy of the order imposing a fine may be recorded in the public records. Such order shall constitute a judgment lien and be governed by Chapter 55 Florida Statutes.

(7) Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

(I) Seizure and destruction of contraband Cannabis.

(1) Any contraband cannabis that is the subject of a violation of this Chapter shall be seized for evidentiary purposes.

(2) Contraband cannabis seized pursuant to this section, after its use as evidence is no longer required, shall be destroyed in the same manner used to destroy narcotics, as provided by law.

(J) Disposition of fines. All fines collected, minus administrative costs, shall be used for drug abuse awareness, education or prevention programs.”

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of Ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2019- , held on April , 2019; and read in title only and duly enacted at Meeting 2019- , held on April , 2019.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Words in red shall be deleted; blue words shall be included. Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.

Civil Penalties for Marijuana Possession/Drug Paraphernalia



Marijuana under 20 grams & Drug Paraphernalia 2018-2019 YTD

During the 2018-2019 year-to-date timeframe a total of 711 incidents occurred with the following breakdown.

302 Arrests were made 89 Female (12%) , 213 Male (30%).

- ▶ White Males 117 (39%); White Females 65 (21%)
- ▶ Black Males 96 (32%); Black Females 24 (8%)
- ▶ Other Males 0 (0%); Other Females 0 (0%)

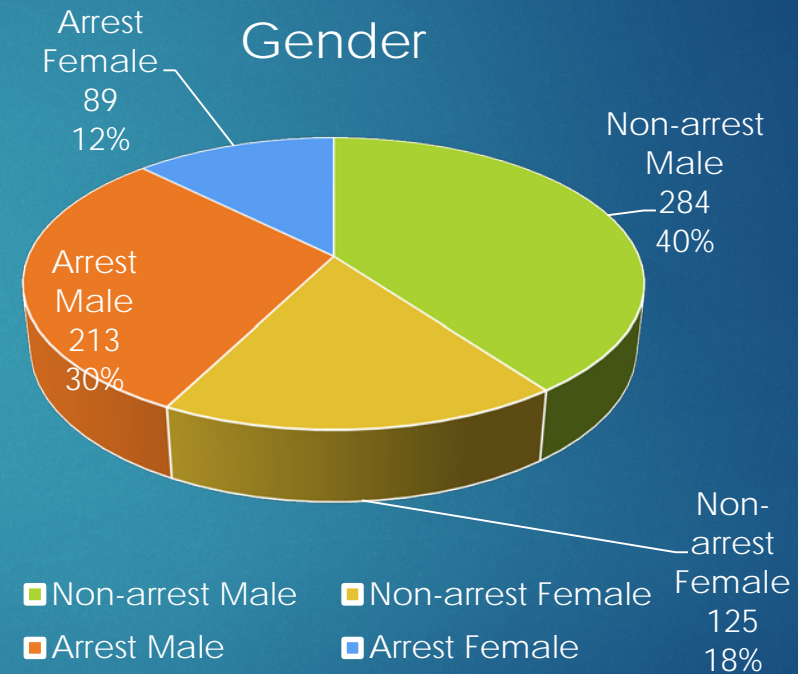
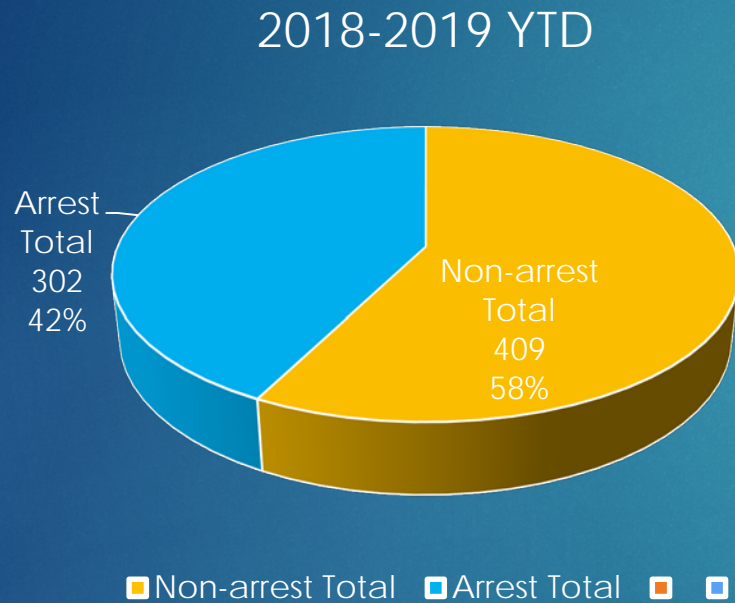
409 Non-arrests- evidence seized for destruction; 125 Female (18%), 284 Male (40%).

- ▶ White Males 152 (37%); White Females 89 (22%)
- ▶ Black Males 132 (32%); Black Females 35 (9%)
- ▶ Other Males 0 (0%); Other Females 1(0%)

