

HOME

By DANIEL STURM

In Japan the sale of hallucinogenic mushrooms was quite legal until recently, a fact which delighted Nathan Thompson of Midland, Mich., during his exchange year abroad in 2001. With pride, Thompson reminisced about how he'd been the supplier of magic mushrooms for everyone on his dormitory floor. "Polish, Romanians, Germans, and French. New Year's was a blast!"

When Japan made magic mushrooms illegal that year, the MSU Asian language major was saddened about the crackdown. But it was back at home in Michigan that he would encounter his first run-in with the police in a drug-related incident.

Just a few weeks after returning from Japan, campus police searched Thompson's dorm room at Central Michigan University and found paraphernalia associated with the use of marijuana. Although neither Thompson nor his roommate was arrested, and no reports were filed, the resident hall director reported the event to university administration, and the two honors students were fined \$180 each, and made to attend a four-hour drug abuse lecture.

Reflecting on this experience, Thompson spoke of his objection to the zero tolerance approach that was enforced. "I was put on academic probation while I was applying for transfer to MSU. This could have ruined my chances." (He was accepted into MSU's Asian Studies program.)

Under Michigan law, marijuana possession is a misdemeanor, punishable with up to 90 days in jail. MSU campus police enforce state law, and Rick Shafer, the associate director of the Judicial Affairs Office at the university, said that at MSU, as is the case on other college campuses, marijuana use is a more serious issue than elsewhere. In 2002 the campus police reported 138 drug law violations. The university took disciplinary

action against 120 of these, including warnings, written reprimands, the termination of housing contracts, and suspensions. Shafer added that most of the drug-related sanctions were related to marijuana, although he declined to give a specific number. And like Nathan Thompson, most of the students had been cited by resident hall assistants, and not by the police.

The Michigan chapter of the National Organization for the Reform of Marijuana Laws (MNORML) would like to see these laws and their enforcement change. They claim that marijuana-related arrests place a heavy burden upon Michigan's criminal justice system.

Resources

Crime Prevention Association of Michigan

Lansing NORML

MSU Judicial Affairs Office

National Organization for the Reform of
Marijuana Laws

Personal Responsibility Amendment Petition Drive

At a discussion organized by MSU's Freethinker Alliance last week, George Sherfield, the president of MNORML, argued that police are already bogged down with administrative work. Michigan's prison population has more than tripled in two decades, from 15,148 in 1980 to 47,718 in 2000, he said and almost one third of state employees work for the prison system. That's \$1.5 billion for more than one sixth of the state's entire general fund budget. Of 4,771 inmates in serving time for violating drug laws, convictions of 382 involved marijuana, the state reported.

Given these statistics, Sherfield argued, Michigan law should devote itself to protecting society from violent criminals, rather than spending large amounts of time and money prosecuting nonviolent offenders.

"It's not our government's business to regulate what you put in your mouth, whether it's food, sex, or drugs," he said to an audience of about 40 people

The Reford (Wayne County) resident said he became involved in the issue of marijuana legalization because he wanted to keep his family away from alcohol and tobacco. "Alcohol killed my father, and tobacco killed my mother," he said. As a consequence of his parents' deaths, Sherfield gave up drinking and looked for a drug that wouldn't harm his health, saying he wished to be a better example to his own children. He says he had a heavy foot when driving but claims that since switching from alcohol to marijuana he hasn't received a single traffic ticket.

Sherfield is one of about 448,000 Michigan residents who have used marijuana, according to a federal study in 2000. The state ranks eighth in marijuana use.

When Sherfield and some other concerned citizens decided to start the Michigan chapter of NORML in 1999, they were only 12 members. Today the nonprofit organization has more than 100 members in eight Michigan counties, including Ingham County.

Legalize Marijuana Campaigns

In 2000, Sherfield and other MNORML members joined in on a statewide petition drive, which called for an end to Michigan's version of the "war on drugs." Titled the Personal Responsibility Amendment, the petition asked for the legalization of marijuana for adult use.

It proposed allowing adults to grow up to three marijuana plants in their home, out of view of minors, and keep up to three ounces for personal use. The petition also asked for the legalization of medical marijuana for adults and children. It suggests drug education and treatment as the best way to prevent abuse.

Undoubtedly, MNORML drew inspiration from an initiative in California, where voters succeeded in legalizing marijuana for medical use statewide in 1996.

In Michigan, however, the petition drive fell 20,000 short of the 300,000 signatures state law requires to put the referendum on the ballot. Saginaw attorney Gregory Schmid, who led the campaign, said that while most petition drives cost millions, their initiative had only had a budget of \$25,000. Still, they'd been able to "make it pretty damn close."

Schmid said the groups who'd run the campaign to legalize marijuana are now picking up the torch for new initiatives on the local level.

