



Austin Texas Voters Decriminalize Marijuana and Ban No-Knock Warrants

Description

AUSTIN, Texas (May 16, 2022) – Austin voters overwhelmingly approved a ballot measure ending local enforcement of low-level marijuana offenses and banning no-knock warrants.

Under [Proposition A](#), the Austin police “shall not issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses.” In effect, the measure decriminalizes possession of fewer than 4 ounces of cannabis. The new policy will allow police to confiscate marijuana. They can also pursue criminal charges if they can establish “a felony-level narcotics case.”

Proposition A builds on a previous reform passed by the Austin City Council in 2020 prohibiting city funds from being used on resource lab testing for low-level marijuana possession. The lack of ability to test created the de-facto decriminalization of marijuana. Passage of Proposition A formalizes and codifies cannabis decrim.

The new ordinance also imposes a blanket ban on no-knock warrants. Under the policy, police will have to announce themselves before entering any premises to serve a warrant in all situations.

Austin voters approved the measure by an 85 to 15 percent margin.

EFFECT ON FEDERAL PROHIBITION

Under the federal Controlled Substances Act (CSA) passed in 1970, the federal government maintains a complete prohibition of marijuana. Of course, the federal government lacks any constitutional authority to ban or regulate cannabis within the borders of a state, despite the opinion of the politically connected lawyers on the Supreme Court. If you doubt this, ask yourself why it took a constitutional amendment to institute federal alcohol prohibition.

The decriminalization of the possession of small amounts of marijuana effectively removes a small layer of laws. This is significant because FBI statistics show that law enforcement makes approximately 99 of 100 marijuana arrests under state, not federal law. When states stop enforcing marijuana laws, they sweep away most of the basis for 99 percent of marijuana arrests.

Furthermore, figures indicate it would take 40 percent of the DEA's yearly budget just to investigate and raid all of the dispensaries in Los Angeles – a single city in a single state. That doesn't include the cost of prosecution. The lesson? The feds lack the resources to enforce marijuana prohibition without state assistance.

A GROWING MOVEMENT

Colorado, Washington state, Oregon and Alaska were the first states to legalize recreational cannabis, and California, Nevada, Maine and Massachusetts joined them after ballot initiatives in favor of legalization passed in November 2016. Michigan followed suit when [voters legalized cannabis for general use](#) in 2018. Vermont [became the first state](#) to legalize marijuana through a legislative act in 2018. [Illinois followed suit](#) in 2019. New Jersey, Montana and Arizona all [legalized recreational marijuana through ballot measures](#) in the 2020 election. Earlier this year, [New York](#), [New Mexico](#), [Virginia](#) and [Connecticut](#) legalized marijuana through legislative action.

With 37 states allowing cannabis for medical use, and 18 legalizing for adult recreational use, the feds find themselves in a position where they simply can't enforce prohibition anymore.

The lesson here is pretty straightforward. When enough people say, 'No!' to the federal government, and enough states pass laws backing those people up, there's not much the feds can do to shove their so-called laws, regulations, or mandates down our throats.

NO-KNOCK WARRANTS

The ban on no-knock warrants takes a step toward effectively nullifying and making irrelevant several Supreme Court opinions that give police across the U.S. legal cover for conducting no-knock raids.

In the 1995 case [Wilson v. Arkansas](#), the Supreme Court established that police must peacefully knock, announce their presence, and allow time for the occupants to open the door before entering a home to serve a warrant. But the Court allowed for "exigent circumstance" exceptions if police fear violence, if the suspect is a flight risk, or if officers fear the suspect will destroy evidence.

As journalist [Radley Balko notes](#), police utilized this exception to the fullest extent, "simply declaring in search warrant affidavits that *all* drug dealers are a threat to dispose of evidence, flee or assault the officers at the door."

The SCOTUS eliminated this blanket exception in [Richards v. Wisconsin](#) (1997) requiring police to show why a specific individual is a threat to dispose of evidence, commit an act of violence or flee from police. But even with the opinion, the bar for obtaining a no-knock warrant remains low.

"In order to justify a 'no-knock' entry, the police must have a **reasonable suspicion** that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence." [Emphasis added]

Reasonable suspicion is an extremely low legal bar to meet. Through this exception, police can justify no-knock entry on any warrant application. In effect, the parameters in the SCOTUS ruling make no-

knock the norm instead of the exception.

A third Supreme Court ruling effectively eliminated the consequences for violating the “knock and announce” requirement even without a no-knock warrant. In [Hudson v. Michigan](#) (2006), the High Court held that evidence seized in violation of knock and announce was not subject to the exclusionary rule. In other words, police could still use the evidence in court even though they technically gathered it illegally.

Significantly, were it not for the dubious “[incorporation doctrine](#)” made up by the Supreme Court based on the 14th Amendment that purportedly empowers the federal government to apply the Bill of Rights to the states, these cases would have never gone to federal court and we wouldn’t have these blanket rules.

Without specific restrictions from the state, police officers generally operate within the parameters set by the High Court. By passing restrictions on no-knock warrants, states and localities set standards that go beyond the Supreme Court limits and in effect, nullify the SCOTUS opinion.

Source: [Tenth Amendment Center](#)

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1. Freedom-Free speech-Resistance & H-rights
2. Main
3. Politics-Geopolitics-Gov.-Events

Date Created

05/17/2022