High Standards? Reassessing the Use of Marijuana Standards to Screen Police Recruits in Maryland

By Nate Loewentheil

Executive Summary

Over the past 15 years, the Baltimore Police Department has struggled to hire enough qualified police officers. One result is the Department's reliance on overtime, which drives up costs, drives down morale, and weakens overall agency performance. Despite a recent uptick in recruitment, the Baltimore Police Department still must grapple with a tight labor market, competitive regional police agencies, a slow and antiquated application process, and a damaged public reputation. The Department faces another barrier over which it has no control and that has a major impact on its ability to hire: statewide police hiring standards that automatically disqualify any applicant who has used marijuana in the past three years. During the first six months of 2017, for example, the state marijuana standard automatically and immediately disqualified 7 percent of all candidates, and 8 percent of African-American applicants.

Across the United States, only seven states set police hiring standards related to drug use at the state level, and of those, Maryland's three-year standard is tied with one other as the strictest. In the states that delegate drug standards to individual police departments, cities have generally opted for more lenient standards. In fact, many cities have eliminated predetermined standards for marijuana altogether, instead relying on holistic evaluations that place drug use in the context of a broader examination of a candidate's physical and psychological fitness.

This shift reflects a growing realization of a simple fact: Marijuana hiring standards don't work.

Heavy marijuana use can have major impacts on individuals, and police departments are understandably wary of hiring officers who use the drug regularly. But there is little evidence that a history of light marijuana use itself directly impacts police officer performance. Although marijuana use does often correlate with use of other drugs, police departments can rely on their overall screening process to eliminate candidates with a history of harder drug use rather than automatically disqualifying candidates who have only used marijuana.

With little evidence tying marijuana use to police performance, public officials typically justify marijuana standards in terms of community norms. But Baltimore and Maryland residents have grown increasingly tolerant of marijuana, as reflected in regular polls. Today in Maryland more than 50 percent of residents support the legalization of marijuana, and 70 percent of Maryland residents support decriminalization of marijuana use and possession. These numbers are in line with national trends.

This report recommends that the Maryland Police Standards and Training Commission eliminate its marijuana standard, giving individual city and county agencies in Maryland the power to set their own standards as they see fit. Rather than using a strict standard here in Baltimore, the Police Department should employ a holistic evaluation that weighs any history of marijuana use in the context of a candidate's broader life history and experience.

Introduction

The Baltimore Police Department's (BPD) sworn force is at the lowest level in 15 years. Just over the past five years, the force is down roughly 16 percent.[1] The reduction in force reflects budget decisions by the city and negotiations with the police union, the Fraternal Order of Police. But it also reflects a sustained challenge to recruit and retain enough officers. The Police Department consistently lost more officers to attrition than it has been able to hire. As the Police Department's total number of officers has dropped, the city has frozen available funding for unfilled police positions to pay for other budget priorities. This means there are more officer positions that are authorized but not funded. Today, roughly 5 percent of funded positions are open but a full 12 percent of authorized positions are unfilled.[2] Understaffing has increased overtime demands, driven up unpopular overtime costs, driven down performance, and lowered morale.

Even with a recent increase in recruitment, the Police Department's recruiting efforts face a number of headwinds. They must compete in a tight regional labor market against other police and law enforcement agencies; the Department as a whole has suffered major reputational damage that may discourage qualified applicants; and although the Department has made recent progress, the application process remains slow relative to the private sector. And there is another road block for police recruiting that can be easily fixed. Under current statewide regulations set by the Maryland Police Standards and Training Commission, candidates who have used marijuana in the previous three years are automatically barred from joining any Maryland police force. (An applicant's history of marijuana use is determined on the basis of an interview or written questionnaire conducted as part of the hiring process, sometime in conjunction with a background investigation or polygraph).

Marijuana standards for police hiring are generally justified on the basis of community norms and a related concern about the optics of having police officers with a history of drug use. They are also justified on the basis that marijuana use correlates with other potentially problematic drug or criminal behaviors.