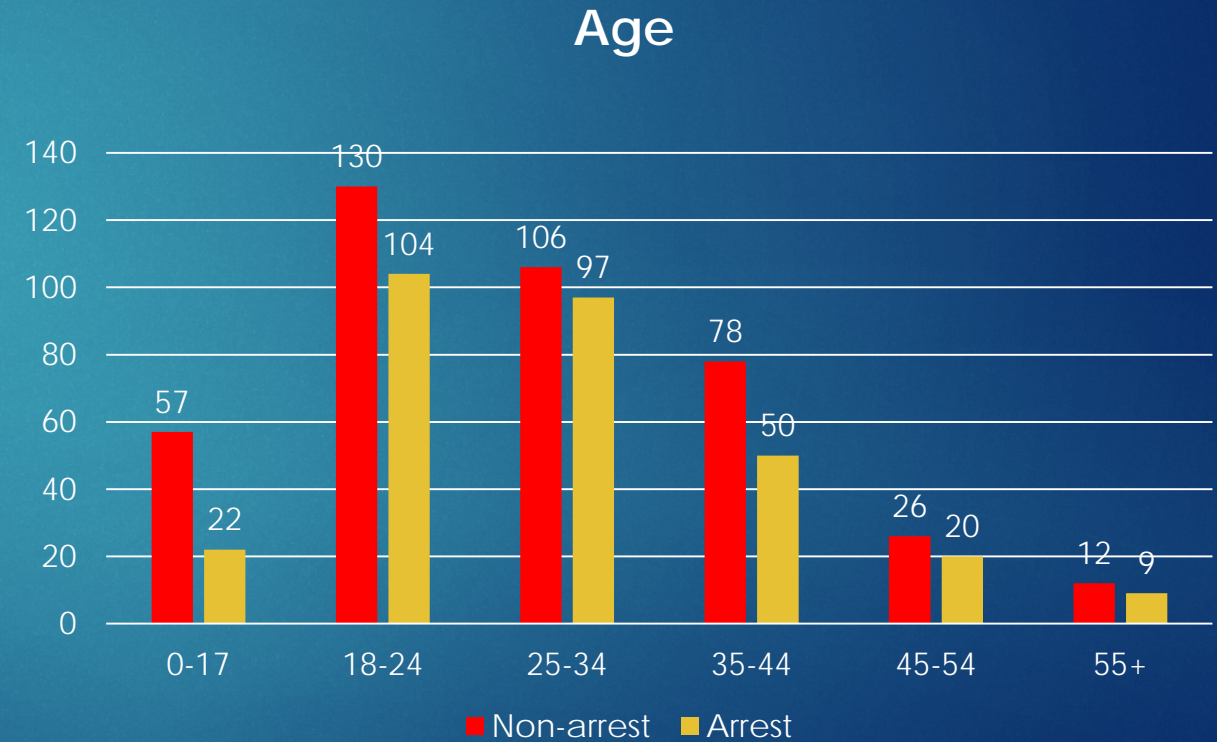
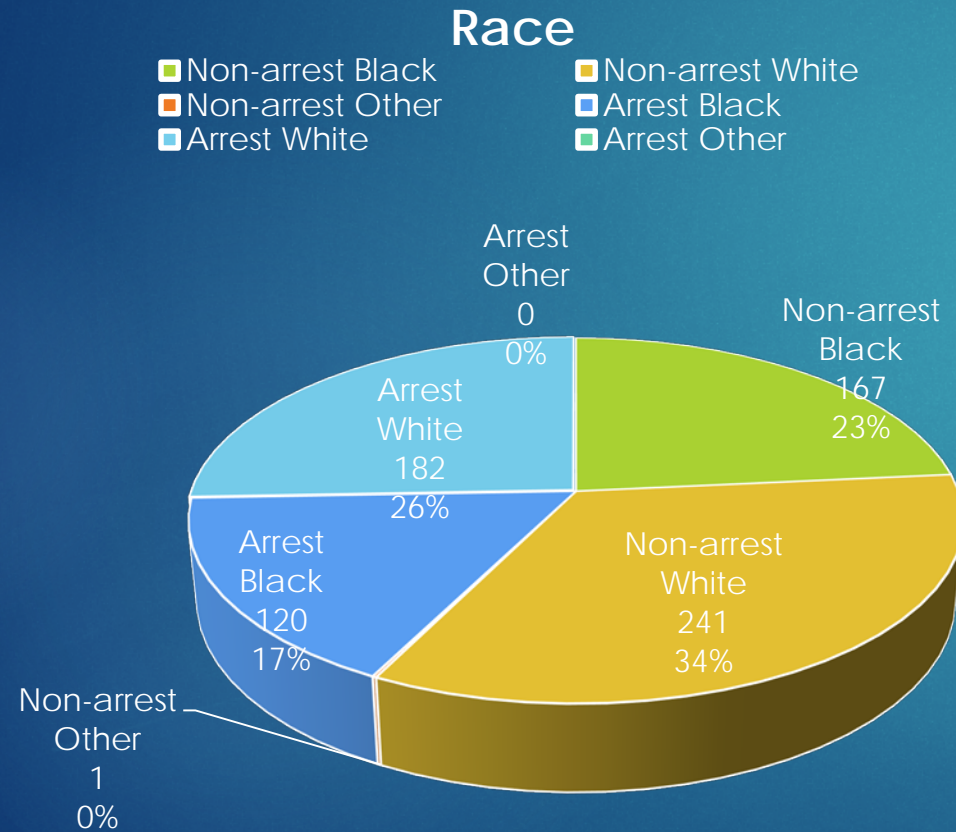
Ages

- ▶ Arrests 0-17 (22), 18-24 (104), 25-34 (97), 35-44 (50), 45-54 (20), 55+ (9)
- ▶ Non-arrests 0-17 (57), 18-24 (130), 25-34 (106), 35-44 (78), 45-54 (26), 55+ (12)

Marijuana under 20 grams & Drug Paraphernalia 2018-2019 YTD



Marijuana under 20 grams & Drug Paraphernalia 2018-2019 YTD



Sec. 21-6. - Broward County Adult Civil Citation Program.

(a) *Definitions.*

- (1) "Agreement" means the Adult Civil Citation Participation Agreement signed by the Participant that indicates his or her desire to participate in the Program, and includes the Adult Civil Citation Referral Form.
- (2) "Behavioral Health Treatment" means clinical intervention for the purpose of mitigating a substance abuse condition or a substance abuse condition with a mental health disorder. The Human Services Department Director shall designate a person, persons, division, or entity with appropriate knowledge in the field of substance abuse to conduct the treatment in a manner consistent with standards of that field.
- (3) "Citation" means a notice of violation of this section, issued on a form approved by the Human Services Department Director and approved as to legal sufficiency by the County Attorney.
- (4) "Department" means the Broward County Human Services Department, which serves as the lead agency responsible for the implementation, coordination, and administration of a countywide adult civil citation process that facilitates a single collaborative network to ensure efficiency and continuity of community resources and service delivery.
- (5) "Educational Course" means a presentation of information about the risks and effects of the offense that led to the Citation and any underlying related causes. The Human Services Department Director shall designate a person, persons, division, or entity with appropriate knowledge of the relevant field to select or prepare the Educational Course in a manner consistent with standards of that field.
- (6) "Eligible Offenses" means all Nonviolent Offenses that constitute misdemeanors under state law or this Code including, but not limited to, possession of twenty (20) grams or less of cannabis, possession of drug paraphernalia, misdemeanor assault, misdemeanor battery (if the law enforcement officer determines the encounter resulted in no or minor injuries and, if it is determined that there is a minor injury, the victim consents to the issuance of the Citation), retail theft of a shopping cart, trespass on property other than a structure or conveyance, petit theft, criminal mischief, disorderly conduct, littering, loitering, and possession of alcoholic beverages by persons under age 21, as those terms are defined by state law.
- (7) "Ineligible Offense" means the following offenses that do not qualify for the Program under any circumstances: a felony; a misdemeanor offense charged in connection with any charge that is a felony; an incident involving domestic violence or violent crime; driving under the influence (DUI) and other felony traffic-related offenses; and an offense that results in more than a minor injury (if the law enforcement officer determines the encounter resulted in injuries unsuitable for issuance of a Citation) or a minor injury and the victim does not consent to issuance of a Citation, as and to the extent those terms are defined under state law.
- (8) "Nonviolent Offense" means an act that results in no or minor injury (as determined by the law enforcement officer in his or her sole discretion).
- (9) "Participant" means a person eighteen (18) years of age or older cited for an Eligible Offense who has agreed to participate in the Program.
- (10) "Program" means the Adult Civil Citation Program within the Department.
- (11) "Program Fee" means the costs assessed to Participants, as provided on the Citation, to help defray the administrative costs of operating the Program.
- (12) "Restorative Justice" means an approach to justice that emphasizes repairing the harm caused by the violation, and is accomplished through meetings that include all affected persons, if possible, to develop a collaborative plan for reparation.

