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**ASJ Responds to the Linn County Marijuana Diversion Program**

Let's not make the same mistake twice: Local government must prioritize the voices of community groups in programs that affect them most

On Monday December 28, 2020 Linn County Attorney Jerry Vander Sanden released a plan for a Marijuana Diversion Program. This policy has implicitly acknowledged the problematic nature of drug laws in Iowa. However, it has not explicitly acknowledged the racial disparities in our jails and prisons, and how many of those disparities are directly linked to marijuana policy specifically. According to the ACLU, Black people are 10 times more likely to be arrested for marijuana use as compared to their white counterparts, even though both groups have similar rates of usage. The failure to acknowledge and rectify this basic fact in the stated goals of the new policy indicates either a vast deficit in understanding of the underlying issues facing communities of color or blind disregard.

Studies by Duffelmeyer et al. 2017 found that in Linn County, Black people make up only 4.8% of the population but are 25 times more likely to be cited rather than warned during traffic stops. Additionally, Black people comprise 4% of Iowa's population, but make up 25% of those incarcerated (Schlesselman & Rossi, June 3, 2020). Given that communities of color are historically overpoliced and unfairly punished, resulting in a criminal record that would disqualify them for this onerous program, Mr. Vander Sanden has essentially created a get-out-of-jail free card for white individuals with no criminal record.

Linn County Supervisor Stacey Walker implored Mr. Vander Sanden to reach out to leaders in underrepresented communities and other legal experts with more knowledge on the development of diversion programs, but Mr. Vander Sander neglected to do so even out of professional courtesy. The recommended groups were NAACP, LULAC, Iowa Legal Aid, the ACLU and organizations affiliated with the Black Liberation Movement. Further, Mr. Vander Sanden failed to guarantee the meaningful participation of the aforementioned groups in an official review of the program.

"It is my hope that Mr. Vander Sanden will reconsider the rollout of this program, and include other perspectives," said Supervisor Walker. "There is no harm in taking an inclusive approach. In fact our community only stands to benefit from doing so."

The memorandum draft released by Mr. Vander Sanden's office the day before Christmas Eve was also devoid of many details including how the program would operate, who would administer the program, and whether there would be ongoing support for defendants throughout the duration of the program to ensure successful completion. In addition, the

program places the burden of paying all fines and fees associated with it onto the defendant. Data collected by the U.S. Commission on Civil Rights show that this would disproportionately target low-income defendants given a lack of financial resiliency. Iowa imposes a 35% surcharge on criminal penalties and Black men with low levels of education, employment, and wealth are more likely to be in the criminal justice system, making it even more likely that this proposed program will negatively impact Black communities.

“While the Advocates for Social Justice recognize the need for a program that limits and prevents individuals from having their lives destroyed from minor marijuana offenses, the process from which this program was created lacks the critical perspectives and expertise from communities of color required for a truly effective marijuana diversion program. Additionally, it is representative of an all too common trend of governments creating policies without inclusion of those that stand to lose the most,” said ASJ co-founder, Tamara Marcus.

Had Mr. Vander Sanden worked with local racial-justice focused groups recommended to him, the gaps and systemic prejudices within the proposed program described above could have been identified sooner, resulting in a stronger and more successful program. ASJ has been working with City staff on drafting the ordinance for the Citizen Review Board since July, a process that should serve as a model for how local governments should create policies and programs that affect specific groups disproportionately. ASJ is willing to work with the Linn County Attorney's Office to create a marijuana diversion program that takes into consideration the nuances of race in marijuana policy, or to help facilitate connections to other groups capable of doing so. Let's learn from our mistakes, as well as our successes. Now is the time to empower those that stand to lose the most from programs that are meant to uplift. We must put these voices at the forefront of policy ideation, and create fair and equitable programs together.