

Alternative Sanctions for Marijuana Misdemeanants

A preliminary investigation into ticketing for
cannabis possession offenders in Chicago

6/20/2012

Alternative Sanctions (tickets) for Marijuana Misdemeanants – an Overview

Questions and Answers from the Academic Literature

Is there an alternative to criminalization for small amounts of marijuana?

Yes.

Alternative sanctions provide police officers the discretion of ticketing for low-level marijuana possession. The offender would pay the fine and move on, or contest it in court. Possession of marijuana remains an illegal offense. Alternative sanctions simply replace a criminal penalty with a civil penalty. Alternative sanctions are analogous to speeding tickets in that speeding is a violation of the law that results in a ticket and a fine.

Does the implementation of an alternative sanction lead to increased marijuana use?

No.

Researchers have found that alternative sanctions for marijuana possession do not cause an increase in marijuana use in *either current users* or in the *initiation rate of new marijuana users*. Studies examining the link between alternative sanctions and use patterns concluded that there was little or no evidence that alternative sanctions resulted in an increase in marijuana use. In fact, studies found that alternative sanctions have little to no effect on use. In addition, research conducted in countries with decriminalized jurisdictions found no change in marijuana use after alternative sanctions policy changes were enacted. No differences in use were found in decriminalized jurisdictions versus jurisdictions that maintained criminalization policies (Austin, 2005; MacCoun & Reuter, 1999; Miron, 2002; Boyd, 2009; MacCoun and Reuter, 2001; Williams, 2004).

Would alternative sanctions increase marijuana use?

No.

MacCoun, Pacula, Chriqui, Harris, and Reuter (2009) found that citizens were unsure of the penalties associated with marijuana use, regardless of whether they lived in “decriminalized” states or not. This finding suggests that fear over the loss of the “deterrent factor” of criminal sanctions may be exaggerated or unsupported by empirical findings (MacCoun, Pacula, Chriqui, Harris, and Reuter, 2009).

Do alternative sanctions make marijuana more available?

No.

Despite the high cost of maintaining current drug enforcement policies, criminalization had failed to reduce the availability of marijuana. According to one study, the price of high-quality marijuana dropped by 12 percent between the years 1994 and 2003. Despite the risks associated with use, prices fell and availability was not affected (Boyd, 2009).

Alternative sanctions laws do not appear to have any appreciable impact on availability. There is no apparent connection between the trends in use and the trends in perceived availability. While marijuana use remained relatively constant in the first half of the decade and then increased slightly from 1995 to 1997, there was relatively little change in perceived availability, with approximately 60% of Americans reporting that it was "fairly easy" or "very easy" to obtain marijuana throughout the 1990s (Single, Christie, & Ali, 2000).

Don't criminal penalties reduce marijuana use?

No.

The presumed benefit of the criminalization of marijuana is the deterrence of marijuana use. There is, however, little evidence of a strong deterrent effect. Substantial increases in marijuana use occurred in the 1960s and 1970s despite the application of criminal penalties for marijuana possession both in the U.S. and in Australia (Single, Christie, & Ali, 2000). Increased sanctions on the sale of marijuana are not effective in reducing youth drug use. In addition, criminalization of marijuana has not been found to either decrease drug availability or increase drug prices (Chaloupka, Grossman & Tauras, 1999).

Can ordinances be crafted to address potential police implementation issues?

Yes.

The Municipal Code of Chicago includes actions police officers must take when observing certain ordinance violations. For example, under Title 8, Chapter 4, Ordinance 15, the actions a police officer must take when observing an incidence of gang loitering are clearly outlined. The officer must first inform those in violation of the ordinance that they are engaged in gang loitering within an area in which this activity is prohibited. The officer must then order those in violation of the ordinance to disperse and leave the area. Then, the officer must inform those in violation of the ordinance that they will be arrested if they do not obey the order or continue to engage in gang loitering in that area within 8 hours of the order [8-4-015](#). Earlier this year, Superintendent McCarthy issued new orders on gang and narcotics loitering, so it is possible for police to be informed of new developments or clarifications of existing laws.¹ Alternative sanctions for marijuana misdemeanants can likewise be worded in this manner and include specific steps for executing sanctions.

Have alternative sanctions been successfully implemented in Illinois?

Yes.

Over 90 Illinois municipalities have enacted alternative sanctions for marijuana possession. These alternative sanctions have been enacted in area as economically and demographically diverse as Naperville, Chicago Heights, and Springfield. (See Appendix for more information.)