- (13) "Screening" means evaluation of a person who receives a Citation under this Ordinance for the purpose of identifying the factors that led to the violation and determining the appropriate intervention services.
- (b) *Violations.* It shall be a violation of this section for any person to commit an Eligible Offense.
- (c) *Enforcement—In general.*
- (1) This section shall be enforceable throughout Broward County, except within the boundaries of any municipality that has enacted a conflicting ordinance or has taken formal action at a public meeting declaring its intention to not be subject to the provisions of this section.
- (2) Any law enforcement officer in a jurisdiction in which this section applies shall have the discretion to issue a Citation under this section in lieu of a state misdemeanor charge for the same violation, subject to the following limitations:
- a. No Citation shall be issued under this section if the violation is an Ineligible Offense.
- b. No Citation shall be issued under this section if the violation occurred during an incident in which the person also was charged with an Ineligible Offense.
- c. No Citation shall be issued under this section if the person has failed, in connection with a prior Citation, to successfully complete the terms and conditions of the Program as provided in subsection (e) below.
- d. No Citation shall be issued to any person who:
1. Has received three (3) previous Citations for violation of this section;
2. Elects not to participate in the Program;
3. Has a prior misdemeanor conviction, adjudication withheld, or entered a nolo contendere plea within the previous twelve (12) month period; or
4. Has a prior felony conviction, adjudication withheld, or entered a nolo contendere plea within the previous thirty-six (36) month period.
- (3) Two (2) or more offenses stemming from the same incident or encounter shall count as one (1) violation when determining whether the current offense constitutes a first, second, or third violation.
- (d) *Eligibility and options of persons issued a Citation—In general.* The Department shall create policies and procedures for processing referrals to the Program. The Department shall confirm, upon receipt of the Citation, that the referred person is eligible to participate in the Program. If a person is found ineligible, the Department shall return the Citation to the issuing law enforcement agency within five (5) business days of the determination of ineligibility. It shall be the responsibility of such law enforcement agency to refer the case to the State Attorney for prosecution if so desired by the law enforcement agency. If a person is found eligible, the Department shall conduct a Screening, explain the terms and conditions of the Program, and coordinate intervention services. A person who was properly cited under subsection (c) above shall:
- (1) Report to the Department for Screening within ten (10) days after issuance of the Citation;
- (2) Have and demonstrate sufficient ties to the community, as determined by the Department, to ensure attendance at the Screening and successful completion of the Program;
- (3) Agree to pay the Program Fee, which may be set on a sliding scale, and applicable costs for participation in any recommended Behavioral Health Treatment or Educational Course;
- (4) Not contest the Citation, and shall sign the Adult Civil Citation Participation Agreement agreeing to the Department's recommendations; and
- (5) Acknowledge that the Citation will be referred to the issuing law enforcement agency for possible prosecution by the State Attorney for failure to comply with Program recommendations or with the Agreement.

(e) *Enforcement of Violations.*

- (1) Any person in violation of this section shall, for the first, second, or third violation, be subject to the following procedures:
 - a. A person in violation of this section may request to participate in Behavioral Health Treatment, Educational Courses, or Restorative Justice meetings.
 - b. Immediately following the Participant's Screening, the Department shall recommend the appropriate course of action for the Participant. The Department's recommended action may be different from the course of action requested by the Participant.
 - c. The Participant must pay the cost of participation in any recommended services such as Behavioral Health Treatment or Educational Courses at the service provider's fee, or, when such services are provided by a Broward County agency, at the fees approved by the County Administrator or designated representative. Such fees may be set on a sliding scale.
 - d. A person in violation of this section shall complete community service hours. The number of hours of community service required shall be eight (8) hours for the first violation, sixteen (16) hours for the second violation, and thirty-two (32) hours for the third violation.
- (2) Any person who receives a Citation for a first, second, or third violation under this section shall be deemed unsuccessful and reported to the law enforcement agency that issued the Citation if he or she:
 - a. Fails to report to the Department for the Screening, or fails to complete the recommended Behavioral Health Treatment and/or Restorative Justice meetings;
 - b. Fails to complete the mandatory community service hours or recommended Educational Courses within ninety (90) days after receipt of the Citation; or
 - c. Fails to comply with the terms of the Agreement, including, but not limited to, failing to timely pay the Program Fee.

The Department may extend the compliance deadlines in this section if the Participant demonstrates that the inability to timely comply is due to unforeseen events beyond the control of the Participant. The Participant must request such extension prior to expiration of the deadline.

(f) *Accountability.*

- (1) The Department shall close the file of a Participant who successfully completes the Program, in which event the Department shall notify the issuing law enforcement agency of the Participant's success and request that the law enforcement agency close such Participant's case as cleared.
 - (2) Any person who received a Citation for a violation under this Ordinance but who fails to comply with the Program requirements provided in subsection (e) above shall be deemed unsuccessful. The Department shall, within five (5) business days of the person's noncompliance or termination, notify the issuing law enforcement agency and close the Participant's file as unsuccessful. The issuing law enforcement agency may, within its sole discretion, refer the case to the State Attorney for criminal prosecution.
- (g) *No criminal charges.* Issuance of a Citation for Eligible Offenses under this section does not result in a criminal charge, and no criminal record shall arise as a result of the issuance of a Citation(s).
- (h) *Seizure, return, and destruction of evidence.* Evidence seized pursuant to this section may be destroyed in the same manner used to dispose of such evidence, or it may be returned to the lawful owner, as provided by law.

(Ord. No. [2018-10](#), § 1, 2-6-18)

Editor's note— Ord. No. [2018-10](#), § 1, adopted Feb. 6, 2018, repealed the former § 21-6, and enacted a new § 21-6 as set out herein. The former § 21-6 pertained to possession of twenty grams or less of Cannabis and derived from Ord. No. 2015-45, § 1, adopted Nov. 10, 2015.

