

# Bethlehem ordinance decriminalizing small amounts of marijuana “is not being used . . . But officers do have reasons they aren’t using it.”

The Bethlehem Gadfly Drugs, Marijuana, Police March 9, 2020

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

Gadfly will dig in to the report by Chief DiLuzio at the Public Safety meeting March 3, but, for starters, Sara’s article gives you a nice overview.

*Sara K. Satullo, “Bethlehem decriminalized weed, but city cops aren’t on board.” [lehighvalleylive.com](https://lehighvalleylive.com), March 6, 2020.*

Bethlehem City Council took a progressive stand when it unanimously decriminalized possession of a small amount of marijuana back in 2018, in hopes of preventing a minor arrest from derailing a person’s future job and school prospects.

Yet, a year-and-a-half later data show that Bethlehem police officers are hesitant to ignore state law in favor of issuing small time violators — those with 30 grams or less of pot — a city fine.

In fact, city police only used the new city law for 19 of the 289 total minor marijuana arrests made over that same time period. In the heart of South Bethlehem, Lehigh University police reported five low-level weed arrests in 2019, only charging one person under state law.

City police Chief Mark DiLuzio shared these stats with council’s public safety committee Tuesday evening, explaining officers have been hesitant to rely on the city law amid fears they’d be accused of dispensing justice unfairly. “You are correct it is not being used,” DiLuzio said. “But officers do have reasons they aren’t using it.”

Members of city council and District Judge Nancy Matos Gonzales, who penned [a December letter](#) to DiLuzio, worry there’s currently an inequitable system in place due to uneven enforcement. Forty-seven percent of the minor marijuana arrests since the ordinance was enacted occurred in the Southside, which covers Matos Gonzalez’s district.

At the close of the meeting, the chief surprised council by floating a possible solution: city officers can fine someone under the city law or charge them under both the city and state law and leave it up to a district judge. The idea was met with support from council and DiLuzio promised to issue a directive to his department.

The city ordinance only applies to the Northampton County section of the city because Lehigh County District Attorney Jim Martin — the top law enforcement official in the county — says state law supersedes the city law. Pennsylvania treats marijuana possession as a misdemeanor punishable by up to 30 days in prison and a \$500 fine.

“Many of the officers, and I’ll be real blunt with you, they have an issue with it,” DiLuzio said of the option to use the city law. “Their issue is: we have the same violation on this side of town and the same violation here and we have two different ways to enforce it. It should be universal and it should come from the state.”

The chief surveyed his 154 officers department and the 117 cops who responded were split on decriminalization with 44% favoring it. But 97% agreed it should come from state lawmakers.

The majority of the marijuana arrests stem from officers encountering people while investigating another crime, the chief said. The stats don’t reflect the officers who choose to toss a small amount of pot they find. “We are not out there hunting down people and jumping out of bushes to arrest people for weed,” DiLuzio said.

Council members were upset to learn police were not choosing the city fine the majority of the time and pressed DiLuzio to explain why and outline any steps he’s taken to encourage its use.

Officers get to decide whether to charge someone under the city or state law, DiLuzio said. So many factors go into this: Was the person cooperative? Are they under the influence? Were they driving? Is it only a little bit of pot?

Of the 19 people who were charged under the city law: five were white, four black and 10 Hispanic, the chief said. “It was used more on minorities,” he said.

Council members shared Judge Matos Gonzalez's concerns that Lehigh students arrested by campus police are facing small fines for marijuana violations, while most people arrested steps off campus by city police face state misdemeanor charges, carrying stiffer penalties, court costs and required court appearances.

Decriminalization must come from Harrisburg, the chief said.

Councilman Michael Colon, who chairs the public safety committee, said council wasn't willing to wait for change in Harrisburg, where mechanisms move slowly. Eleven states and Washington, D.C., have legalized marijuana, so large chunks of the U.S. population are free to walk into a dispensary and buy whatever they want. In most of Pennsylvania, a small amount of pot gets you a criminal record, Colon said.

Council wants to be at the front of this sea change, which is why it joined at other cities in decriminalization, Colon said. He predicted this will be looked at like Prohibition in the near future.