



THE SUNRISE CITY

FORT PIERCE

POLICE DEPARTMENT
"In Honor We Serve"

Florida

To: Nicholas Mimms, City Manager

From: Robert Ridle, Deputy Chief

CC: Diane Hobley-Burney, Chief of Police

Date: December 30, 2020

Subject: Follow-up to 12/7/2020 Meeting – Police Community Advisory Committee Presentation

As you are aware, during the December 7, 2020 City Council meeting, the Police Community Advisory Committee requested the City explore the possibility of creating a civil citation program in regards to misdemeanor possession of marijuana. Historically, arrest or the issuance of a Notice to Appear was the manner in which misdemeanor marijuana laws were enforced. From July 1, 2018 through July 1, 2019, the Fort Pierce Police Department effected one hundred thirty-seven (137) misdemeanor arrests and thirty-three (33) felony arrests for possession of marijuana. From July 1, 2019, to December 18, 2020, there were five (5) misdemeanor arrests and nine (9) felony arrests for the same. Felony arrest numbers include all felonies related to possession of marijuana including possession over 20 grams, production, and sale. There is a marked decrease in arrests after July 1, 2019. This is due to Florida State Statute 581.217 which took effect on that date. The statute, which defined hemp as legal and different from marijuana, defined hemp as a *Cannabis sativa* plant or parts having no more than .3 percent tetrahydrocannabinol, or THC. At the time, there were no laboratories in Florida that could test for such a specific amount of THC, including the Indian River Crime Lab. Without being able to scientifically validate whether a substance was hemp or marijuana, prosecution of marijuana related cases became problematic at best. Even developing probable cause for an arrest based on appearance and scent alone was negated.

In March of this year, the Indian River Crime Lab implemented a process where they could test plant material to determine whether or not it contains a level of THC that is above or below the .3 percent threshold. Their March 16, 2020 memorandum to local law enforcement agencies stated, that due to the new process being more costly and time intensive than the previous process, they would only except felony amounts of marijuana for analysis. The State Attorney's Office, recognizing the lab's limited resources in testing, will only proceed with requesting testing for a misdemeanor amount of marijuana after close scrutiny and supervisory approval. In speaking with the Port Saint Lucie Police Department and the Saint Lucie County Sheriff's office, arrests for misdemeanor amounts of marijuana have been all but abandoned. This is occurring not only on the Treasure Coast, but also State wide. Lack of testing has also proven to be problematic for civil citation programs for marijuana possession. Agencies in Palm Beach



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County with civil citation programs for possession of marijuana are not issuing civil citations presently.

I speaking with the Indian River Crime Lab, they do not foresee any changes to their present policy of testing for felony amounts of marijuana. They will test misdemeanor amounts, but only on a case by case basis. According to Sal Recco, Forensic Chemist at the Crime Lab, regular testing of misdemeanor amounts of marijuana would require additional personnel as to not take away from processing felony cases.

In researching ordinances from other municipalities that have implemented the utilization of citations for marijuana possession, I found numerous ordinances throughout the State. Some of the ordinances are lengthy and incorporate possession of marijuana into previously established civil citation procedures, while others are fairly concise and deal with possession of marijuana as a stand-alone issue. Some of the ordinances have one time fine amounts and others have sliding scales based on previous citations. Other ordinances include community service in lieu of monetary fines. All the ordinances I found apply solely to misdemeanor possession, which is under 20 grams in dry weight. Many of the ordinances apply to adults only. Due to the lengths of the ordinances, I have included the hyper-links below for your consideration.

Orlando:

https://library.municode.com/fl/orlando/codes/code_of_ordinances?nodeId=TITIICICO_CH43MIOF_S43.95POCACAPA

Osceola County:

https://library.municode.com/fl/osceola_county/codes/code_of_ordinances?nodeId=PTIIOSCOOOR_CH14MIPROF_ARTIINGE_S14-11POCACAPA

Tampa:

https://library.municode.com/fl/tampa/codes/code_of_ordinances?nodeId=COOR_CH14OF_ARTIIMIOF_DIV3DR_S14-62POCAPA

Sarasota:

https://library.municode.com/fl/sarasota/codes/code_of_ordinances?nodeId=PTIITHCOF_ARTIINGE_S21-10CACICI

Palm Beach County:

https://library.municode.com/fl/palm_beach_county/codes/code_of_ordinances?nodeId=PABECOCO_CH18MIPROF_ARTIVSMQUMAPO

West Palm Beach:

https://library.municode.com/fl/west_palm_beach/codes/code_of_ordinances?nodeId=PTIICOOOR_CH54OF_ARTIINGE



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Broward County:

https://library.municode.com/fl/broward_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH21MIOFPR_ARTIINGE_S21-6BRCOADCICIPR

Miami Beach:

https://librarystage.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH21OFMIPR_ARTVIIUNPE_CO_S21-81MIADSTLAPE

Miami-Dade:

https://librarystage.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH21OFMIPR_ARTVIIUNPE_CO_S21-81MIADSTLAPE

Key West:

https://library.municode.com/fl/key_west/codes/code_of_ordinances?nodeId=SPAGEOR_CH42MIOF_S42-1OFUNSTLA

Any civil citation program for possession of misdemeanor amounts of marijuana will have a process for persons to contest the citation. Additionally, the burden of scientifically validating whether the substance is marijuana will fall on the City of Fort Pierce for every case. Given that the resources for making that determination are not available at this time, or foreseeable near future, it is not possible to successfully impose a punitive civil action for marijuana possession. While a civil citation program could be created, the challenges listed above would negate any successful implementation. I do not recommend moving forward with a civil citation program until testing procedures or laws defining hemp vs. marijuana change in a manner where such a program can be successful from the time the citation is issued to final disposition.