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August 30, 2018

- I. Attorney General Issues Guidance to Prosecutors on Municipal Marijuana Prosecutions.
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I. Attorney General Issues Guidance to Prosecutors on Municipal Marijuana Prosecutions.

On Wednesday, NJ Attorney General Gurbir Grewal issued a [Memorandum of Guidance](#) regarding “Municipal Prosecutors’ Discretion in Prosecuting Marijuana and Other Criminal Offenses.”

Addressing the question of whether municipal prosecutors can implement a categorical policy of “marijuana decriminalization,” AG Grewal stated, “The adoption of such a policy or practice would be an abuse of discretion and is therefore prohibited.”

Regarding the exercise of prosecutorial discretion, during the process of prosecution, the memorandum states that, “... prosecutors must be mindful of the need to consider the particular facts and applicable law in each individual case; to justify their decisions to the courts; to make a record that permits review for arbitrariness or discrimination; and to adhere to applicable rules of professional conduct.”

Citing the Legislature’s power to enact, amend, or repeal State law, the need for uniform enforcement throughout the State, and pertinent Case Law, the AG stated, “Municipal prosecutors therefore have discretion in appropriate cases to recommend that the court accept a plea to a lesser or other offense, *N.J.S.A. 2B:25-11*, to move to amend an original charge, *N.J.S.A. 2B:25-5(c)*; *N.J.S.A. 2B:25-12*, and to request dismissal of a charge, *N.J.S.A. 2B:25-5(c)*. In exercising their discretion, municipal prosecutors must adhere: to constitutional, statutory, and ethical restrictions; to rules, guidance, and decisional law adopted by the Judiciary; and to supervisory instructions of the County Prosecutor and the Attorney General.”

AG Grewal stressed that when making the determination on whether to recommend

amending or dismissing a complaint, municipal prosecutors should consider the, “impact of adverse collateral consequences of a conviction based on the specific circumstances or factors presented by the defendant or elicited by the court.” The AG then listed certain circumstances that should be considered, such as: the age of the defendant, the nature and circumstance of the offense and arrest, and adverse employment, immigration, or educational consequences, along other social justice concerns.

Finally, AG Grewal noted the availability of diversionary treatment option, which municipal prosecutors are free to recommend. He noted that cases arising in different jurisdictions can, at the defendant’s request, be consolidated in order to allow the defendant to qualify for such programs.

Annette DePalma, President of the New Jersey State Municipal Prosecutors Association and Maplewood Municipal Prosecutor, served on the working group, which the Attorney General convened to assist in the development of these guidelines.

The full [text of the memorandum](#) can be found online at the Attorney General’s website under OAG News.

Contact: Frank Marshall, Esq., League Staff Attorney, FMarshall@njslom.org, 609-695-3481, x137.

II. Energy Project Grants Available

Sustainable Jersey is pleased to announce it has once again partnered with the Gardinier Environmental Fund to offer grants to municipalities and school districts for energy-related projects focused on conservation, efficiency, and renewable energy. This cycle will award: two (2) \$30,000 grants and nine (9) \$10,000 grants.

Applications are due Wednesday, October 31 at 11:59 p.m. An informational webinar will be held Monday, September 10, from 3:00 p.m. – 4:00 p.m.

For more information, including the link to register for the webinar, please visit [Sustainable Jersey’s website](#).

All questions can be directed to Kaitlyn Vollmer at grants@sustainablejersey.com, 609-771-3189.



New Jersey State League of Municipalities

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