¹ <http://directives.chicagopolice.org/directives/data/a7a57be2-12a5752b-27112-a586-d845218c69a1f912.html?ownapi=1>

Have alternative sanctions for marijuana misdemeanants been successfully implemented in other states?

Yes.

A number of states have enacted civil and fine-based alternative sanctions for marijuana possession including: (Alaska, up to 153 grams in the home); California (28.5 grams); Colorado (170 grams); Connecticut (14 grams); Maine (70 grams); Massachusetts (28.34 grams); Mississippi (30 grams); Nebraska (28.34 grams or less); Nevada (28.34 grams); New York (25 grams); Rhode Island (effective 2013, 28.34 grams).

Chicago Marijuana Ordinance Violation and Municipal Hearings Overview

Municipal Ordinance as Proposed by Alderman Solis on November 2, 2011

Revises Chapter 8-4 (Public Peace and Welfare Offenses) of the Municipal City Code to insert the new section 8-4-365:

- Possession is defined as 10 grams of cannabis or less
- Possession occurs within the limits of the City of Chicago only
- Person violating 8-4-365 subsection will be subject to fine of no more than \$200 AND shall complete 10 hours of community service
- Person issued a notice of violation may request an Administrative Hearing in accordance with the Code

Updated Proposed Amount and Fine Structure (Modification to Introduced Ordinance)²

- Fine structure changed from \$200 to a range of \$100 to \$500
- Possession is defined as 15 grams or less
- No mention of community service

Police Directive for Public Peace Violations³

- Police officer issues a ticket/citation (the Complaint) for a Public Peace Violation that serves as a Notice of Violation for the recipient.
- The ticket/citation includes the date, time, and location of the offense, identity of the person named and details to support the allegation. The ticket should state what the city is asking for (i.e. the fine or fine ranges).

City of Chicago Administrative Hearing Assignment⁴

- Chicago Police Department files a copy of the Notice of Violation (ticket) with the Department of Administrative Hearings for adjudication.
- Some violations are eligible for a pre-pay option. Violations that are eligible for the pre-pay option must be paid within 7 days from the date the violation was issued. The ticket will inform the person named if their violation is eligible for prepayment.

² Please see press release from the City of Chicago 6/15/12 <http://www.cityofchicago.org/dam/city/depts/mayor/Press%20Room/Press%20Releases/2012/June/6.15.12AmendedOrdinanceReducingPenalty.pdf>

³ City of Chicago: Notice of Violation http://www.cityofchicago.org/city/en/depts/ah/supp_info/the_hearing_process/why_was_i_issuedanoticeofviolation.html and City of Chicago Administrative Hearings: How to Prepare fir a Hearing http://www.cityofchicago.org/city/en/depts/ah/supp_info/the_hearing_process/how_to_prepare_forahearing.html

⁴ City of Chicago Administrative Hearings: What to Expect http://www.cityofchicago.org/city/en/depts/ah/supp_info/the_hearing_process/what_to_expect_atahearing.html

- If violation is not eligible for pre-pay option, the person will receive written notice of the administrative hearing day and time. This type of hearing is a civil hearing.
- Police-issued public peace violation tickets are heard by the *Municipal Hearings Division* of the City of Chicago Department of Administrative Hearings.

City of Chicago Administrative Hearing Process⁵

- A hearing officer and the person named will be present and a Police Department representative may be present.
- The City is required to establish their case that a code violation had occurred.
- The hearing officer will render a decision (Liable or Not Liable). If the person named is found liable, the hearing officer must impose the penalties set forth by the Municipal Code of Chicago.
- Liable person is directed to make their payment to the *Chicago Department of Revenue*.

⁵ City of Chicago Administrative Hearings: What to Expect http://www.cityofchicago.org/city/en/depts/ah/supp_info/the_hearing_process/what_to_expect_atahearing.html and Glossary of Terms http://www.cityofchicago.org/city/en/depts/ah/supp_info/glossary_of_terms.html and City of Chicago Administrative Hearings: What Happens After the Hearings http://www.cityofchicago.org/city/en/depts/ah/supp_info/the_hearing_process/what_happens_afterthehearing.html

Alternative Sanctions for Low-Level Marijuana Offenders in Chicago: Benefits and Concerns

Alternative sanctions for low level marijuana users seem to solve a number of issues facing the city. They would potentially: (1) increase public safety by allowing officers to have more time on the street, rather than arresting individuals and processing cases that will later be dismissed; and (2) decrease criminal justice system spending; (3) and possibly increase revenues. Further, research has shown that the use of alternative sanctions for low level marijuana possession do not increase rates of initiation to marijuana use or increase current use among adolescents or adults. However, there are a number of unanswered questions and issues that must be explored to enhance the development of strategic, well-crafted alternative sanctions for low level marijuana offenders.