Sec. 21-6. - Possession of twenty (20) grams or less of Cannabis.

(a) Definitions.

- (1) "Cannabis" means all parts of any plant of the genus Cannabis, whether growing or not, or the seeds thereof. The term does not include "low-THC cannabis," as defined in Section 381.986, Florida Statutes, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed in conformance with that section. "Cannabis" also does not include the resin extracted from the plants of the genus Cannabis, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.
- (2) "Citation" means a notice of violation of this section, issued on a form approved by the County Administrator or designated representative and approved as to legal sufficiency by the County Attorney.
- (3) "Educational Program" means a presentation of information about the risks and effects of substance abuse. The County Administrator shall designate a person, persons, or entity with appropriate knowledge of the field of substance abuse to select or prepare the Educational Program in a manner consistent with standards of that field.
- (4) "First or Second Violation" means a violation of this section by a person who has received no more than one (1) previous Citation under this section, not counting Citations for which the person has been adjudicated not guilty.
- (5) "Screening" means evaluation of a person who receives a Citation under this Ordinance, for the purpose of determining the person's need for drug treatment or intervention. The County Administrator shall designate a person, persons, or entity with appropriate knowledge of the field of substance abuse to conduct the Screenings in a manner consistent with standards of that field.
- (6) "Third Violation" means a violation of this section by a person who has been found in violation of, or pleaded guilty to, violating this section on two (2) previous occasions.
- (7) "Treatment" means a professional clinical intervention for the purpose of mitigating a substance abuse condition. The County Administrator shall designate a person, persons, or entity with appropriate knowledge of the field of substance abuse to conduct the Treatment in a manner consistent with standards of that field.

- (b) [Violation.] It shall be a violation of this section for any person to be in actual or constructive possession of twenty (20) grams or less of Cannabis.

(c) Enforcement—In general.

- (1) This section shall be enforceable throughout Broward County, except within the boundaries of any municipality that, by majority vote of the governing body of the municipality, has enacted a conflicting ordinance or has formally elected not to be subject to the provisions of this section.
- (2) Any law enforcement officer in a jurisdiction in which this section applies shall have the discretion to issue a civil Citation under this section in lieu of a state misdemeanor charge for the same Violation, subject to the following limitations:
 - a. No Citation shall be issued under this section if the Violation occurred during an incident in which the defendant also was charged with any felony, driving under the influence, a violent crime, or an incident of domestic violence, as those Violations are defined under state law.
 - b. No Citation shall be issued under this section if the recipient has failed, in connection with a prior Citation, to either file an appeal pursuant to Chapter 8½ of this Code within ten (10) days after receipt, pay the fine within thirty (30) days after receipt, or participate in community service within sixty (60) days after receipt, or participate in a Screening and an Educational Program, and any required Treatment, as provided for in this section, unless the recipient was adjudicated not guilty in an appeal under Chapter 8½. Further, no Citation shall be issued under this section to any person who has been adjudicated guilty under this section pursuant to Chapter 8½ and failed to comply with the order of the hearing officer.

- c. Citations for First, Second, and Third Violations may be issued only as provided in subsections (d) and (e) below.
- d. No Citation shall be issued to any person who already has received a Citation for a Third Violation.

(d) Enforcement—First or Second Violation.

- (1) Any person in violation of this section shall, for the First or Second Violation, be subject to penalties in accordance with Chapter 8½ of the Broward County Code of Ordinances ("Code"), subject to the following exceptions.
 - a. In lieu of paying the fine specified in Chapter 8½, a person in violation of this section may elect to participate in a community service program approved by the County Administrator or designated representative. The number of hours of community service required shall be eight (8) hours for the First Violation and sixteen (16) hours for the Second Violation. A hearing officer also may permit a person found guilty of violating this section to participate in community service in lieu of a fine.
 - b. Alternatively, in lieu of paying the fine specified in Chapter 8½ or performing the public service specified above, a person in violation of this section may elect to participate in a drug Treatment or Educational Program. Any cost of participation in such a drug Treatment or Educational Program shall be paid by the person cited at fees approved by the County Administrator or designated representative. Such fees may be set on a sliding scale. A hearing officer also may permit a person found guilty of violating this section to participate in a drug Treatment or Educational Program in lieu of a fine.
- (2) Enforcement procedures for First or Second Violations shall be as provided in Sections 125.69 and 162.21, Florida Statutes, and Chapter 8½ of this Code.
 - a. A violation of this section shall be considered "irreparable or irreversible" within the meaning of Chapter 8½ of this Code, such that a Citation may be issued immediately to any person found in violation.
 - b. Law enforcement officers shall be deemed "code inspectors" within the meaning of Chapter 8½ of the Code.
 - c. Regardless of what agency issues a Citation under this section, the County shall administer adjudication.
- (3) Any person who receives a Citation for a First or Second Violation under this section but fails to either file an appeal pursuant to Chapter 8½ of this Code within ten (10) days after receipt, pay the fine within thirty (30) days after receipt, or participate in community service within sixty (60) days after receipt, or who is adjudicated guilty under this section pursuant to Chapter 8½ and fails to comply with the order of the hearing officer, shall be reported to the agency that issued the Citation for further action.

(d) Enforcement—Third Violation.

- (1) As a condition for receiving a civil Citation for a Third Violation under this section in lieu of a misdemeanor charge, the recipient must consent to participate in a Screening and then to either complete required Treatment and Educational Programs or pay a fine, depending on the result of the Screening. The recipient also must consent to pay for the cost of participation in Treatment and Educational Programs, if warranted by the Screening. The County Administrator or designated representative shall set the cost of participation. Such fees may be set on a sliding scale. In lieu of paying a fine when no Treatment or Educational Program is warranted, the recipient may elect to perform sixteen (16) hours of community service.
- (2) Any person who withdraws consent to participate in a Screening or Treatment or an Educational Program, or who fails to comply with the terms of a Citation issued under this section within a reasonable period of time, as set by the County Administrator and stated in the Citation, shall be reported to the agency that issued the Citation for further action.

(e) Seizure and destruction of contraband Cannabis.

- (1) Any contraband Cannabis that is the subject of a violation of this section may be seized for evidentiary use.
- (2) Contraband Cannabis seized pursuant to this section, after its use as evidence is no longer required, may be destroyed in the same manner used to destroy narcotics as provided by law.

(Ord. No. [2015-45](#), § 1, 11-10-15)

Editor's note— Ord. No. [2015-45](#), § 1, adopted Nov 10, 2015, enacted provisions intended for use as § 21-5. Inasmuch as there were already provisions so designated, said provisions have been included herein as § 21-6 at the direction of the city. Also see the editor's note to § 21-7.



