



*Laura Subin, Esq., director, Vermont Coalition to Regulate Marijuana
Testimony on H.170
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Introduction and Background

My name is Laura Subin and I am the Director of the Vermont Coalition to Regulate Marijuana (the Coalition). I'm an attorney and my background is in working with and for human rights and human service non-profit organizations. In a number of different capacities, including my current one as the director of the Coalition, I have focused on the intersection between substance use and abuse and criminal justice system involvement in families.

The Vermont Coalition to Regulate Marijuana

The Vermont Coalition to Regulate Marijuana was convened in 2014. We are a group of individuals and organizations that believe that marijuana prohibition is a failed policy that should be replaced with a responsible system of taxed and regulated sales to adults. Prominent members of our coalition include Governor Madeline Kunin, former Attorney General Kim Cheney, Former Executive Director of the Vermont Human Rights Commission and Former Defender General Robert Appel, and environmentalist Bill McKibben. The Coalition also includes a number of former legislators, members of city councils and other leaders from across professional sectors including substance abuse treatment providers, educators, medical professionals, criminal justice professionals, veterans, farmers and business owners.

Presently we have well over a thousand members. Thousands of additional Vermonters have signed up to receive updates and information from our Coalition. I think the difference in those numbers is significant. Through the extensive anecdotal information we have gathered it appears clear that the reluctance to join the Coalition among many who are invested in policy reform stems from fear of taking a public stance that could have personal or professional ramifications. These individuals include police officers, doctors and others who are members of professional associations opposing reform. Their reticence reflects a culture of fear that undermines the public discourse on marijuana policy. People voicing support for the legal status quo are not afraid but there is very real fear, and real potential for negative consequences, in standing up in favor of marijuana legalization.

We are encouraged by the number of individuals who have, nonetheless been able to do so. We also have support from key Vermont human and civil rights organizations including the ACLU of Vermont, Vermonter's for Criminal Justice Reform and the Peace and Justice Center. These organizations support marijuana policy reform because they know that current policy impinges our privacy rights and the ways in which it has been implemented unfairly impacts poor communities and communities of color. We are proud to count them among our members and to work with these partners and others, including legislators, to move forward on a vision for enhanced criminal justice in Vermont.

Also among our members are the attorneys who drafted and many of the attorneys that signed the "Attorneys' Open Letter to the Vermont Legislature Supporting Cannabis Legalization" that was submitted to this committee earlier today. This letter, representing the views of more than 50 Vermont attorneys- many of them public defenders, echoes the views of our organizational members and calls for a fairer system. In the words of the letter itself: "The racial disparity found by the ACLU in 2013 (showing that blacks were more than 4 times as likely as whites to be arrested for cannabis possession)¹ is continuing throughout the state. The racially-charged history of cannabis prohibition has been well documented, and the continued demonization of cannabis remains a major contributor to the systemic racial bias plaguing the criminal justice system. Legalization begins to right this historic wrong."

Strong Coalition Support for H. 170

In my role as the director of the Coalition, I have traveled extensively around Vermont engaging people in dialogue around marijuana policy. I have listened to ideas and concerns about Vermont's marijuana policy from a wide variety of stakeholders. I have spoken to hundreds of individuals, visited civic organizations and participated in marijuana forums from Brattleboro to the Northeast Kingdom. These efforts have made clear to me what polls have consistently demonstrated: most Vermonters recognize that prohibition is a failure. They know from experience that the effects of marijuana are mild, especially when compared to alcohol and they recognize that adults should not be punished for making the safer choice.

Since it was introduced, H170 has further unified our Coalition, with broad support coming from throughout our very diverse membership. Our members recognize that this legislation takes an important step towards addressing the stigma associated with marijuana use and places the marijuana policy debate squarely in the context in which it belongs: a critical component of desperately needed reforms to our criminal legal system.

H. 170 Addresses Key Limitations of Decriminalization Policies

One of the most important reasons H. 170 is garnering so much support from Vermonters concerned about this issue is that it addresses many of the serious limitations of our

¹ *The War on Marijuana in Black and White*, ACLU Foundation, 2013

current policy (which makes possession of an ounce or less of marijuana punishable as a civil violation rather than with a criminal penalty). The characterization of this policy as decriminalization can be misleading. Vermonters continue to face significant criminal legal consequences related to marijuana. According to Vermont public defenders, criminal defendants are still being incarcerated, for use and possession of decriminalized amounts of marijuana in the context of probation and parole violations. Vermonters also still face jail time for growing a few plants.

