

**BOARD OF COUNTY COMMISSIONERS  
LEON COUNTY, FLORIDA  
WORKSHOP MINUTES  
Alternatives to Incarceration for the Possession  
of Small Amounts of Marijuana  
March 22, 2022**

The Leon County Board of County Commissioners met for a Workshop on Alternatives to Incarceration for the Possession of Small Amounts of Marijuana on Tuesday, March 22, 2022, at 9:00 a.m., with Chairman Bill Proctor presiding. Present were Vice-Chair Nick Maddox and Commissioners Brian Welch, Kristin Dozier, Carolyn Cummings, and Rick Minor. Commissioner Jimbo Jackson was not present. Also present were County Administrator Vincent Long, County Attorney Chasity O'Steen, and Clerk to the Board Beryl H. Wood.

Facilitator(s): Alan Rosenzweig, Deputy County Administrator  
Wanda Hunter, Assistant County Administrator  
Teresa Broxton, Director, Office of Intervention and Detention Alternatives  
Andy Johnson, Assistant to the County Administrator  
Walt McNeil, Leon County Sheriff  
Jack Campbell, State Attorney

Chairman Proctor called the meeting to order. He thanked the public for joining and acknowledged State Attorney Jack Campbell and Leon County Sheriff Walt McNeil, along with County Attorney Chasity O'Steen, County Administrator Vince Long, and others. He shared they are prepared to discuss measures that having been trending throughout the State of Florida on public policy matters which they have tried to address before and to come to a resolution.

County Administrator Long gave the introduction for the workshop. He provided an outline and shared that after this workshop there will be two additional workshops, one on Jail Population and a Joint Workshop with the City on the Comprehensive Plan. He stated that, as requested by the Board at its October 12, 2021, regular meeting, this workshop will provide an overview of alternatives to incarceration for the possession of small amounts of marijuana, including alternatives currently utilized in the Second Judicial Circuit. He stated that marijuana use remains illegal under state and federal law. He shared that some counties in Florida have opted to adopt ordinances providing for a civil fine in lieu of a criminal penalty or incarceration. He noted that the State Attorney Offices in those jurisdictions have agreed to use discretion and not prosecute those offenses as criminal violations. He stated that at the present time there is no one currently incarcerated in the Leon County Detention Center Facility for only a misdemeanor marijuana possession charge. He shared it was primarily due to the diversion programs that are in place which are administered by the State Attorney and supported by our local law enforcement partners.

Wanda Hunter, Assistant County Administrator, addressed the Board. She stated they would start by discussing the federal and state laws on marijuana possession of 20 grams or less. She highlighted that, with the exception of medical marijuana at the state level, it is still considered an illegal substance. She then asked the County Attorney to provide a review of the law.

County Attorney O'Steen stated that there are layers of regulations, and at the very top is the federal law on marijuana/cannabis. She shared that under the Controlled Substances Act marijuana/cannabis is a Schedule I controlled substance, and possession of marijuana is a

federal crime, which could result in imprisonment of not more than 1 year and a minimum fine of \$1,000, or both. The penalties escalate with subsequent offenses. Also, federal law preempts state and local law. Under Florida law marijuana is still considered a Schedule I controlled substance, and possession of marijuana is illegal except as authorized for medical use. She noted that hemp is not defined as cannabis under federal or state law. She shared that at the local level some jurisdictions have adopted ordinances that give law enforcement discretion to issue civil citations resulting in fines for use and possession of small amounts of marijuana. She noted that law enforcement and prosecutors retain the ability to exercise their discretion in investigating and prosecuting criminal conduct, and the Board does not have jurisdiction to change that.

Ms. Hunter mentioned the two diversion programs that are in place. She also shared that a review of the detention facility was conducted from 2019 to the present, which indicated that no first-time offenders were detained merely for possession of a small amount of marijuana. She shared the following:

- State Attorney's Diversion Programs
  - Pre-Arrest diversion program
  - Post Arrest diversion program
- Felony Drug Court
- Education Institutions – Student Code of Conduct
- No one was incarcerated on a first-time, stand-alone charge of possession of 20 grams or less of marijuana.

