

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date: May 7, 2012

Actions Required: Consideration of the proposed resolution

Staff Presenter: Maurice Jones, City Manager
Timothy Longo, Police Chief

Staff Contacts: Maurice Jones, City Manager
Timothy Longo, Police Chief

Re: De-Prioritizing Marijuana Resolution

Background:

At the request of several residents, the City Council is considering the attached resolution that calls on the state government to de-criminalize the personal use of marijuana and asks the City police department to de-prioritize the enforcement of marijuana possession laws. Of course the decision to de-criminalize the use of marijuana rests with the Virginia General Assembly and the Governor. City staff has been charged with investigating the local impact of the resolution.

The staff felt it was necessary to first examine the belief amongst some that marijuana possession was in fact a high priority in the police department. In relation to the number of criminal offenses charged in the City, statistically speaking it is not. A search of the Police Department's records management system revealed that during calendar year 2011, possession of marijuana was charged 113 times by Charlottesville police officers. The total number of charges placed for all offenses during that same calendar year was 5,040. As you can see, the charge of possession of marijuana represented a very small number in comparison to the total charges placed during that term.

According to the Police Department's crime analyst, the current records management system cannot discern whether the charge of possession of marijuana was a primary or secondary charge

as related to the 113 charges found. However, based on experience, it is believed the great majority of those charges are typically subordinate to another criminal charge such that the discovery of marijuana would be the result of a search incident to arrest relative to some other primary offense.

In those circumstances where possession of marijuana is the sole charge, enforcement typically takes place by issuance of a Virginia Uniform Summons as opposed to a custodial arrest. Thus, the defendant is released at the scene and is scheduled to appear in the General District Court at a later time. The impact that possession of marijuana infractions has on police resources is minimal in contrast to other duties and responsibilities.

OAR:

At Police Chief Timothy Longo's request, our Community Criminal Justice Planner, Mr. Tom von Hemert, has queried our criminal justice service providers as to the impact of possession of marijuana charges on their respective resources.

Offender Aid and Restoration, or OAR, is the Jefferson Area Community Corrections provider that is tasked with supervising offenders pre-trial. The following represents the number of Marijuana related offenses from the Charlottesville Courts that were within OAR's purview.

2008-09 =	47
2009-10 =	29
2010-11 =	42
2011-12 =	30 (ytd) projects to 34 for year

Possession of Marijuana cases comprise approximately 20% of the population placed on misdemeanor probation across the state. Remarkably, 46.7% of the total possession of marijuana subpopulation are at medium to high risk of re-offending; second only to the domestic violence subpopulation at 50%.

The OAR data provided is based on a three year representative sample size (+95% confidence rate) recidivism study of the OAR local probation population. These particular cases were closed in FY07-08 and reviewed at three year re-arrest and re-conviction rates in FY2011. The results are as follows.

Probation success rate was 69% for Possession of Marijuana cases, versus 85% for the entire population. The three year re-arrest rate for possession of marijuana probation cases was 42%, versus 29% for the entire population. The three year re-conviction rate for possession of marijuana probation cases was 42%, versus 24% for the entire population

Charlottesville - Current Population of New Cases FY 2011-12:

The current marijuana related offense subpopulation is performing similar to how they performed in the previous state and program reports; that is at a higher risk of recidivism and with poorer success rates.

Current Charlottesville marijuana subpopulation has a higher recidivism risk profile than that of the total subpopulation. Further, the current marijuana subpopulation has a lower probation success rate than the entire population both for Charlottesville and for all other jurisdictions.

Charlottesville-Albemarle Drug Court:

According to Jeff Gould, Drug Court Administrator, over 30% of the current Drug Court Clients used marijuana as their first “substance of choice”. The National Association of Drug Courts is in opposition to the decriminalization of marijuana.

James River Alcohol Safety Action Program:

According to David Dutcher, Executive Director of the James River ASAP, in FY2011, there was a total of 1,349 referrals to ASAP; 78 involved persons who had been charged with possession of marijuana.

Conclusion:

The officers in the police department are duty bound to enforce the laws of the City, State and Federal governments. However all police departments must balance the pressing enforcement needs of a community with their resources. The Charlottesville Police Department has done exactly that by utilizing its funding to appropriately address higher priority crimes in our City than marijuana possession. Knowing this, staff believes it is unnecessary to include a directive from Council to de-prioritize the enforcement of personal marijuana use.