Human Services Department
Crisis Intervention & Support Division / Justice Services

Adult Cannabis Citation Program

Program Report: August 2016 - February 2018

Violation Level	Number	Percent
First Violation	276	98.9%
Second Violation	3	1.1%
Third Violation	0	0%
Total	279	100%

Gender	Number	Percent
Male	215	77.1%
Female	64	22.9%
Total	279	100%

Race/Ethnicity	Number	Percent
Black	108	38.7%
White	61	21.9%
Hispanic	103	36.9%
Other*	7	2.5%
Total	279	100%

Race/Ethnicity & Gender	Number	Percent
Black Males	78	28.0%
Black Females	30	10.8%
White Males	43	15.4%
White Females	18	6.5%
Hispanic Males	88	31.5%
Hispanic Females	15	5.4%
Other* Males	6	2.2%
Other* Females	1	0.4%
Total	279	100%

Age	Number	Percent
18-24	180	64.5%
25-34	74	26.5%
35-44	16	5.7%
45-54	7	2.5%
55+	2	0.7%
Total	279	100%

United States Veteran	Number	Percent
Yes	2	0.7%
No	277	99.3%
Total	279	100%

*Other = Total of Non-Hispanic: Alaskan Native, American Indian, Asian, Pacific Islander

Participating Law Enforcement Agencies	Number	Percent
Broward Sheriff's Office	279	100%
Cooper City District	6	2.2%
Court Services District	1	0.4%
Dania Beach District	20	7.2%
Deerfield Beach District	24	8.6%
Ft Lauderdale-Hollywood Int'l Airport District	1	0.4%
Lauderdale-By-The-Sea District	4	1.4%
Lauderdale Lakes District	0	0%
North Lauderdale District	43	15.4%
Oakland Park District	12	4.3%
Parkland District	1	0.4%
Pembroke Park District	1	0.4%
Pompano Beach District	15	5.4%
Port Everglades District	0	0%
Tamarac District	8	2.9%
West Park District	4	1.4%
Weston District	129	46.2%
BSO County Case	10	3.6%
Total	279	100%

Citation One and Two Election	Number	Percent
Civil Penalty Payment	216	78.3%
Community Service	44	15.9%
Educational Program	16	5.8%
Treatment	0	0%
Administrative Hearing	0	0%
Total	276	100%

Failed to Take Action = 3

Closure Reason	Number	Percent
Successful:	259	92.8%
Civil Penalty Payment	207	74.2%
Community Service	38	13.6%
Educational Program	14	5.0%
Treatment	0	0%
Unsuccessful:	20	7.2%
Failed to Take Action	3	1.1%
Failed to Satisfy Election:	17	6.1%
Civil Penalty Payment	9	3.2%
Community Service	6	2.2%
Educational Program	2	0.7%
Treatment	0	0%
Total	279	100%

Civil Penalty Payments Collected	Total Collected
Total	\$21,000

Contact Us:

Broward County Adult Civil Citation Program
 624 NW 15th Way | Fort Lauderdale, FL 33311
 Phone: (954) 357-5351
 Email: AdultCivilCitation@Broward.org
 Web: Broward.org/JusticeServices

Citations Issued Under Broward County Code of Ordinances, Section 21-6
 Program Duration: August 2016 - February 2018
 Report Date: 5/1/2018

From: [Kenny Johnson](#)
To: [Terese Jones](#); [Terri Lefler](#)
Subject: FW: Marijuana Civil Citation
Date: Wednesday, April 24, 2019 2:42:53 PM

Please send to Rick Neale and provide this to council at the workshop please.

From: Phil Archer <parcher@sa18.org>
Sent: Thursday, April 18, 2019 2:48 PM
To: Kenny Johnson <Kenny.Johnson@palmbayflorida.org>
Subject: RE: Marijuana Civil Citation

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

No problem. Unfortunately, I have been in Tallahassee all week. I am in the office today but I will be heading back there on Monday. So just call anytime and my assistant will try and track me down.

Phil Archer.

From: Kenny Johnson <Kenny.Johnson@palmbayflorida.org>
Sent: Monday, April 15, 2019 7:48 PM
To: Phil Archer <parcher@sa18.org>
Subject: Re: Marijuana Civil Citation

Good evening sir, I apologize for missing your call. When would be a good time to call on Tuesday or Wednesday?

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From: Phil Archer <parcher@sa18.org>
Sent: Monday, April 15, 2019 9:21:24 AM
To: Kenny Johnson
Subject: RE: Marijuana Civil Citation

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Absolutely in favor of civil citation for cannabis possession. Feel free to express my position at any meeting. Call me at 321-637-5575 if want to discuss further.

Phil Archer

From: Kenny Johnson <Kenny.Johnson@palmbayflorida.org>
Sent: Wednesday, April 10, 2019 9:32 AM

To: Phil Archer <parcher@sa18.org>; Phil Archer <parcher@sa18.org>

Subject: Marijuana Civil Citation

Good morning sir, I am Councilman Kenny Johnson with the city of Palm Bay and last week I proposed an ordinance to give our officers the discretion to issue a civil citation rather than a misdemeanor arrest for 20 grams or less of marijuana. The item was tabled for further discussion but based on your experience and expertise, I wanted to inquire on your take in this issue. Florida today did an article which is attached below if you wish to read but your feedback would be greatly appreciated. Thank you for all you do and God Bless.

Sincerely,

Kenny Johnson

Palm Bay Councilman Seat 4

321-474-0183

<https://www.floridatoday.com/story/news/2019/04/08/palm-bay-may-decriminalize-possession-small-amounts-marijuana-like-cocoa-beach/3330232002/>

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Palm Bay may become 2nd Brevard city to decriminalize possession of small amounts of marijuana

Rick Neale, Florida Today Published 1:59 p.m. ET April 8, 2019 | Updated 2:03 p.m. ET April 8, 2019



(Photo: GETTY IMAGES)

Palm Bay leaders are weighing whether to decriminalize possession of small amounts of marijuana in certain cases, following Cocoa Beach's lead on the Space Coast.

Last month, the Cocoa Beach City Commission gave its police department discretion to issue civil citations — rather than misdemeanor charges — to suspects caught with 20 grams of marijuana or less. That policy also applies to possession of drug paraphernalia.

Palm Bay Councilman Kenny Johnson is spearheading his city's proposal. He contends that criminal records for misdemeanor cannabis possession can hinder potential college students applying for Pell Grants and adults attempting to secure housing or loans.

"It leads them to another chance at going back to jail, because they try to find another way out," Johnson said during Thursday's Palm Bay City Council meeting.