1. Ordinance Issues

- a. A person found violating the ordinance will be asked to pay a fine. Can community service serve as an option for people that cannot pay the fine and not serve as a requirement for all people violating the ordinance?
- b. Will there be an evaluation component to examine the outcomes following passage (e.g., number of tickets issued, number of tickets paid, number of arrests made, etc.)?
- c. Should there be different sanctions for those under aged 18 (minors)?

2. Police/ Procedural Issues

- a. What is the current level of front line Chicago Police Department (CPD) officer support for this ordinance change?
- b. Will trainings be conducted with CPD front line officers occur prior to/following implementation?
- c. What happens in the event that a person does not have a state-issued photo ID on their person when a ticket is being issued?
- d. How does the police officer know that the amount of cannabis in possession is less than the allowable amount?
- e. Will the confiscated cannabis still have to be sent to the Illinois State Police Crime Lab for testing?
 - a. If no, is there a mechanism by which the individual can state that this is cannabis without an assumption of guilt?
 - b. If yes, what are the costs of crime lab testing?
- f. Will the police issue a general order to determine who receives a ticket and who is arrested for cannabis possession to guide officers?

3. Municipal Hearing Issues

- a. Will there be an option to prepay the ticket to avoid a municipal hearing?
- b. Will there be an option to request a hardship deferment or community service option if the person cannot afford the cost of the fine?

4. Revenue Issues

- a. Will this be a revenue-neutral or revenue-generating violation?
- b. If revenue generating:
 - 1. Where and for what purposes will the revenue funds be directed?
 - 2. Will any entities or departments directly benefit from the revenue?

5. Limiting Unintended Consequences

- a. Will police discretion result in a possible racial, regional, gender or age disproportionality between those receiving tickets and those being arrested and charged with a misdemeanor?
- b. How will the City of Chicago ensure that fewer arrests are made in order to allow for more police on the street?
- c. Will the ticket result in a “perverse incentive” – i.e. will the combined number of arrests and tickets increase?

Appendix A: Illinois Municipalities Enacting Ordinance Violations for Marijuana Misdemeanants

Table 1: Illinois Municipalities, A to C

Municipality	Municipal Ordinance(s)
Aurora	Ord. No. 008-56, § 1, 6-10-08;
Barrington	1973 Code § 15-9 Ord. 95-2578, 11-13-1995 Ord. 11-3620, 2-28-2011 Ord. 09-3530, 7-20-2009
Barrington Hills	Ord. 84-26, 9-24-84
Bartonville	Ord. No. 1492, § 1, 11-9-2006;
Beach Park	Ord. 1993-O-23 § VIII
Beecher	Ord. 649, 6-22-92 Ord. 1087, 2-11-2008
Bensenville	Ord., 11-11-1976
Braidwood	Ord. No. 96-32, §§ 1—3, 10-8-96; Ord. No. 97-34, § 7, 11-11-97
Broadview	Ord. 09-48, 10-19-2009
Burbank	Ord. No. 14-9-79, § 1, 3-14-79; Ord. No. 64-12-06, § 1, 12-20-2006; Ord. No. 7-9-84, § 1, 1-25-84
Calumet City	Ord. No. 07-112, § 2, 10-11-2007
Carbondale	Ord. 2004-15
Carpentersville	Ord. No. 11-23, § 1, 5-17-2011
Champaign	C.B. No. 99-329, § 2, 12-7-99;
Charleston	Ord. 80-O-19, 5-20-1980 Ord. 2002-O-27, 9-17-2002
Chicago Ridge	Code 1978, § 10-3-11(C); Ord. No. 10-03-14, § 5, 3-16-10; Ord. No. 10-04-17, § 3, 4-6-10
Chillicothe	Ord. No. 11-08-15, § 2, 8-8-2011
Countryside	Ord. 10-28-0, 5-26-2010

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Table 2: Illinois Municipalities, D to G

