

Decriminalization of Drug Use and Possession: **Moving Toward a Health & Public Safety Approach**

Emily Kaltenbach

State Director, New Mexico &

Senior Director, National Criminal Justice Reform Strategy

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We are
the **Drug**
Policy
Alliance.

What Does Decriminalization of All Drugs Mean?

Decriminalization is the removal of criminal penalties for drug possession and personal use while investing in treatment and harm reduction services.

What Decriminalization of All Drugs Does Not Mean:

- Legalization of drugs and drug use;
- Decriminalization of sales, manufacturing, and/or distribution.

Common Questions

Will decriminalization increase drug use?

Will it increase crime?

Don't we need the criminal justice system to force people who use drugs into treatment?

Decriminalization Reforms Exist

Roughly two dozen countries, and dozens of U.S. cities and states, have taken steps toward decriminalization.

The Portuguese Decriminalization Model

In 2001, Portuguese legislators enacted a comprehensive form of decriminalization of low-level possession and consumption of all illicit drugs and reclassified these activities as administrative violations.

Alongside decriminalization, Portugal significantly expanded its treatment and harm reduction services, including access to sterile syringes and methadone maintenance therapy.

The Cato Institute studied the results of Portugal's policy and stated "none of nightmare scenarios...from rampant increases in drug usage among the young to the transformation of Lisbon into a haven for drug tourists has occurred." Furthermore, "decriminalization has had no adverse effect on drug usage rates", and the level of drug trafficking has also declined. And the incidence of other drug-related problems, including sexually transmitted diseases and deaths from drug overdoses, has "decreased dramatically".

Benefits

Decriminalizing drug possession and investing in treatment and harm reduction services can provide major benefits for public safety and health, including:

- Reducing the number of people arrested;
- Reducing the number of people incarcerated;
- Increasing uptake into drug treatment;
- Reducing criminal justice costs and redirecting resources from criminal justice to health systems;
- Redirecting law enforcement resources to prevent serious and violent crime;
- Diminishing unjust racial disparities in drug law enforcement and sentencing, incarceration and related health characteristics and outcomes;
- Minimizing the social exclusion of people who use drugs, and creating a climate in which they are less fearful of seeking and accessing treatment, utilizing harm reduction services and receiving HIV/AIDS services;
- Improving relations between law enforcement and the community; and
- Protecting people from the wide-ranging and debilitating consequences of a criminal conviction.

State of Maryland's All Drug Decrim Legislation

Criminal Law – Use or Possession of a Controlled Dangerous Substance – De Minimis Quantity

“FOR the purpose of making violations relating to the use or possession of certain de minimis quantities of certain controlled dangerous substances a civil offense rather than a misdemeanor; applying penalties for use or possession of less than 10 grams of marijuana to use or possession of a de minimis quantity of certain controlled dangerous substances; applying certain procedural provisions relating to issuance of a citation for use or possession of less than 10 grams of marijuana to use or possession of a de minimis quantity of certain controlled dangerous substances....”

(De Minimus quantity means less than: 10 grams of marijuana; 2 grams of cocaine; 1 gram of heroin; 10 tablets of MDMA; 1 gram of methadone; or, 1 gram of amphetamine.)

Delegate Dan Morhaim has been a member of the Maryland House of Delegates since 1994, where he serves as Deputy Majority Leader. He is a board-certified physician with over 30 years front-line clinical experience treating patients in emergency and internal medicine, and he is on the faculty at the Johns Hopkins Bloomberg School of Public Health and at the University of Maryland Medical School.

NM Has Taken Steps Toward All Drug Decriminalization

NM passed the first 911/Good Samaritan Law in the Country: 32 states and the District of Columbia have adopted 911 Good Samaritan immunity laws, which essentially decriminalize simple possession and other minor drug offenses at the scene of an overdose.

Law Enforcement Assisted Diversion: LEAD is a promising step in the direction of decriminalization and a working example of how cities can craft policies that avoid or minimize the use criminal penalties – and do so in a manner that benefits public safety and health. Santa Fe, NM was the 2nd in the Nation to implement LEAD.'

The City of Santa Fe decriminalized marijuana and associated paraphernalia in 2014

The NM House Passed Marijuana Decriminalization in 2013

The NM Senate Passed MJ Decriminalization in 2015

Public Sentiment in Favor of Reducing Criminal Penalties is Growing

In the nation's capital, a 2013 poll found that more than half (54 percent) of respondents supported decriminalizing possession of small amounts of drugs other than marijuana.

A 2014 national Pew poll found that roughly two-thirds believe that people should no longer be prosecuted for possession of cocaine or heroin.

Slightly more New Mexican voters oppose arresting and possibly jailing a person for possession of a small amount of illicit drugs only for personal use than support this. Overall, 48% oppose arresting people and 41% favor it. (Third Eye Strategies/2015)

Interim Recommendations for NM

Defelonize Drug Use & Possession: Make simple drug possession a misdemeanor instead of a felony. California's Prop. 47 (2014) changed certain low-level crimes like drug possession and petty-theft offenses from felonies to misdemeanors.

Decriminalize Drug Paraphernalia Possession Making it a Civil Infraction: Currently in NM, a person who possesses drug paraphernalia is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) or by imprisonment for a definite term less than one year, or both. These penalties are more severe than possessing tiny amounts of marijuana.

Decriminalize Small Amounts of Marijuana: Remove criminal penalties for 1 oz or less of marijuana making it a penalty assessment and fine.

Appropriate New Funding to Support Additional NM LEAD Programs

Broaden NM's 911/Good Samaritan Law to cover individuals who are on probation and parole.

Increase Access to Medication Assisted Treatment for Opioid Addiction: Offer incentive programs to increase the number of MAT providers; Provide MAT in criminal justice settings, including jails/prisons and drug courts.

For More Information Contact:

Emily Kaltenbach, State Director, New Mexico & Senior Director, National
Criminal Justice Reform Strategy
Drug Policy Alliance

ekaltenbach@drugpolicy.org

505-983-3277