



Written by [Jack Kenny](#) on September 25, 2009

Pot Smokers Challenge Law in NH

While American taxpayers spend billions on efforts to stamp out opium crops in Afghanistan, coca plants in Colombia, and all manner of illegal drugs here at home, police in Keene, New Hampshire, this week have been quietly observing groups of marijuana rights advocates lighting up their illegal joints in the downtown Central Square without making any arrests.



The pot smokers have been gathering and lighting up at precisely 4:20 p.m., a time they chose, they said, because 420 is the code number police use for marijuana. The crowd in the square grew to about 75 yesterday after an article about the demonstrations appeared on the front page of yesterday's *New Hampshire Union Leader*. Not all present were smoking the illegal substance, however. Some came just to express support for those opposing marijuana laws. Police stood outside the square and observed the goings on but did not intervene.

Last week the Keene City Council voted in favor of a resolution calling on the state Legislature to decriminalize small amounts of marijuana. But two of the councilors in the 9-5 majority later said they were confused about the meaning of the resolution and wanted to change their vote. A motion to reconsider is expected at next week's meeting. Since the resolution would have no legal effect, some members argued that the council should stick to issues within its control. Yet the councilors also considered and narrowly defeated a resolution calling for legalization of medical use of marijuana. Both houses of the state legislature this spring passed a bill legalizing medical marijuana, but Governor John Lynch vetoed the measure. A bill to decriminalize possession of a quarter ounce or less of marijuana was passed by the New Hampshire House last year, but was defeated in the state Senate.

The resolution in Keene was recommended by Frederick Parsells, a retired city police officer and former member of the city council. Parsells said reducing possession from a criminal violation to a misdemeanor, punishable by a fine, would spare young first-time users the burden of a criminal record for "a moment's indiscretion." Other police officers, current and former, along with retired and active judges and others in law enforcement around the country, have come out publicly for the legalization and regulation of all drugs. Members of an organization called Law Enforcement Against Drugs, or LEAP, argue that the national and international War on Drugs has had much the same result as the Prohibition of alcohol did in America in the 1920s and 30s. It is costing billions of dollars to enforce laws they say creates an underworld industry that spawns violent crime.



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"Ending Prohibition saved lives because it took gangsters out of the game," former Baltimore, Maryland police officers and current LEAP members Peter Moskos and Neill Franklin wrote in a recent *Washington Post* op-ed article. "Regulated alcohol doesn't work perfectly, but it works well enough. Prescription drugs are regulated, and while there is a huge problem with abuse, at least a system of distribution involving doctors and pharmacists works without violence and high-volume incarceration. Regulating drugs would work similarly: not a cure-all, but a vast improvement on the status quo."

But whatever people may have to say about it through their city councils and state representatives, federal laws prohibiting possession of marijuana and other drugs are not apt to be changed anytime soon. Even in states that have legalized marijuana for medical use, federal agents continued to enforce the ban until February of this year, when Attorney General Eric Holder announced the Drug Enforcement Agency would no longer raid state-approved medical marijuana dispensaries. Otherwise, the federal War on Drugs goes on as before. As *Reason* magazine senior editor Brian Doherty wrote:

"The Drug War tends to be a quiet public policy matter, of interest only to what more sophisticated and jaded policy folk can write off as boring fanatics and aggrieved family members. It is rarely at the top of any politician's concerns —neither party, after all, can score points against the other on the matter."

One issue rarely raised in public policy debates over drug laws is the question of where Congress found the authority to write our drug laws. The United States had no federal drug policy prior to the Narcotics Act of 1914. A few years later a constitutional amendment was passed to ban the manufacture and sale of alcohol. If the prohibition of alcohol required a constitutional amendment, why was an amendment not required for the prohibition of drugs?

"We simply urge the federal government to retreat," wrote Moskos and Franklin. "Let cities and states (and, while we're at it, other countries) decide their own drug policies. Many would continue prohibition, but some would try something new. California and its medical marijuana dispensaries provide a good working example, warts and all, that legalized drug distribution does not cause the sky to fall."



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