Although local initiatives cannot override state law, they can change law enforcement priorities by changing city codes for offenses to make them a low priority misdemeanor, punishable with a fine but no jail sentence. Drug law reform groups involved in this campaign, such as NORML, believe that a concerted statewide effort may make it possible for Michigan marijuana smokers to one day live without the fear of imprisonment.

Schmid said the City of Ann Arbor's charter is the perfect example of a local initiative that worked out well.

In 1974, Ann Arbor voters amended the city charter to create one of the country's most liberal laws for marijuana possession. It set the fine at only \$5. That was increased in 1990 to \$25 for a first offense, \$50 for a

second offense and at least \$100 for further offenses.

Proponents of marijuana's legalization argue that a "ticket law" similar to the one Ann Arbor uses would help to significantly affect police work hours, administration costs and the prison population.

Of course, no city ordinance can turn a crime at the state level into a civil infraction, says Schmid. "What local initiatives can do is lower the priority in order to show that arresting marijuana smokers who keep it to themselves isn't a viable use of city resources," said Schmid, who specializes in criminal law.

East Lansing's drug enforcement policy, which is also more lenient than many in Michigan, punishes minor marijuana offenders with a \$25 fine. This penalty deviates from state law, which calls for a \$100 fine and up to 90 days in jail. Lt. Lance Langdon said that 57 people were cited for marijuana use or possession last year, down from 135 in 2001.

There is no guarantee that first-time offenders can get away with no jail time, because a judge can always decide to enforce state law. "If the city attorney picks it up, it's one thing. If the county prosecutor picks it up, it's another," Schmid said.

For first-time offenders, Michigan enforces statute MCL 333.7411, provided that the amount of marijuana found is small (no set amount). The statute promotes sending small-offense users to drug education programs. Schmid said his own experience is that very few people actually walk away with a conviction, let alone jail time. In order to avoid unpopular and difficult jail sentences, judges often decide to take advantage of the statute and refer people to drug abuse programs. "You have to understand, judges also went to college. It's difficult for them to go down this slippery slope of hypocrisy."

At the same time, a conviction can also ruin a person's career. Schmid recalls the case of a client who got six months in jail for a first-time conviction. "The possession of marijuana is certainly not treated like drunk driving!"

The lawyer said he generally opposes government attempts to regulate drugs by throwing people into jail. "It's a horrible use of resources. Parents should regulate their own children's conduct and be allowed to smoke marijuana as long as they stay away from kids, and from the public." He said most of the 3,000 volunteers who helped collect signatures did not even smoke marijuana themselves. "People who stand up for this are often middle-aged, and they're more concerned about their kids getting in trouble."

Schmid, a Republican who went to law school with former Gov. John Engler,

said that marijuana use has falsely been pigeon-holed as a “liberal” issue. “It’s not! It’s not contrary to the libertarian branch of the Republican Party.” The lawyer characterized his own position as fiscally conservative but socially tolerant.

He said that not many people knew that Engler was one of Michigan’s strongest advocates of decriminalizing marijuana.
Engler Once Led The Charge

In 1982, then-State Sen. Engler led the charge for a Legislative Marijuana Law Reform Initiative, which sought to remedy federal policies that inhibit and prevent state programs from providing marijuana for legitimate medical purposes. Michigan Senate Resolution 473, which was co-sponsored by Engler and sent to the president and Congress, appears to have had little impact upon federal policies. For Schmid, who has a copy of the document on his Web site (www.mayes.com), it is still a source of state pride. A Therapeutic Medical Marijuana Program was also passed by the Michigan Legislature in the late 1970s, but the bill expired in 1987 because the federal government never provided the marijuana that was to be made available to patients.

The most vocal opponent of decriminalization is the Crime Prevention Association of Michigan, founded in 1973 under the leadership of the Michigan State Police and law enforcement officers from several major police departments. They argue that marijuana use can lead to significant health, social, learning and behavioral problems at a crucial time in a young person’s development. “Getting high can also impair judgment, which can lead to risky decisions on issues like sex, criminal activity or riding with someone who is driving while high,” the organization states on its Web site. A spokesman could not be reached for comment.
The Trash & Drug Connection

In late September, U.S. customs inspectors arrested the driver of a Canadian garbage truck in Port Huron after discovering a ton of marijuana concealed beneath the trash he was transporting.

As an initial response to the incident, Michigan legislators expressed outrage and asked Congress to stop the trash shipments from Canada to Michigan. But of course, no one commented that the bizarre incident could have been used to make a case for drug law changes in Michigan. “I think that seems like a good suggestion,” Schmid laughed enthusiastically.

The lawyer says that an even more troublesome connection between hash and trash exists in Michigan. He observes that police officers are beginning to search for residues of drug use in people’s garbage cans. “If they find marijuana residues two weeks in a row, they go and get a warrant, the judge signs it, and it’s perfectly legal.”

It's his experience that Michigan law enforcement officers are using such techniques more than ever before to nab the casual drug dealer. "Many people believe that if they keep it to themselves no one will come and harass them. I used to laugh about this. I don't anymore."