As for de-criminalizing the drug, the most compelling information from the data provided is that those charged with possession of marijuana are: (1) at a medium to higher risk of re-offending; (2) are at a higher risk of being convicted of another crime; and (3) have a lower probation success rate.

As evidenced by the data there is concern that the notion of decriminalizing or legalizing marijuana may well have an impact on both mental and public health resources; thus, we would strongly encourage that before council takes any action on this matter that those resources be consulted and their opinions carefully considered.

Attachments:

Attachment 1 – Citizen Proposed Resolution

Attachment 2 – Alternative Resolution

Calling on the Governor and the Virginia General Assembly to revisit laws regarding Cannabis,

Whereas scientific and medical studies have repeatedly found that any effect marijuana has on users and those around them is significantly more benign than the effects of alcohol; and

Whereas any adverse effects of marijuana are greatly overshadowed by the adverse effects of current Virginia marijuana laws and penalties; and

Whereas Virginia made 19,764 marijuana related arrests in 2009 alone and Virginian taxpayers are burdened annually with the cost of the resultant prosecutions, supervisions, and incarcerations; and

Whereas public opinion has steadily shifted in favor of marijuana decriminalization or legalization and for the first time there are more Americans who support marijuana law reform than there are who favor keeping it illegal; and

Whereas, in Virginia, recreational smokers found with one-half of one ounce of marijuana or more may be erroneously charged with ‘Intent to Distribute’, without any evidence the marijuana was intended for distribution; and

Whereas the Dillon Rule limits the ability of Charlottesville City Council to enact an ordinance regarding marijuana possession;

Now, therefore, let it be resolved, that Charlottesville City Council recognizes that marijuana offenses, in which cannabis is intended for adult, personal use and intoxicated driving is not involved, **should be Charlottesville’s lowest law-enforcement priority.**

Law enforcement should perform all other duties before using valuable time and resources pursuing possible marijuana violations. Those limited resources should be directed primarily toward violent and serious crime rather than non-violent cannabis users. When citizens are found in violation of state marijuana laws, viable

Citizen Proposed Resolution

alternatives to incarceration should be implemented whenever possible and should receive adequate funding.

Also be it resolved that the council call on the Virginia General Assembly and the Governor of Virginia to revisit the sentencing guidelines that merit jail terms for simple possession, do away with rules that suppose intent to distribute without evidence, and give due consideration to sponsored state bills that would decriminalize, legalize, or regulate marijuana like alcohol.

RESOLUTION
Decriminalization of Marijuana

WHEREAS scientific and medical studies have repeatedly found that any effect marijuana has on users and those around them is significantly more benign than the effects of alcohol; and

WHEREAS any adverse effects of marijuana are greatly overshadowed by the adverse effects of current Virginia marijuana laws and penalties; and

WHEREAS Virginia made 19,764 marijuana related arrests in 2009 alone and Virginian taxpayers are burdened annually with the cost of the resultant prosecutions, supervisions, and incarcerations; and

WHEREAS public opinion has steadily shifted in favor of marijuana decriminalization or legalization and for the first time in an October 2011 Gallop Poll more Americans supported marijuana law reform than those who favored keeping it illegal; and

WHEREAS, in Virginia, recreational smokers found with one-half of one ounce of marijuana or more may be charged with ‘Intent to Distribute’, without any evidence the marijuana was intended for distribution; and

WHEREAS the Dillon Rule limits the ability of Charlottesville City Council to enact an ordinance regarding marijuana possession;

NOW, THEREFORE, let it be resolved, that while use of any quantity of marijuana, for whatever purpose, is and will continue to be illegal in the City of Charlottesville, the City Council supports the longstanding practice of the Charlottesville Police Department to place a much higher law-enforcement priority on efforts to address offenses such as violent crime, property crimes and gang activity than on the effort to pursue small-scale, personal use of marijuana for medicinal or other purposes as a primary offense.

ALSO BE IT RESOLVED that the Council call on the Virginia General Assembly and the Governor of Virginia to revisit the sentencing guidelines that merit jail terms for simple possession, do away with rules that suppose intent to distribute without evidence, and give due consideration to sponsored state bills that would decriminalize, legalize, or regulate marijuana like alcohol.