

"Them Who Are Slandered and Humiliated": How Marijuana Arrest Patterns Perpetuate a Racist Criminal Justice System and Shame and Humiliate Minority Youth

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Abstract:

As the nation is engulfed in racial turmoil – aided, abetted and encouraged by the President and his supporters – it is more necessary than ever to look carefully at the criminal justice system in an effort to see which aspects (ones that might appear racially-neutral) contribute to endemic racism in our society, and, as a result cause a disproportionate amount of shame and humiliation among persons already marginalized because of race and economic status.

In this presentation, we will turn our attention to the racist ways that arrests for possession of marijuana are carried out in New York City. We know – there is no serious dispute about this – that, in the past three years, there have been 62,000 marijuana possession arrests in NYC; 86% of these arrests have been of blacks and Latinos, 14% of whites. Each arrest involves an apprehension, a stay in jail (pre-arraignment), life disruption, and, in some cases, a permanent record that could lead to loss of job or deportation.

We are not the first to point this out – see e.g., K. Babe Howell, *Prosecutorial Discretion and the Duty to Seek Justice in an Overburdened Criminal Justice System*, 27 *GEO. J. LEGAL ETHICS* 285 (2014); Wayne A. Logan, *After the Cheering Stopped: Decriminalization and Legalism's Limits*, 24 *CORNELL J.L. & PUB. POL'Y* 319 (2014) – but the issues on which we will be focusing (shame and humiliation) are, by and large, missing from the conversation. We also will be examining the issues in question from the perspective of therapeutic jurisprudence.

Although this is not without controversy, we recommend the legalization of marijuana (as has been done in other states, including Colorado and Washington) as an important prophylactic step. This will in no way neutralize (or reverse) racist attitudes among street police officers, but it will at the least, minimize disrupted (and perhaps ruined) lives of minority youth whose behavior is replicated, without much notice or interference, in economic upper-class neighborhoods throughout the city.