

City Council and the Police Chief discuss the city marijuana decriminalization ordinance (1)

The Bethlehem Gadfly Drugs, Marijuana, Police June 30, 2020

 *Latest in a series of posts about the Bethlehem Police* 

Gadfly is anxiously awaiting news of the Public Safety Committee meeting on the police department use of force directives and on a proposed Community Engagement Initiative.

But thinking of the upcoming meeting reminded him of a previous Public Safety meeting on March 3 about police department application of the relatively new city ordinance decriminalizing possession of a small amount of marijuana.

Bethlehem is one of 7 cities in the state to have a local summary offense ordinance that can be used in certain circumstances instead of the stiff state misdemeanor charge that can have severe and long-lasting consequences for someone caught with a small amount of marijuana.

Southside district judge Nancy Matos Gonzalez triggered the meeting by **her concern** about the difference between the way Lehigh students and Southsiders were being charged for possession of small amounts of marijuana.

Gadfly shelved discussion of that meeting when the pandemic caused things to go to hell, but he returns to it now as we are thinking in great depth about the relationship between the police department and the community.

It turns out that, though City Council voted 7-0 in favor of the decriminalizing ordinance, the police department was only using it in about 10% of cases. Council wanted to know why.

It was a very interesting meeting, and Gadfly will spend 2-3 more posts on it.

Chief DiLuzio opened the meeting providing statistics that City Council asked for. Gadfly hopes to provide you with a full copy of those statistics,

but the one that catches your attention right away is that in the period since the city ordinance was enacted there were 289 arrests for minor marijuana possession and in only 19 of those arrests was the city ordinance the charging statute — a pitiful 10%!

That was certainly not what City Council envisioned as the consequence of their ordinance.

Here's the Chief.

Chief DiLuzio

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The new City marijuana ordinance went into effect July 2018, and the Chief had statistics through January 2020 — about 1 1/2 year's worth. There are between 150-200 minor marijuana possession charges a year on a force of 154 officers. The numbers show we are not actively pursuing marijuana arrests. Average of 1.1 arrests per officer per year. Charges usually are made related to something else, such as a traffic offense, or if they smell it and thus have an obligation to act. Lehigh University had only 5 such arrests during this time. During this period there were 289 total minor marijuana arrests: 270 charged to state law, 19 to the City ordinance. 127 arrests were made on the Southside, of which 9 were charged to the City ordinance. 47% of arrests were made on the Southside. The largest age group is 25-34. 71 arrested were black, 121 Hispanic.

Councilman Reynolds asked Councilwoman Negron to state the rationale for her ordinance and then probed for the reason why the city ordinance was not being used as it was imagined. First of all, the choice of whether to use state or city law was left to the discretion of the arresting officer. The Chief surveyed his department, found that about 50% of the officers were ok with the decriminalization ordinance but that almost all felt that such an act must come from the state and be universal in the state. Otherwise, they — the officers — were in a tricky middle ground where they could easily be accused of bias. The Chief seemed to feel that he was handcuffed (bad pun on Gadfly's part) and couldn't legislate officer behavior. Councilman Reynolds firmly but respectfully pushed back

against that, feeling that the department could do more to foster use of the city ordinance.

It's a good conversation. Listen in.

Councilman Reynolds and Councilwoman Negron and Chief Diluzio

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Councilwoman Negron went over the rationale for the City ordinance. Councilman Reynolds asked the Chief to comment. "Is that a rationale that you agree with?" The Chief's in the "middle of the bridge." His "professional opinion" is that he's ok with the officer using either option. His "personal opinion" based on extensive experience is that marijuana should be decriminalized but at the state level. The push has to come from Harrisburg. Right now the situation is creating problems for local police. He doesn't want to see the police caught in a political issue. The Chief did a survey (117 of 154 officers responded) in the department, and there was a pretty even split — about 50% for decriminalization and 50% against (specifically, 44% yes to decriminalization — 56% no). The Chief describes the 6 question survey. For instance, 97% said the state should do the decriminalizing. They want the law to be universal across the state. The feeling is that it is not fair that people caught elsewhere get a stiffer penalty. The door is open, for instance, to somebody claiming I got a misdemeanor citation because I'm black, when a block away someone else — white — got a summary offense. Officers are afraid to use the city ordinance because they can be subject to a claim of bias. Nowadays anybody can make such a claim, and all of a sudden the officer's name is splashed all over the papers. There are 7 cities in the state with a city ordinance. JWR indicated that in Phila, for instance, the number of uses of the state law went down because the Philly police took a strong view for the city ordinance. JWR asked directly whether the Chief sees a problem in the fact that the officers are choosing the state law 90% of the time. The Chief said that honestly he would like to see the city ordinance used more but that he is not out on the street when those decisions are made by his officers. Has the department considered changing the directives to make them stronger? The Chief said the factors for use of the City ordinance are already in the directives and that he has talked with the officers at roll call and

platoon meetings. "It's up to the officers to use this." We are at the "stumbling block" of state v. city law. JWR intimated that there are "tools" the Chief as leader of the department could use, but he didn't go further. JWR said when comparing with Lehigh, it's hard not to see the "troublesome implication" there between what happens when you caught at Lehigh and a few blocks away in the city. The Chief said Lehigh is a different department serving a different community. The answer/solution to the disparity is a decision at the state level. JWR said he respects the Chief, but he thinks we could do more. JWR expressed his disappointment. The Chief said he can't change the inner feelings of people or tell them how to do their job when they are on the street. The police can't be robots. JWR: "I think we can do more. I think we can come up with stronger directives," but he respects the job the Chief has to do.

to be continued . . .