Sheriff McNeil stated that the statute is clear regarding marijuana possession and use. He acknowledged that officers do have discretion and are cognizant of reducing the number of persons incarcerated in the detention facility. However, he also noted that most of the shootings in the County/City have a connection to marijuana, so it can be hard for an officer to make that pivot when on the road facing a particular situation.

State Attorney Campbell stated that since 2019 no one has been incarcerated solely for possession of 20 grams or less of marijuana.

Vice-Chair Maddox stated that he is convinced that the system is not broken. He shared that he appreciated the work of the Sheriff and State Attorney to ensure that the jail is not being filled with people possessing 20 grams or less of marijuana, and that he trusts law enforcement will continue that trend.

Commissioner Cummings acknowledged all that had a hand in today's workshop. She agreed with Vice-Chair Maddox that the Sheriff and State Attorney's Office are doing a great job. She shared that she had worked in the criminal justice system and that the diversion program works. She felt that they were at the point they want to be for not criminalizing individuals for possession of less than 20 grams of marijuana. However, she stated that the distrust in the community for law enforcement is real. She stated that she would support an ordinance if it would help close the gap of mistrust in law enforcement and send a resounding message to the community that we are trying to correct the perception.

Chairman Proctor recalled the war on drugs, how prosecution and arrest have been portrayed, and how it has affected minorities.

Commissioner Welch inquired what the jail situation was prior to 2019 for possession of 20 grams or less of marijuana.

State Attorney Campbell explained that he came into office in 2017 and modified the diversion program. He provided incarceration statistics since 2017, and the numbers have been declining. He also provided diversion statistics since 2019. He stated there were 27 cases in diversion so far this year. He noted that his diversion program is not costing the county any money, as it is run in-house by his office, and is working extraordinarily well.

Commissioner Welch acknowledged that the process is evolving, and the incarceration numbers are going down. He stated that marijuana is a gray area in this country, and more states are legalizing marijuana. He supports the ordinance and feels it codifies a stance that people shouldn't go to jail for possession of 20 grams or less of marijuana.

Chairman Proctor recalled that this generation of students comes from an environment that looks at law enforcement differently.

Commissioner Minor thanked all for taking the time to be at the workshop. He confirmed that in 2017, the State Attorney's Office took over the adult civil citation program and replaced it with the current pre-arrest program. He confirmed that few have taken advantage of the pre-arrest program. He commented that the post-arrest program has been very effective. He stated that adopting the ordinance would add another tool to the current toolbox.

State Attorney Campbell stated that if offered diversion by the officer they always tried to honor it. He shared that if an officer found someone with less than 20 grams of marijuana, they could refer the person to the pre-arrest program. He stated they use the post arrest program more often, and reiterated it is the officer's discretion. He stated that by adding the ordinance now the defendant would be charged with committing 3 crimes instead of two. He reiterated that the officer on the scene would still have discretion based on Florida law.

Sheriff McNeil commented that his office is trying to become more effective with what they have, including looking more at civil citations. He stated that by adding another level of violations via an ordinance, 3 crimes would be committed instead of two. He believes the present civil citation program is a great program and should be utilized more.

State Attorney Campbell noted that he took an oath to follow the law. He stated it is bad policy to treat counties differently. He stated the need for consistency and equality for all of the counties in the circuit he serves. He also shared that the fine for the diversion program is \$100, which is less than the civil citations around the state.

Commissioner Minor commented on the ordinance and reiterated he felt it would offer an additional tool to use.

State Attorney Campbell stated that he will follow his oath and the Constitution to uphold the laws of the State of Florida. He shared that in following the law, he would be as lenient as he can. He felt that marijuana reform is forthcoming.

Commissioner Minor commented on his concerns for children, including the effects of secondhand smoke.

Commissioner Dozier thanked all for the hard work on the agenda item. She stated their job is very difficult and thanked them for their work during the pandemic. She shared her concern for fairness. She commented on drug crimes, such as the tragedy involving the FAMU cheerleader. She noted the cost of medical marijuana cards, how some can get the cards and

some cannot. She asked why some other state attorneys have chosen to work with counties on a marijuana ordinance.

State Attorney Campbell shared that there are single county circuits, such as Pinellas County/Tampa and Palm Beach County, which have more resources, and those counties absorb the cost. He noted that the closest comparison is Alachua County, and the diversion program costs \$200-\$250.