"If we have a chance as council to deter that from happening and make a change, I think we should be proactive in that regard," Johnson said.

No decisions have been made on the topic. Council members voiced numerous questions, and they will discuss marijuana during a May workshop. No date has been set.

Per Florida statute, possession of 20 grams of marijuana or less and possession of drug paraphernalia are first-degree misdemeanors, punishable by up to a year in jail and a \$1,000 fine. For comparison's sake, a standard paper clip weighs about 0.5 gram.

According to the proposed Palm Bay ordinance, a police officer could issue a civil citation if the suspect was:

- Age 18 or older
- Not charged in conjunction with a felony, DUI, domestic violence, or violent crime

Palm Bay violators would pay \$100 for a first offense, \$150 for a second offense and \$200 for a third offense. Suspects could receive a maximum of three civil citations.

Elsewhere in the Sunshine State, marijuana has been decriminalized in Alachua, Broward, Miami-Dade, Osceola, Palm Beach and Volusia counties, according to NORML. Cities include Cocoa Beach, Hallandale Beach, Key West, Miami Beach, Orlando, Port Richey, Tampa and West Palm Beach.



(Photo: Getty Images)

Marijuana: [Cocoa Beach votes to decriminalize possession of small amounts of marijuana](#)

Marijuana: [Trulieve medical marijuana dispensary opens near West Melbourne on New Haven Avenue](#)

Last year, Palm Bay police issued 380 misdemeanor charges for possessing less than 20 grams of marijuana, according to a memo distributed to council members. The police department's memo included the following background:

"An increasing number of groups around the country have pushed for decriminalizing small amounts of marijuana in recent years. These groups believe current policies disproportionately impact young people and minority communities. They believe these policies hurt families and compounds the social economic inequalities," the memo stated.

"When young people are arrested for possessing even tiny amounts of marijuana, it can have dire collateral consequences that affect their eligibility for public housing and student financial aid, employment opportunities, and child custody. The groups also believe communities are diverting vital law enforcement resources from serious public safety issues, including opioid addiction and violent crime," the memo stated.

Councilman Harry Santiago grew up in New York City housing projects, and he said he saw drugs destroy friends and family members. He said Palm Bay's proposed fine schedule is too low — and offenders should have to perform community service and undergo counseling.

"If you make the penalty too light, and you just make it a matter of just a fine, then ... it's going to be just looked at as a joke. It's going to be looked at as nothing more than a slap on the wrist," Santiago said.



(Photo: Getty Images)

Deputy Mayor Brian Anderson said he supports the intent of marijuana decriminalization, but he requested the workshop to hash out the details.

"I didn't have a father. So I know it's very easy to go down the wrong road. People gave me second chances. I mean, look where I'm sitting today," Anderson said.

"If you apply yourself and do the right things, just because you were bad at one point in your life doesn't mean you're going to turn out bad forever," he said.

Councilman Jeff Bailey requested additional Palm Bay marijuana crime statistics.

Also, council members did not determine how to earmark marijuana civil citation revenues — they joked that simply adding revenues to the general fund would create a "potheads filling potholes" program.

Neale is the South Brevard watchdog reporter at FLORIDA TODAY.

Contact Neale at 321-242-3638

or rneale@floridatoday.com.

Twitter: [@RickNeale1](https://twitter.com/RickNeale1)

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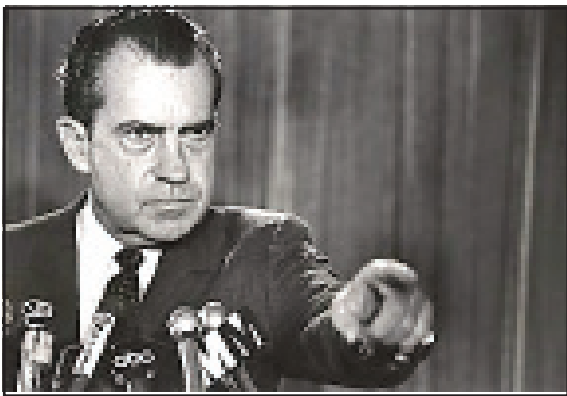
The Shafer Commission Report (1972)

National Commission on Marihuana and Drug Abuse, *"Marihuana: A Signal of Misunderstanding; First Report,"* Washington, D.C., U.S. Government Printing Office, 1972. Reprinted by Signet, 233 pages

By Fred Gardner

When Congress passed the Controlled Substances Act (CSA) in 1970 it created a series of "schedules," classifying drugs by the dangers they supposedly posed. Marijuana was placed on Schedule 1, the category for harmful drugs with no medical use. Congresspersons who knew that marijuana was relatively safe and had medical potential punted the scheduling decision by creating a commission that would conduct a thorough study and "aid in determining the appropriate disposition of this question in the future." Although the CSA left scheduling decisions up to the Attorney General rather than the Surgeon General, it was assumed — foolishly — that the findings of the new commission would result in marijuana being rescheduled.

President Nixon appointed Gov. Raymond P. Shafer of Pennsylvania, a former prosecutor with a "law-and-



PRESIDENT RICHARD NIXON requested a report that would blur the distinction between marijuana and hard drugs.

order" reputation, to run the commission. As recounted by activist Doug McVay, what came to be known as the Shafer Commission "recorded thousands of pages of transcripts of formal and informal hearings, solicited all points of view, including those of public officials, community leaders, professional experts and students.... they conducted separate surveys of opinion among district attorneys, judges, probation officers, clinicians, university health officials and 'free clinic' personnel. They commissioned more than 50 projects, ranging from a study of the effects of marijuana on man to a field survey of enforcement of the marijuana laws in six metropolitan jurisdictions."

What Nixon Wanted

According to oval office tapes declassified in 2002, Nixon told Shafer he wanted a report that would blur the distinction between marijuana and hard drugs. The tapes reveal that as the commission was beginning its investigation in May, 1971, Nixon told his aide H.R. Haldeman, "I want a goddamn strong statement about marijuana. Can I get that out of this sonof-a-bitching, uh, domestic council? I mean one on marijuana that just tears the ass out of them."

Two weeks later Nixon saw something in his news summary that inspired him to tell Haldeman, "Every one of the bastards that are out for legalizing marijuana is Jewish. What the Christ is the matter with the Jews, Bob, what is the matter with them? I suppose it's because most of them are psychiatrists, you know, there's so many, all the greatest psychiatrists are Jewish. By god, we are going to hit the marijuana thing, and I want to hit it right square in the puss. I want to find a way of putting more on that."