However, these arguments are flawed when it comes to marijuana hiring standards in Maryland. From a community values perspective, the standard does not fit with the state's evolving public sentiment, which has moved toward broad tolerance. The trends in Maryland are in line with broader national trends. Nationally, public support for marijuana legalization is at an all-time high; currently, eight states and the District of Columbia have legalized recreational use for adults.[3] There also are no data—at least publicly available data—that correlate prior marijuana use with police officer performance. The Baltimore Police Department should be screening for the problematic behaviors themselves—not using an indirect indicator like marijuana use.

Shifting norms and a re-evaluation of the impacts of marijuana on individuals have led to more lenient standards for prior marijuana use at police departments from Idaho to Seattle to Charlotte. Some cities, like Los Angeles, have given up fixed standards altogether and adopted a more holistic evaluation that places marijuana use in the context of a broader drug and personal history.

There is also some evidence that the marijuana standard has a disproportional impact on African-American applicants at the Baltimore Police Department, and eliminating the standard might help expand the diversity of the force.[4] This report recommends that the Maryland Police Standards and Training Commission eliminate the marijuana standard altogether. This would give individual police departments around the state flexibility to determine their own standards as they see fit.

Although heavy use should still weigh in overall candidate evaluation, the Baltimore Police Department should not have any predetermined standard for marijuana use because the elimination of these standards would expand the pool of applicants.

The report proceeds in five parts. First, recruitment challenges at the Baltimore Police Department and the need to expand recruitment are discussed. Second, data based on a national survey of states and cities are presented to show that Maryland's rules are as strict as any in the country. This builds on previous survey work showing that states and cities are shifting toward more moderate rules. Then, public opinion data on marijuana are examined, followed by an evaluation of arguments for the marijuana standard. Finally, recommendations are elaborated upon in the conclusion.

Recruitment Challenges at the Baltimore Police Department

Over the past five years, the police department has fallen from roughly 3,000 sworn officers to 2,500, a decrease of 16 percent.[5] And that's down from a peak in 2002 of 3,278 officers.

Part of the decrease in the sworn force reflects decisions by Baltimore City leaders to eliminate positions at the Police Department as well as negotiations between the Baltimore Police Department and the Fraternal Order of Police to reduce the overall size of the force.

But the BPD also faces a chronic struggle to match recruitment to attrition. Over the past 15 years, the Police Department has lost an average of 238 officers per year to attrition. In only one of those 15 years has the Department hired more officers than it lost. Since 2011, the gap has widened as applications and hiring have declined. From 2011 to 2016, applications dropped roughly 50 percent.[6] Hiring dropped in tandem, from 202 officers in 2011 to 111 in 2016.[7]

The gap between attrition and hiring has led to consistent personnel shortages. Over time, the Baltimore City government has frozen the funding for positions that were not being filled. In other words, although the police force appears to be only 5% under force today, funded positions have been consistently cut as the actual force has declined.