Municipality	Municipal Ordinance
Darien	Ord. 0-12-77, 4-4-1977
Des Plaines	Ord. M-68-94, 10-17-1994; amd. 2002 Code
East Moline	Ord. 82-5, 1-4-1982
	Ord. 83-5, 1-17-1983
East Peoria	Ord. No. 3272, § 2, 3-6-01; Ord. No. 3292, § 74, 7-3-01; Ord. No. 3372, § 1, 6-18-02; Ord. No. 3670, § 1, 3-21-06
Edwardsville	Ord. No. 5781-5-09, § 2(5), 5-4-2009;
Elk Grove Village	Ord. 1256, 10-24-1978
Elmhurst	Ord. 14-2004 § 6; Ord. 06-2009, §§ 1, 2; 3/16/98; Ord. 14-2004 § 7; Ord. 05-2009, § 1
Evanston	Ord. 92-0-08; Ord. 92-0-08; Ord. 14-0-80
Forest Park	Ord. O-36-05, 7-26-2005
Franklin Park	Ord. 7778 MC 10, § 1 Ord. 0708 VC 16, § 1
Glendale Heights	1978 Code § 10-6-2-11; amd. 2011 Code
Glen Ellyn	Ord. 2719, 12-14-1981
Georgetown	Ord. 744 (part), 1998; Ord. No. 861, § 23, 9-21-09; Ord. 746(part), 1998;
Glenview	Code 1959, § 13.63; Code 1959, § 1.13; Ord. No. 4801, §§ 2, 3, 10-6-2005
Glenwood	Ord. No. 2004-01, § IV, 1-20-2004
Granite City	Ord. 3488 § 2, 1978 Ord. 4918 §§ 1—4(part), 1995; Ord. 3488 § 4, 1978 Ord. 7857 § 2, 2005

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Table 3: Illinois Municipalities, H to M

Municipality	Municipal Code(s)
Hanover Park	Code 1975, § 18-102; Ord. No. O-77-1, § 1, 1-20-1977
Hazel Crest	Ord. No. 6-1999, § 1, 4-27-99
Inverness	Ord. 95-553, 12-12-1995
Island Lake	Ord. 355, 10-6-1977 Ord. 1153-01, 12-13-2001
Lake Barrington	Ord. 94-O-18, 8-19-1994
Lake Villa	Ord. 77-6-2, 6-22-1977; amd. 1983 Code Ord. 2007-02-01, 2-14-2007
Lansing	Code 1982, § 20-33; Ord. No. 03-007, §§ 1—4, 4-15-2003 Ord. No. 09-011, §§ 1—4, 6-16-2009
Lebanon	Ord. No. 619, § 1, 11-26-79
LeRoy	Ord. 09-01-02-70, 1-19-2009
Lindenhurst	Ord. 84-8-559, passed 8-27-84; Am. Ord. 96-4-975, passed 4-22-96
Lisle	Ord. 2001-3321, 7-2-2001
Lynwood	Ord. No. 05-18, § 1, 5-24-2005 Code 1985, §§ 1-5, 1-17
Manhattan	Ord. 936, 2-6-2007
Manteno	Ord. 10-08, 8-2-2010
Marquette Heights	Ord. 644, 8-12-2002
McCook	Code 1965, § 9-1-24
McCullom Lake	Ord. No. 408, § 2, 9-28-10
Midlothian	Ord. 1613, 4-27-2005
Monmouth	ILCS 720, Act 550, Part 3 Ord. 02-1108, passed 10-21-02 '97 Code, § 131.99
Mount Prospect	Ord. 2837, 11-21-1978 amd. Ord. 3367, 9-6-1983 Ord. 5189, 5-15-2001

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Table 4: Illinois Municipalities, N to P

Municipality	Municipal Code(s)
New Lenox	Ord. No. 1762, § 2, 5-9-2006; Ord. No. 2192, § 13, 8-22-2011
Niles	Code 1965, § 22-32(b), (c) Ord. No. 2008-11, § 1, 2-27-08 Code 1965, § 1-8; Ord. No. 2010-45, § 1, 6-22-10
Northbrook	Ord. No. 04-5, § 2, 2-10-2004 Ord. No. 01-54, § 2, 6-26-2001; Ord. No. 2011-17, § 2.f., 4-12-2011
Northfield	Ord. 06-1306, 12-5-2006 Ord. 97-915, 10-27-1997; amd. Per correspondence dated 1-29-1999; Ord. 99-997, 9-27-1999; Ord. 99-1002, 10-28-1999; Ord. 00-1016, 3-20-2000; Ord. 01-1070, 7-16-2001; Ord. 01-1078, 9-24-2001; Ord. 02-1122, 8-19-2002
North Lake	Ord. O-10-80, 5-13-1980; 1992 Code
North Perkin	Ord. 298, 3-13-1978; Ord. 374, 7-12-1982; and. Ord. 817, 5-14-2007
Oak Brook	Ord. G-577, 10-22-1996
Oak Lawn	Ord. 05-15-46
Oregon	Ord. No. 1093, 8-12-96 Ord. No. 1055, 7-11-94
Plainfield	Ord. No. 1097, § 5-3, 1-20-86 Ord. No. 1643, § 1, 12-18-95 Ord. No. 1654, § 1, 2-5-96
Prospect Heights	Ord. 0-93-32, 8-2-1993; Ord. 0-97-77, 12-15-1997, eff. 1-1-1998

