

Assignment 5.1 Decriminalization versus Legalization

INTRODUCTION

As of the writing of this report, 33 states have some form of cannabis decriminalization or legalization statute. The distinction between the two, in theory, is significant but in practical terms less important.

Marijuana remains illegal at the federal level with criminal sentences often on par with heroin possession. However, the majority of drug arrests are performed at the state and local level. Therefore, the practical risk of being arrested and charged with a felony drug crime is largely dependent on the laws and priorities of local jurisdictions. Another practical implication of drug interdiction, particularly cannabis, is to disproportionately impact communities of color. These interdictions have a significant societal cost with little evidence of decreasing the harmful drug use. These interdictions also consume a disproportionate amount of law enforcement resources that could be otherwise deployed.

Because of these practical considerations, many jurisdictions have moved to decriminalize the sale and possession of small amounts of marijuana. Decriminalization may remove the risk of arrest for marijuana-related offenses, but individuals may still be subject to fines and misdemeanor charges. In contrast, states with full legalization of cannabis, for medicinal or adult-use, the consumption of marijuana is no longer viewed as a crime but instead looked at and regulated much the same way as alcohol use. Much like alcohol, restrictions are put in place to avoid consumption by minors and public intoxication, particularly while operating motor

vehicles. Because of its legality states can regulate where these products can be purchased and regulate the purity of the products thereby protecting its citizens from black market suppliers.

Decriminalization has benefits to minority communities that have been over-policed however an argument can be made that decriminalization also empowers criminal enterprises and the black market in the production and distribution of cannabis while leaving states unable to regulate or tax this income-producing business enterprise.¹ Full legalization is the logical conclusion once decriminalization has begun. States such as Michigan and Illinois are examples where first there is jurisdictional decriminalization then state legalized medical cannabis followed by full legalization.²

¹ <https://www.cannalawblog.com/marijuana-decriminalization-versus-legalization-cause-it-matters/>

² <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx#Table%202>