



City of Emeryville

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OFFICE OF THE CITY COUNCIL

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February 21, 2018

The Honorable Nancy E. O'Malley
Alameda County District Attorney's Office
1225 Fallon Street, Suite 900
Oakland, CA 94612

Re: Retroactive Application of Proposition 64 to Eligible Sentences

Dear Ms. O'Malley:

The Emeryville City Council urges you to retroactively apply Proposition 64's legalization of marijuana possession and recreational usage to previous misdemeanor and felony convictions handed down in Alameda County. We acknowledge that the Proposition provides reduction or dismissal upon a petition filed by a convicted individual, however, that places the burden of correcting the record on individuals who have been harmed by outdated laws and the War on Drugs. We ask you to proactively review cases that allow for a reduction or dismissal of the sentence under Proposition 64. We additionally ask that individuals convicted of cannabis-related crimes are pro-actively and adequately informed of Prop 64's potential effect on their sentencing, so that they may advocate for themselves effectively.

The office of San Francisco's District Attorney has already pledged to take this step, noting that "Health and Safety Code Section 11361.8 creates a presumption that a person applying for a dismissal, resentencing or redesignation to a misdemeanor has satisfied the criteria for dismissal, resentencing or redesignation unless the party opposing the application proves otherwise by clear and convincing evidence. The application may be granted without a hearing. If the person applying for resentencing or dismissal is currently serving their sentence, the court shall grant the petition unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety." We hope that your office will join our neighbors across the bay in helping restore justice to those harmed by the War on Drugs.

Data from the California Department of Justice shows that "between 2006 and 2015, there were nearly half a million marijuana arrests in California". According to the Drug Policy Alliance, only 4,885 Californians have petitioned state courts to have their cannabis convictions expunged since the initiative's passage - the process is clearly cumbersome for those who have these convictions on their records. Latino and African American

communities have been disproportionately subject to arrest and conviction and the review and dismissal of these sentences is the first step in addressing that inequity.

Many cities in Alameda County will be experiencing an increase in tax revenue and community benefits generated by businesses legalized by Proposition 64. It is unconscionable for us to extract financial gain without addressing the deep inequity created by the War on Drugs. We ask your office to take this step towards justice by retroactively applying Prop 64 to eligible sentences.

Thank you for your consideration of this important matter.

Sincerely,

John J. Bauters, Mayor
City of Emeryville

DRAFT