

# Marijuana Legalization and the Office of Defense Services

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# Overview

- In 2015, Gov. Jack Markell signed House Bill 39, which de-criminalized marijuana.
- Since then, there has been a decrease in criminal cases involving personal/simple possession of marijuana.
- Overall, in FY 16 – 5374 MJ cases filed in court
- In FY 17 – 5083 MJ cases filed in court
- 3.7% decrease in total # of MJ cases in court

# DELAWAREANS USE MJ

- Under our present law, MJ is not criminal
- But it is still illegal
- Estimated 100,000 Delawareans use MJ
- Not good public policy to have laws that are routinely not followed

# The Office of Defense Services

- Represents about 85 percent of people facing criminal charges
- Superior Court, Family Court, Court of Common Pleas and the Supreme Court.
- MJ cases typically are filed in CCP.
- ODS' attorney CCP caseloads exceed the ABA standard of 400 cases/year.
- Kent County CCP, ODO attorneys average 1140 cases/year.

# The Office of Defense Services

- Most MJ cases are paired with other crim charges.
- APDs still have to deal with the non-crim MJ charges.
- Eliminating the non-crim MJ would lighten the load on PDO attorneys.

# 16 Delaware Code 4764(c)

- Basic civil penalty in effect now
  - Over 21 - \$100 fine
  - 18-21 - \$100 fine + unclassified misdemeanor

FY 16 – 1520 Cases

FY 17 - 3014 Cases

98% Increase

# 16 Delaware Code 4764(b)

- Under 18 –personal possession- \$100 fine + unclassified misdemeanor
- Over 18 – NOT for personal possession- \$575 fine + unclassified misdemeanor (3 mos. max jail)
- FY 16 – 1344 cases
- FY 17 – 829 cases
- 38% Decrease

# Title 16 Delaware Code 4764(a)

- Under 18, or over 18
- Possession MJ
- + Aggravating factor
  - School zone, park, vehicle, adult to juvenile, endangering an officer

Class B Misdemeanor

FY 16 - 1076

FY 17 – 299

72% Decrease



# Conclusion

People sell, purchase, and smoke MJ. This isn't news to any of us.

People are not getting sent to jail for simple possession.

ODS is not being overloaded by those cases thanks to the de-criminalization of marijuana.

But ODS attorneys still have to address the non-crim cases paired with other crim charges.

A law with a low level of compliance is not a good law.

Let's face reality and legalize MJ.