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Report provides new insights and perspective on Milwaukee's marijuana debate

A report released today by the Milwaukee-based Public Policy Forum finds that few Milwaukeeans who are cited for first-time, small-scale marijuana possession offenses spend time behind bars for failure to pay, though jail time for second and subsequent offenses is much more common. The report also finds – through an examination of how other cities have recently changed their marijuana laws and policies – that there is a range of options for City of Milwaukee and state policymakers who are intent on doing so.

"The Common Council is considering a change to City ordinances that would dramatically reduce the fine for first-time possession of small amounts of marijuana," says the report. "But will this be an effective solution for those who believe the existing legal framework is putting too many people behind bars and draining law enforcement resources... (and) what might we learn from other cities that have grappled with similar concerns?"

Without taking any position on whether a change in the law is merited, the report considers the reasoning cited by proponents and considers the options that may exist to address the concerns they are raising. This is the first of two reports on marijuana policy in Milwaukee to be published by the Forum.

After considering how the legal authority of the federal and state governments impacts the ability of municipalities to establish independent legal frameworks for small-scale marijuana possession, the report examines current marijuana laws and policies in Milwaukee.

“According to municipal court data, among 4,554 total (first-time) marijuana possession cases in which the defendant was found guilty between January 2012 and March 2015, only 12 cases (involving 11 individuals) resulted in jail sentences for failure to pay,” says the report. “Among those, only eight individuals actually served time in jail.”

The report also notes that most individuals convicted by municipal authorities for first-time marijuana possession do not pay the fines they are given. In fact, payments of any amount were made in only 42% of cases in which individuals were found guilty during a recent period of more than three years; only 28% of the fines were paid in full.

The City of Milwaukee’s marijuana possession ordinance only addresses first offenses. Under state law, second and subsequent violations are treated as criminal offenses and sent to the District Attorney’s office, where they can be charged either as misdemeanors or felonies depending on the individual’s prior record. Milwaukee County circuit court data from 2013 and 2014 on cases prosecuted by the D.A. that *only* involved a second or subsequent marijuana possession offense suggest that a majority of those cases resulted in felony convictions and sentences to time in jail.

The report suggests, therefore, that changing the law to expand the universe of violators who would be subject solely to municipal violation for possession of small amounts of marijuana – as opposed to criminal charges – likely would have a greater impact than reducing the existing municipal fine amounts. The two actions also could be pursued concurrently.

The report cites examples of other cities that have taken such an approach, including Ann Arbor, which treats all offenses for small-scale possession as municipal violations with varying small fine amounts depending on the number of offenses; and Santa Fe and Philadelphia, where all

offenses for possession of small amounts of marijuana are treated as civil infractions with a maximum fine of \$25.

Other report findings include the following:

- There are significant differences between marijuana laws and enforcement policies in Milwaukee versus those employed by Milwaukee County suburbs.
- In 2013 and 2014, 86% of those found guilty of a second or subsequent marijuana possession offense (as their sole offense) in Milwaukee County were African American.
- There is a lack of diversion opportunities for the District Attorney's office to utilize for those convicted of marijuana offenses – as compared to other drugs – because there are few treatment programs for marijuana use.

While the report is intended to frame policy options through the lens of the primary arguments used by those who are advocating for relaxed marijuana laws, it notes that there are other important perspectives that need to be considered, such as the perspectives of those concerned foremost with public safety and public health.

“For example, any modifications to (marijuana's) legal treatment must be judged with consideration of the potential to pose harm to minors or to encourage persistent heavy usage by those who are currently only casual users,” says the report.

The report can be downloaded from the Forum's website: www.publicpolicyforum.org. A follow-up report – to be released later this year – will dig deeper into justice system data to provide even greater insight into the societal and fiscal impacts of Milwaukee's existing marijuana legal paradigm and where (if at all) potential change might be most appropriate.

Milwaukee-based Public Policy Forum, established in 1913 as a local government watchdog, is a nonpartisan, nonprofit organization dedicated to enhancing the effectiveness of government and the development of southeastern Wisconsin through objective research of public policy issues.