Position Paper #4 – War on Drugs

Misguided Policies and Waste of Resources
Legalization of Cannabis Products and Increased Public Revenues

The so-called “war on drugs” dates back at least to the 1930s when laws were enacted by state and federal governments criminalizing certain types of drug use. The “war” – an unfortunate choice of words describing what are actually government social policies - escalated tremendously in the 1980s with a massive increase in expenditures of public funds and huge growth in prison populations. The purpose of this position paper is to examine the criminalization of cannabis products (marijuana and agricultural hemp) in Vermont and to suggest an alternative approach.

Vermont law (18 VSA 4230) imposes a range of prison sentences and fines for the acts of possession, cultivation and sale of marijuana. Penalties range from not more than six months and/or $500 for a first time possession offense to 5 years and/or $100,000 for cultivation of plants. Penalties for “trafficking” are more severe.

Statistics on the web site of the Vermont Department of Public Safety reveal that in 2010 (most current data) there were 1,565 documented offenses related to marijuana/hashish. In the same year, the Vermont Legislative Joint Fiscal Office estimated that almost a million dollars in public funds were spent to arrest and prosecute Vermonters for possession of small amounts of cannabis products. This does not account for expenses involved in hiring private defense counsel. And then there are the incalculable costs resulting from the criminalization of Vermonters who then find it difficult, if not impossible, to complete education and successfully enter the job market.
Are these criminal sanctions justified by sound public policy? Proposals to “decriminalize” possession of small amounts of marijuana are half-hearted attempts to address the fundamental issue – namely that there is no sound public policy basis to prohibit adult use of cannabis products.

Whatever the rationalizations were in the 1930s and 1980s for enacting criminal laws related to cannabis use, the vast weight of contemporary scientific research demonstrates that there is no substantive argument in support of the view that cannabis use is a substantial threat to the public interest. Nor does medical research document that cannabis use represents a significant harm to public health such that there is a compelling reason for arrests of citizens and their processing into the correctional system. In fact, current research by Yale University, as reported in the Journal of Adolescent Health (August 2012) shows that uses of alcohol and tobacco, not marijuana, are the prime “gateways” to the abuse of prescription opiate drugs.* This is not to say that cannabis use is without any physiological effects – but decisions on use should be left to the judgment of the adult user. Indeed, research has documented multiple beneficial health effects from cannabis use. But even though the Vermont legislature has passed laws allowing medical use of marijuana, the absurd and sad outcome of the residual “war on drugs” mentality is that ill Vermonters are still denied access to cannabis products.

Those advocating for rational consideration of the legalization of cannabis products include a broad cross section of Americans. Richard A. Posner, a conservative judge on the federal 7th circuit court of appeals, has spoken out against the waste of enormous public resources on the “war on drugs” and has called for the legalization of the use and distribution of cannabis products. Former US Surgeon General Joycelyn Elders supports the legalization of marijuana stating that science has shown it is “not a toxic substance.” An organization of current and former law enforcement officers advocates for an end of the “war on drugs”. ** Three states – Oregon, Washington and Colorado – will vote this November on ballot initiatives for legalization. In March 2012, a national Rasmussen poll of likely voters revealed that 56% favor the legalization of marijuana.
and its regulation under a system comparable to the sale of alcohol products.

The legalization of cannabis products in Vermont, building on the experience of the repeal of Prohibition laws of the 1930s and the subsequent sale of alcohol products under government regulation, can provide the opportunity for substantial new state tax revenues for public infrastructure and programs. Similarly, the planting of hemp for use in a vast array of products will provide a significant boost for Vermont’s agricultural industry.

The office of Vermont attorney general under the administration of Ed Stanak will be a dynamic advocate for action by the legislative general assembly to repeal criminal statutory provisions regarding cannabis use so that the resources of the state can be put to better use in the fight against dangerous drugs such as heroin, crack cocaine, methamphetamine and the mushrooming growth of illicit prescription drugs. Evidence and testimony will be presented to the legislature documenting the lack of appropriate public policy foundations supportive of current laws criminalizing cannabis use.

Without doubt, this effort will be difficult and may not be accomplished in a single legislative session but the initiative for change must be brought forward. It goes without saying that the federal government’s policies and criminal statutes on cannabis use and distribution will remain problematic even if Vermont amends its laws. But a basic premise of American jurisprudence is that the states are the laboratories for change in our democracy.*** Courageous actions by state legislatures to revisit the “war on drugs” and declare peace with many of their constituents will eventually influence Congress to act accordingly.

* See a detailed study by the Heller School for Social Policy of Brandeis University about the epidemic of prescription drug use in the United States and the spiraling increase in deaths and medical costs. ([http://www.pdmpexcellence.org/drug-abuse-epidemic](http://www.pdmpexcellence.org/drug-abuse-epidemic)). One must ask how it is possible that there is such illicit access to prescription drugs when large pharmaceutical corporations are
subject to strict government licensing, as are prescribing physicians. Law enforcement agencies should more productively focus on efforts to turn off the faucet of prescription drugs seeping into our society.

** Law Enforcement Against Prohibition (LEAP) is an international nonprofit educational organization formed in 2002 “giving voice to law-enforcers who know the war on drugs is a failed and destructive policy”. LEAP has a well-researched web site with many resources (www.leap.cc).

*** “It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try social and economic experiments without risk to the rest of the country. “ [US Supreme Court Justice Louis Brandeis in New State Ice Co. v Liebmann (1932)]