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Table 4: Illinois Municipalities, R to S

Municipality	Municipal Code(s)
Rantoul	Code 1977, § 1.5; Ord. No. 2098, § 1(1.5), 6-12-2007 Code 1977, § 1.22; Ord. No. 2098, § 1(1.22), 6-12-2007; Ord. No. 2157, 8-12-2008
River Forest	1981 Code
Riverside	Ord. 1299, 12-20-1976; Ord. 2154, 6-3-1996; Ord. 2154, 6-3-1996
Riverwoods	Ord. 02-3-7, 3-5-2002; amd. Ord. 02-12-03, 12-3-2002
Roselle	Ord. No. 2153-92, § 1, 3-23-92
Round Lake	Ord. 06-O-62 § 2
	Ord. 06-O-62 § 3
Round Lake Beach	Ord. No. 78-9-29, 9-26-1978; Ord. No. 00-08-04, 8-14-2000
Silvis	Ord. No. 2003-09, § 18, 6-3-2003
South Barrington	Ord. 2007-830, 9-13-2007
South Beloit	Ord. No. 1685, §§ 1—3, 11-1-2004
South Holland	Ord. No. 99-15, 7-19-99
Springfield	Ord. No. 90-02-09, § 1, 2-3-09; Ord. No. 230-06-10, § 1, 6-1-10 Ord. No. 90-02-09, § 1, 2-3-09 Ord. No. 597-10-04, § 1, 10-19-04; Ord. No. 90-02-09, § 1, 2-3-09
Steger	Ord. No. 984, § 2, 8-17-09
Stickney	Code 1981, § 16-24; Ord. No. 2009-28, § 2, 11-18-2009
Streamwood	Ord. 2010-15, 8-5-2010
Sugar Grove	Ord. 228, 11-9-1976; Ord. 615, 3-6-1995; amd. 1998 Code; 1998 Code
Sycamore	Ord. 97.77, 5-11-1998; amd. Ord. 2005.78, 1-3-2006; 1994 Code

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Table 5: Illinois Municipalities, U to Z

Municipality	Municipal Code(s)
Urbana	Ord. No. 2008-09-103, § 1, 10-6-08;
University Park	Ord. 366. Passed 8-9-77. Ord. 372. Passed 9-13-77
Vernon Hills	Code 1982, § 14-1 Code 1982, § 1-11; Ord. No. 2004-06, § I, 1-20-04; Ord. No. 2004-28, § I, 4-6-04
Village Park	Ord. No. 1791, §§ 1—3, 5-15-78 Ord. No. 905, § 1, 9-8-64; Ord. No. 3387, § 2, 9-25-06; Ord. No. 3644, § 2, 2-28-11
Wadsworth	Ord. 2004-653, 3-2-2004
Warrenville	Ord. 2192, 2-7-2005
West Chicago	Ord. No. 1442, § 1, 10-15-79; Ord. No. 05-O-0097, § 4, 12-5-2005
Wheeling	Ord. 2301 § M (part), 1986
Willowbrook	Ord. 79-0-11, 3-26-79; amd. Ord. 80-01, 1-14-80; Ord. 82-O-18, 3-22-1982; amd. Ord. 95-O-17, 11-13-1995 Ord. 09-O-17, 6-8-2009 Ord. 96-O-02, 3-25-1996; amd. Ord. 96-O-05, 4-8-1996 Ord. 82-O-54, 10-11-1982
Woodridge	1976 Code §10-17; amd. 1991 Code; 1976 Code §1-8; amd. 1991 Code; Ord. 96-26, 6-13-1996
Yorkville	Ord. 2009-02, 1-13-2009; Ord. 2008-74, 8-26-2008
Zion	Ord. No. 79-0-20, § 1, 5-15-79; Code 1969, § 18-65 Ord. No. 79-0-20, § 1, 5-15-79; Code 1969, § 18-66 Ord. No. 79-0-20, § 1, 5-15-79; Code 1969, § 18-67 Ord. No. 79-0-20, § 1, 5-15-79; Code 1969, § 18-68

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