



BRAINTREE POLICE DEPARTMENT

Policy and Procedure

MARIJUANA POLICY

2018-14

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Chief Mark Dubois

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All Braintree Police Department employees are reminded that this Department has a rule prohibiting criminal misconduct, and that includes the use or possession of marijuana. Regardless of what Massachusetts voters have done to "legalize" the use and possession of certain amounts of marijuana for recreational or "medical" purposes, marijuana remains a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. § 812(b)(1) whose use, sale, and possession are federal crimes.

Moreover, any involvement by a police officer as a "caretaker" under the Massachusetts law permitting the use and possession of "medical" marijuana, or as a participant in the medical or recreational marijuana business, amounts to conduct unbecoming a police officer.

State laws allowing marijuana use do not protect Department members against employment-related sanctions. Similarly, employees using marijuana for "medical" reasons are not protected from sanctions under the Americans with Disabilities Act (ADA) or the Commonwealth's disability discrimination laws requiring reasonable accommodation of disabling medical conditions. Section 7 of the citizens' petition adopted in November 2012 states in paragraph (D):

Nothing in this law requires any accommodation of any on-site medical use of marijuana in any place of employment, school bus or on school grounds, in any youth center, in any correctional facility, or of smoking medical marijuana in any public place.

Furthermore, the new law, G.L. c. 94G, § 2(e) provides that:

This chapter shall not require an employer to permit or accommodate conduct otherwise allowed by this chapter in the workplace and shall not affect the authority of employers to enact and enforce workplace policies restricting the consumption of marijuana by employees.

Of additional interest to police officers are the restrictions against purchasing or even possessing firearms and ammunition. In particular, 18 U.S.C. § 922 (g)(3). This rationale similarly applies to state laws authorizing recreational use of marijuana. As a result, under federal law, a person may not possess or purchase a firearm or ammunition if the person uses marijuana under Massachusetts law for any reason.

Naturally, one of the essential job functions of a police officer is to lawfully possess and use a firearm and ammunition. This department cannot allow an officer to work if we become aware that such person is prohibited by federal law from carrying out such an essential job function. This can be a legitimate basis for their termination. It is highly questionable as to how a Police Department could be legally justified in issuing a firearm or ammunition to a known user of marijuana for any reason without violating federal law.

For all of the foregoing reasons, it is the policy of the Braintree Police Department that all Department personnel are prohibited from using or possessing marijuana, regardless of the laws with respect to marijuana possession and usage in Massachusetts.