"I want a goddamn strong statement about marijuana... I mean one on marijuana that just tears the ass out of them."

—Richard Nixon

On September 9, 1971, Nixon had Shafer in for a meeting and advised, "I think there's a need to come out with a report that is totally oblivious to some obvious differences between marijuana and other drugs, other dangerous drugs... And also that you don't go into the matter of penalties and that sort of thing, as to whether there should be uniformity in penalties, whether in courts, I'd much rather have uniformity than diversity... You're enough of a pro to know that for you to come out with something that would run counter to what the Congress feels and what the country feels and what

we're planning to do would make your commission just look bad as hell... Keep your commission in line."

What was the Administration "planning to do?" Haldemann had written in his diary, "[Nixon] emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to." The so-called War on Drugs was the system they devised, and it has achieved its purpose all these years. Today, according to Cliff Thornton of Efficacy, felony convictions deny 13% of all Black men the right to vote.

The approach recommended by Shafer was soon dubbed "decriminalization."

Shafer brought his report to the White House March 21, 1972. It called for a policy "which prohibits commercial distribution of the drug but does not apply criminal sanctions to private possession or use nor casual, non-profit distribution incidental to use." This approach was soon dubbed "decriminalization."

The Commission's major findings, as culled by Doug McVay of Common Sense for Drug Policy:

"No significant physical, biochemical, or mental abnormalities could be attributed solely to their marihuana smoking... No valid stereotype of a marihuana user or non-user can be drawn... Young people who choose to experiment with marihuana are fundamentally the same people, socially and psychologically, as those who use alcohol and tobacco... No verification is found of a causal relationship between marihuana use and subsequent heroin use.... Most users, young and old, demonstrate an average or above-average degree of social functioning, academic achievement, and job performance..."

"The weight of the evidence is that marihuana does not cause violent or aggressive behavior; if anything marihuana serves to inhibit the expression of such behavior... Marihuana is not generally viewed by participants in the criminal justice community as a major contributing influence in the commission of delinquent or criminal acts... Neither the marihuana user nor the drug itself can be said to constitute a danger to public safety... Research has not yet proven that marihuana use significantly impairs driving ability or performance..."

"No reliable evidence exists indicating that marihuana causes genetic defects in man... 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."

Silent on Rescheduling

Although its findings did not justify ongoing Schedule 1 status for marijuana, the Schafer Commission was silent on the subject of rescheduling. When the report came out, NORML did not protest the commission's failure to recommend rescheduling, choosing instead to trumpet its call for decriminalization as a political win.

In 1973 the New York Academy of Medicine decided to reprint *"The Marihuana Problem in the City of New York."* Shafer wrote a forward in which he acknowledged that his Commission had covered similar ground and come to similar conclusions.

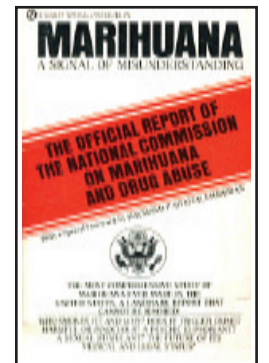
"Much of the substance of the Laguardia Committee Report has been recently confirmed," wrote Shafer. "Despite the limitations under which the LaGuardia Committee worked and the advantages under which the National Commission operated, both sets of findings are strikingly similar in the three areas that have historically created public apprehension about marihuana use, namely that marihuana, in itself, is physically addictive, produces insanity, and leads to crime. Both reports dispelled such allegations and myths."

Shafer knew that his report had been tossed into the circular file by Richard Nixon, but he could not believe that strict prohibition would last much longer (now that millions of white folks were using marijuana):

"Although the Commission's report, like the *LaGuardia Committee Report*, has been subject to criticism," he wrote, "it is unlikely that its findings or recommendations will suffer the fate of the latter — to wait almost 30 years before the public is ready to accept or at least debate dispassionately the issues raised..."

"Whereas the LaGuardia Committee examined a phenomenon fairly restricted in social grouping and geographical limitation, such is not the case in 1973. With almost 250,000 persons arrested yearly in this country for marihuana offenses, coming from all walks of life, the majority being under the age of 25, the preponderance never having been arrested for any other criminal activity, the mix and the problems have dramatically shifted focus. The social nervous system is feeling the pressure, and the collective brain and conscience are demanding relief."

That's where things stood in 1973.



From the oval office tapes, May 26, 1971

Nixon: "A Person Drinks to Have Fun"

The Scene: The oval office of the White House. The President is in conversation with Art Linkletter, a radio and television host.

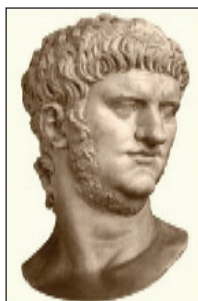
NIXON: ...Radical demonstrators that were here the last, oh, two weeks ago. [unintelligible] They're all on drugs. Oh yeah, horrible...

LINKLETTER: They sit down with a marijuana cigarette to get high.

NIXON: A person does not drink to get drunk.

LINKLETTER: That's right.

NIXON: A person drinks to have fun... Do you know what happened to the Romans? The last six Roman emperors were fags. The last six. Nero had a public wedding to a boy. Yeah. And they'd [unintelligible]. You know that. You know what happened to the Popes? It's all right that, po-po-Popes were laying the nuns, that's been going on for years, centuries,



NERO

but, when the popes, when the Catholic Church went to hell, in, I don't know, three or four centuries ago, it was homosexual. And finally it had to be cleaned out. Now, that's what's happened to Britain, it happened earlier to France.

And let's look at the strong societies. The Russians. God damn it, they root them out, they don't let them around at all. You know what I mean? I don't know what they do with them. Now, we are allowing this in this country when we show [unintelligible].

Dope? Do you think the Russians allow dope? Hell no. Not if they can allow, not if they can catch it, they send them up. You see, homosexuality, dope, immorality in general, these are the enemies of strong societies. That's why the Communists and the left-wingers are pushing the stuff. They're trying to destroy us...

I have seen the countries of Asia and the Middle East, portions of Latin America, and I have seen what drugs have done to those countries. Uh, everybody knows what it's done to the Chinese, the Indians are hopeless anyway, the Burmese. They have different forms of drugs [unintelligible] China and the rest of them, they've all gone down... Why the hell are those Communists so hard on drugs? Well why they're so hard on drugs is because, uh, they love to booze. I mean, the Russians, they drink pretty good.

LINKLETTER: That's right.

NIXON: But they don't allow any drugs. Like that. And look at the north countries. The Swedes drink too much, the Finns drink too much, the British have always been heavy boozers and the rest, but uh, and the Irish of course the most, uh, but uh, on the other hand, they survive as strong races. There's another, it's a very significant difference.