Captain Raymond Hall of Lansing's Police Department said they don't actively target people who smoke marijuana in their homes. "Our enforcement typically focuses on dealers, and we're especially sensitive to drugs dealt on school property." Hall said Lansing police also doesn't tolerate marijuana smoking in public or in cars. He said people caught smoking a marijuana cigarette on a public sidewalk, or in the Lumnus stadium, for example, would be handcuffed and locked up in jail, no matter how much marijuana they have in their possession.

During the first nine months of 2003, Lansing police officers have reported 778 controlled substance violations. Although this is an increase of 12.4 percent from 2002, Hall said crimes linked to marijuana do not represent a troubling issue. "We don't have a sense that this is an epidemic at all."

Smoking Pot - Should it be treated like a traffic violation?

Since 1973, 12 state legislatures —Alaska, California, Colorado, Maine, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio and Oregon - have enacted policies for marijuana decriminalization. In each of these states, marijuana users no longer face jail time, nor arrest or criminal records for the possession or use of small amounts of marijuana (in most cases). Their conduct is treated like a minor traffic violation.

In support of the arguments laid out by Schmid and others in this drug policy fight, many government-commissioned and academic studies published over the past 25 years affirm that liberalizing marijuana penalties does not lead to an increase in marijuana consumption, or affect adolescent attitudes toward drug use.

Despite being seen as a prime supporter of the prohibitionist approach, the United States issued an extremely progressive report on marijuana usage 30 years ago. The 1972 National Commission on Marihuana and Drug Abuse, commissioned by President Richard M. Nixon, and popularly known as the Shafer Report, recommended "possession of marihuana for personal use would no longer be an offense. [...] Casual distribution of small amounts of marihuana for no remuneration, or insignificant remuneration not involving profit would no longer be an offense."

In 1998, the Canadian Centre on Substance Abuse National Working Group on Addictions issued a study, concluding: "The current law prohibiting cannabis possession and trafficking appears to have a very limited deterrent effect, yet entails high social costs and diverts limited police

resources from other pressing needs.”

More recently, Jamaica, Australia, New Zealand, Switzerland, the Netherlands, and Canada have pushed for more lenient legislations geared to decriminalize the use marijuana. Marijuana is sold openly in many Swiss cantons, although not officially. Instead, stores sell “hemp potpourri,” or bags filled with buds, in the open fiction that people will smell but not smoke them. Still, the Netherlands is the only nation in the world where a person can walk into a coffeehouse and purchase pot with a cappuccino. Here, you can get a bag of marijuana to go, or even have it delivered to your door.

Against the objections of the U.S. administration, Canada’s government introduced a bill this May that would end criminal penalties for possession of 15 grams of marijuana, which equals half an ounce, or between 15 to 30 joints. Possession would still be illegal, but offenders would only be ticketed with a fine.

Canadian Prime Minister Jean Chretien even joked about trying marijuana himself. The 69-year old politician said in an interview with the Winnipeg Free Press Oct. 1 that he might give pot a try once it is no longer a criminal offense, presumably after he retires in February.

“Perhaps I will try it when it will no longer be criminal. I will have my money for my fine, and a joint in the other hand,” Chretien said.

He said replacing criminal sentences with simple fines is a more realistic way of punishing marijuana users. “The decriminalization of marijuana is making normal what is the practice,” Chretien said. “It is still illegal, but do you think Canadians want their kids, 18 years old or 17, who smoke marijuana once and get caught by the police, to have a criminal record for the rest of their life?”

In May 2003, an Ontario Superior Court ruled that currently no law exists in Canada banning possession of cannabis. Following the ruling, law enforcement officials heading agencies around Ontario have announced that they will no longer arrest marijuana users and people who possess less than 30 grams of the weed.

This loophole emerged two years ago when Terry Parker, an epileptic who uses marijuana to ease his symptoms, won the right to possess pot in a landmark decision from the Ontario Court of Appeal.

“There’s an interesting momentum in Canada, and in many other nations,” commented Schmid. Okemos resident Robert Baldori, who was Schmid’s Ingham County coordinator during the petition drive, said he finds it most troubling that there is no consistent policy in the United States, particularly in Michigan. “I can’t keep track of all the different

approaches. Nobody can. It's a total waste of taxpayers' resources." The owner of Baldori & Associates said he will whole-heartedly support any new effort for another petition drive.

East Lansing resident Ben Eller, 22, said he's referred several MSU students with drug cases to Baldori. A few weeks ago, Eller started a Lansing chapter of Michigan's National Organization for the Reform of Marijuana Laws. The computer programmer said they hope to quickly gain membership, so that they can assist with any local or statewide initiatives in the future.

Asked about his agenda for the Lansing area, Eller said that Michigan State University is in the center of the local debate. "They say if you're using marijuana we'll take away your education. They're screwing with students' futures. This must stop."

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