Possession of small amounts of marijuana can also be the basis for searches that would otherwise require a warrant. I attended this committee's "Fair and Impartial Policing Update" yesterday so I know that you are aware of the data documenting racial disparities in police stops in Vermont.² That data, coupled with the fact that, marijuana enforcement has a history of disproportionately affect[ing] minorities³ suggests that stops and searches unfairly impact communities of color. The searches themselves are also "correlated with self-reported trauma, anxiety, and other mental health problems."⁴

Civil penalties for marijuana violations are also significant for low income Vermonters. According to the Rand Corporation, "for someone who works close to minimum wage in Vermont, paying \$200 for possessing less than 1 ounce could consume the take-home pay for the better part of a full week of work."⁵ There have been over 5,000 marijuana citations since the decriminalization law went into effect in 2013.⁶ These numbers correspond with reports that some police departments are still considering marijuana enforcement a priority.⁷

Removing civil penalties for possession of small amounts of marijuana and allowing limited cultivation is also significant for patients in Vermont. We have many members of our Coalition who are qualified patients under Vermont's medical marijuana law. Too many of them, however, cannot afford to pay for the medicine they need, even with sliding scale accommodations. The ability to legally grow a few plants for their personal consumption could, literally, be life changing for some of the sickest among them.

H. 170 Reduces Criminal Penalties Above Possession Limits

H. 170 also properly addresses penalties above the current and proposed possession limits. It begins to make penalties for non-violent marijuana crimes more consistent with their relatively modest impact on public safety. It is an incremental step forward in achieving parity between marijuana policy and policies regarding far more dangerous

² "Driving While Black and Brown in Vermont," Seguino, University of Vermont, Brooks, Cornell University

³ Rand, *Considering Marijuana Legalization: Insights for Vermont and Other Jurisdictions*, p.42.

⁴ Rand p.43

⁵ Rand

⁶ Court Administrator's Office, State of Vermont Judiciary

⁷ "Pot Decriminalization Results in Uneven Enforcement" WCAX, August 2014

substances like alcohol and tobacco.

H. 170 Would Increase Youth Respect for Public Policy

Like me, many members of the Coalition are parents. As I already mentioned, many are also educators and other professionals who provide services to youth. These members speak frequently about their goal of reducing youth marijuana consumption. They realize that marijuana prohibition has failed miserably at this. They tell us and public data confirms that it is easy for teenagers to get marijuana and many say it is easier to get than alcohol. Service providers understand what a growing body of research demonstrates—that evolving public attitudes toward marijuana do not correlate with increased youth use rates.⁸ This appears to be true in Vermont where, according to Rand, teen use in Vermont in 2015 was down from 2003 a period that encompasses the passage of both the medical marijuana and decriminalization laws. Instead, policy reform offers an opportunity for more honest education for our children and increasing their confidence in the integrity of our laws.

Recommendations

Without diminishing our support for H.170 I do have a couple of few recommendations.

We believe that Section 4230h, Furnishing Marijuana to a Person Under 21 Years of Age, should be carefully reviewed to ensure that it does not bring about unintended negative consequences such as a 21-year old facing jail time for passing a joint to a 20 year old.

More generally, while H. 170 is an important reform in its own right, I hope that this body will ultimately recognize that a system for taxed and regulated sales to adults, designed “the Vermont way,” could create opportunities for small Vermont businesses and generate revenue for treatment, education and to address public safety concerns. I look forward to those discussions and continuing progress on criminal justice reform.

H. 170 addresses critical problems associated with current marijuana policy and will bring about tangible positive change. At a moment in history when fears about the erosion of our basic liberties are enormous, it is encouraging to see movement towards greater equity and fairer application of public policy in Vermont. On behalf of the Coalition I represent, thank you for your efforts. We encourage you to adopt this important legislation.

⁸ Mark Kleimann, UCLA Professor via Washington Post Blog; *see also* University of Michigan/National Institute on Drug Abuse, Monitoring the Future National Survey Results on Drug Use, 1975–2012; Anderson, D. Mark, Hansen, Benjamin, and Rees, Daniel I., “Medical Marijuana Laws and Teen Marijuana Use,” Institute for the Study of Labor, May 2012. O’Keefe, Karen, et al., “Marijuana Use by Young People: The Impact of State Medical Marijuana Laws,” Marijuana Policy Project, June 2011.
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