LINKLETTER: That's right.

NIXON: And your drug societies, uh, are, are, inevitably come apart. They —

LINKLETTER: They lose motivation. No discipline.

NIXON: Yeah.

LINKLETTER: You know I did a show —

NIXON: At least with liquor I don't lose motivation [unintelligible]...

NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE

Washington, D.C.

Chairman: RAYMOND P. SHAFER Executive Director: MICHAEL R. SONNENREICH

March 22, 1972

WASHINGTON, D.C.

The National Commission on Marihuana and Drug Abuse unanimously recommended today a policy of discouragement for marihuana use. While rejecting legalisation of the drug itself, as in the case of alcohol, the Commission declared that an effective discouragement policy does not require making private possession of marihuana a crime nor does it recommend putting its users in jail.

In its report, *Marihuana: A Signal of Misunderstanding*, which was submitted to President Nixon at the White House and to the Congress, the Commission recommended that possession for personal use in private and casual not-for-profit sales in private not be made criminal offences.

However, the Commission recommended the retention of heavy penalties for cultivation, trafficking and possession with intent to sell. Use in public would be a criminal offence and the drug, if found in public, would be contraband and subject to seizure. (A list of all recommendations is attached to this information sheet.)

In making the presentation, Raymond P. Shafer, former Governor of Pennsylvania and Chairman of the 13-member Commission appointed by President Nixon (see attached list), said, "The Commission exercised judicious restraint in making its recommendations. We unanimously agree that marihuana use is not a desirable behaviour, and we agree that society should discourage use. Nevertheless, we feel that, placed in proper perspective with other societal problems, citizens should not be criminalised or jailed merely for *private* possession or use."

Marihuana: A Signal of Misunderstanding is based on an intensive fact-finding

35 Years Ago This Report Made Nixon Furious

By [David Jenison](#) on March 24, 2017

On February 1972, *The Guardian* published the following headline: "A presidential commission report concludes that penalties for private use and possession of marijuana should be abolished." The story previewed "[Marihuana, A Signal of Misunderstanding](#)," released 35 years ago today, which was a report commissioned by President Richard Nixon to make permanent the Schedule I status of cannabis. Tricky Dick was in for a big surprise.

When the Controlled Substances Act (CSA) became law in 1970, Congress established five schedules with specific regulations and oversight and then determined the placement of drugs into the five-schedule system. As suggested by Assistant Secretary of Health Roger Egeberg, the CSA temporarily classified cannabis as a fully prohibited Schedule I substance while the National Commission on Marijuana and Drug Abuse, a.k.a. the Shafer Commission, studied cannabis to propose its proper placement. Participants in the commission included Republican Governor Raymond Shafer, Republican Congressman Tim Lee Carter, Republican Senator Jacob Javits and Democratic Senator Harold Hughes along with medical doctors, college presidents, attorneys and psychiatrists. President Nixon appointed nine of the 13 members, and he assumed the Republican-led commission would do his bidding and permanently prohibit cannabis. Instead, the Shafer Commission reported back that cannabis should be descheduled and decriminalized.

Per the 1972 *Guardian* article, "It is estimated that 24 million Americans have sampled the drug more than once... yet it is still possible to go to prison for 20 years in some states on a first drugs conviction. Such sentences are not merely notional. In Houston a young civil rights worker is serving a 30-year sentence for selling three marijuana joints to an undercover agent, while in Virginia an 18-year-old high-school student is not due out of [jail] for 20 years because he smoked marijuana with younger classmates. Against this draconian legal background a presidential commission has unanimously decided to recommend that all criminal penalties for the private use and possession of marijuana should be abolished.... It is obvious the authorities are now going to find it very difficult to hold the line against pot in [the] future."

After two years of study, the Shafer Commission concluded that cannabis is not physically addictive, a gateway drug or proven harmful in any physical or physiological way. Or to quote the National Organization for the Reform of Marijuana Laws (NORML), "Thirty-five years ago this month, a Congressionally mandated commission on US drug policy did something extraordinary: They told the truth about marijuana."

Shafer knew this was not the conclusion that Nixon wanted, and he met with the President in the Oval Office before presenting the report. According to public transcripts, Nixon said those who fight prohibition are "not good people," and he warned the former governor against presenting an honest account of their findings. "You're enough of a pro to know that for you to come out with something that would run counter to what the Congress feels and what the country feels, and what we're planning to do, would make your commission just look bad as hell," said Nixon.

Shafer, to his credit, delivered the report on March 22, 1972 and called for an end to prohibition, yet Nixon ignored the findings. Instead, he recruited Mississippi Senator James Eastland to provide a second opinion. Eastland, who urged the public to defy the

Supreme Court ruling on school desegregation, is famous for quotes like this one: "The Southern institution of racial segregation or racial separation was the correct, self-evident truth which arose from the chaos and confusion of the Reconstruction period.... Segregation is not discrimination... Mr. President, it is the law of nature, it is the law of God, that every race has both the right and the duty to perpetuate itself." In other words, we now know the identity of Jeff Sessions' childhood crush.

The Eastland-led subcommittee, which naturally included Strom Thurmond, held "Marihuana-Hashish Epidemic and Its Impact on United States Security" hearings that presented an entirely different view. Eastland said, "The [cannabis] epidemic began at Berkeley University at the time of the famous 1965 'Berkeley Uprising.' Not only was pot-smoking embraced as a symbolic rejection of the establishment, but, together with the 'dirty speech movement,' the right to pot became an integral part of the catalogue of demands of the uprising."

From there, the senator claimed the epidemic overtook the nation with horrifying results. He testified that cannabis can make you impotent and sterile, cause brain damage and shrinkage, reduce cell birth, harm immune cells, impair testosterone production, break chromosomes, kill fetuses, make people lazy, deteriorate mental function, lead to poor hygiene and produce conditions like emphysema, sinusitis, pharyngitis, bronchitis and "the total loss of [a person's] own will." Still, Eastman's finest hour involved the "zombie-like appearance of chronic cannabis users."

"If the cannabis epidemic continues to spread at the rate of the post-Berkeley period," Eastman literally said on the record, "we may find ourselves saddled with a large population of semi-zombies."

Presented with the findings of the Shafer Commission in 1972 and the Eastman subcommittee in 1974, Nixon opted to keep fighting the zombie army and its weapons

of weed. Two months after the final hearing, Nixon would resign from the presidency in disgrace.

David Jenison (david@prohbtd.com) is Editor-in-Chief at PRØHBTD. Nixon painting by *Andy Warhol*.