Commissioner Dozier commented on the high cost of diversion programs in general and would like to understand it better. She asked Sheriff McNeil how they could encourage all law enforcement agencies to use diversion programs more effectively and consistently.

Sheriff McNeil responded they have to first realize the nature of the problem. He noted about 80% of the crimes with marijuana are directly related to the Tallahassee Police Department's engagement in that arena. He stated it would take all of them (Sheriff, State Attorney, and Police Chief) having a conversation about the utilization of civil citations and early intervention for those persons using marijuana.

Commissioner Dozier asked State Attorney Campbell if he would be open to the discussion on utilizing civil citations.

State Attorney Campbell noted other agencies have mandates that prohibit the use of pre-arrest programs. He stated he is open to the conversations and pointed out his job is to keep the community safe.

Commissioner Dozier stated they need to have a conversation with the city and others about using the pre-arrest and post-arrest diversion programs.

Vice-Chair Maddox commented on the perception of the community with law enforcement and how they would move forward with fixing the problem in the community. He stated he was not sure about enacting an ordinance that would not really have control. He stated there would have to be buy-in from the Sheriff and State Attorney to move in that direction. He asked County Attorney O'Steen if she would explain the difference between an ordinance versus a resolution.

County Attorney O'Steen replied that an ordinance is legally binding and is on the books, and a resolution is an expression of policy. She stated if they wanted to adopt something that would be forceful, then they would need to adopt an ordinance.

Vice-Chair Maddox commented on moving in the direction of a resolution asking the State Attorney and Sheriff's Office to use a diversion program for possession of 20 grams or less. He asked State Attorney Campbell and Sheriff McNeil if an ordinance was adopted today, would they direct their staffs to enforce that ordinance without discretion.

Sheriff McNeil responded he could not enforce without discretion.

Vice-Chair Maddox stated that given the answer from the Sheriff he would support a resolution. He recalled that Commissioner Dozier brought up good points on diversion and having further discussions. He noted mental health cases and having discussions on dealing with mental health issues. He motioned for a resolution supporting the use of the civil citation program for first time offenders with 20 grams or less of marijuana. The motion was seconded by Commissioner Cummings.

Commissioner Dozier asked if the motion would include Option 1, to accept the report on alternatives to incarceration for the possession of small amounts of marijuana and take no further action. Vice-Chair Maddox responded yes.

Chairman Proctor requested moving forward with the current motion on the table and then moving on to accept the report in a separate motion.

Commissioner Dozier stated the civil citation program is a conversation that needs to happen, and they can work collaboratively. She commented that it could be the Public Safety Coordinating Council (PSCC), the Commission on the Status of Men and Boys, or another vehicle to provide more in-depth conversation about the civil citation, pre-arrest, and post-arrest programs. She noted the programs are going well, but they don't have as many going through the pre-arrest program or post-arrest program. She asked if information on those programs could be brought back to the Commission.

Vice-Chair Maddox commented that Chairman Proctor is Chairman of the PSCC. He felt the conversation would be best starting with the PSCC. He stated he knows the Commission can't tell the Sheriff or State Attorney what to do; however, we can ask them how it is implemented. He stated that he would ask the PSCC to have a conversation with all involved on the topic of civil citations.

*Vice-Chair Maddox moved, seconded by Commissioner Cummings, to adopt a resolution supporting the use of the civil citation program for first time offenders with 20 grams or less of marijuana, with staff monitoring, and if there is an increase, for staff to notify the Board so they can revisit the issue. The motion carried 6-0.*

Chairman Proctor expressed gratitude to all for having the much-needed conversation. He shared if they need to revisit the issue it would definitely be warranted.

**Adjourn:**

There being no further business to come before the Board, the workshop was adjourned at 10:55 a.m.

**LEON COUNTY, FLORIDA**

ATTEST:



A handwritten signature in black ink, appearing to read "Gwendolyn Marshall".

BY: \_\_\_\_\_  
Gwendolyn Marshall, Clerk of Court  
& Comptroller, Leon County, Florida

A handwritten signature in black ink, appearing to read "Bill Proctor".

BY: \_\_\_\_\_  
Bill Proctor, Chairman  
Board of County Commissioners