Figure 1: Baltimore Police Department Sworn Force, 2000 to 2017
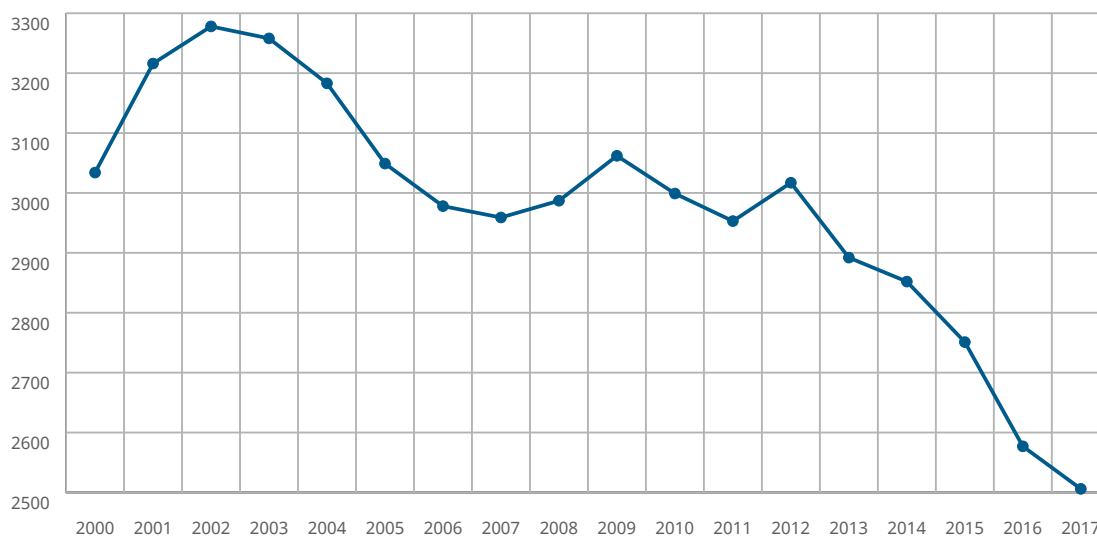
Source: Data from the Baltimore Police Department

Figure 2: Attrition and Hiring at the Baltimore Police Department
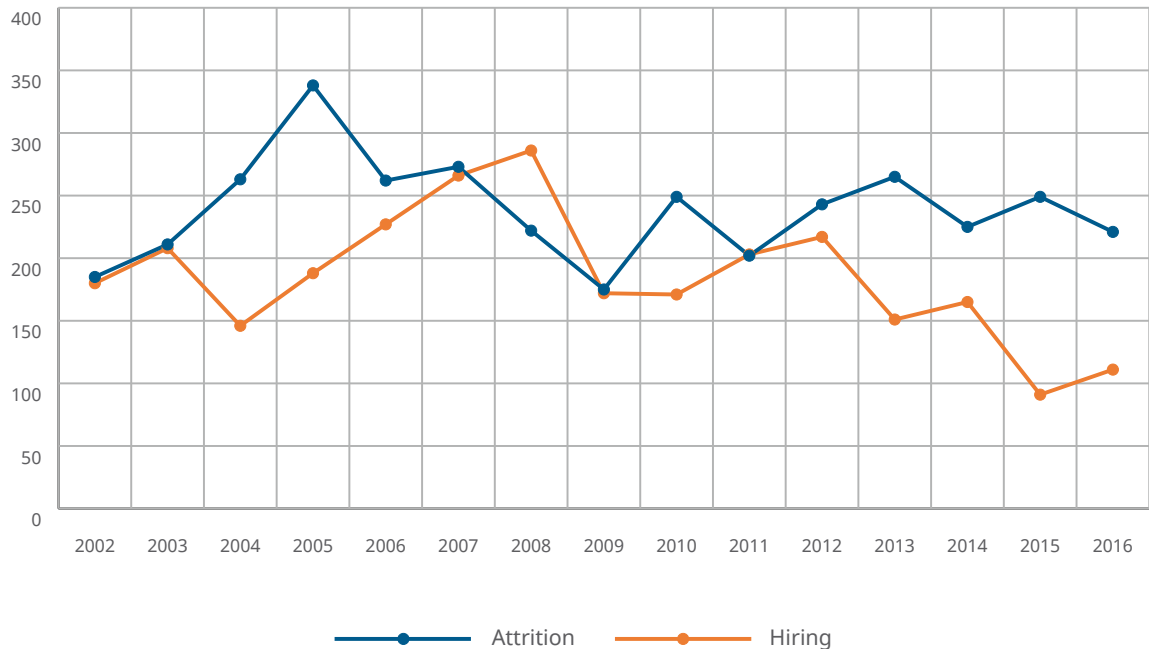
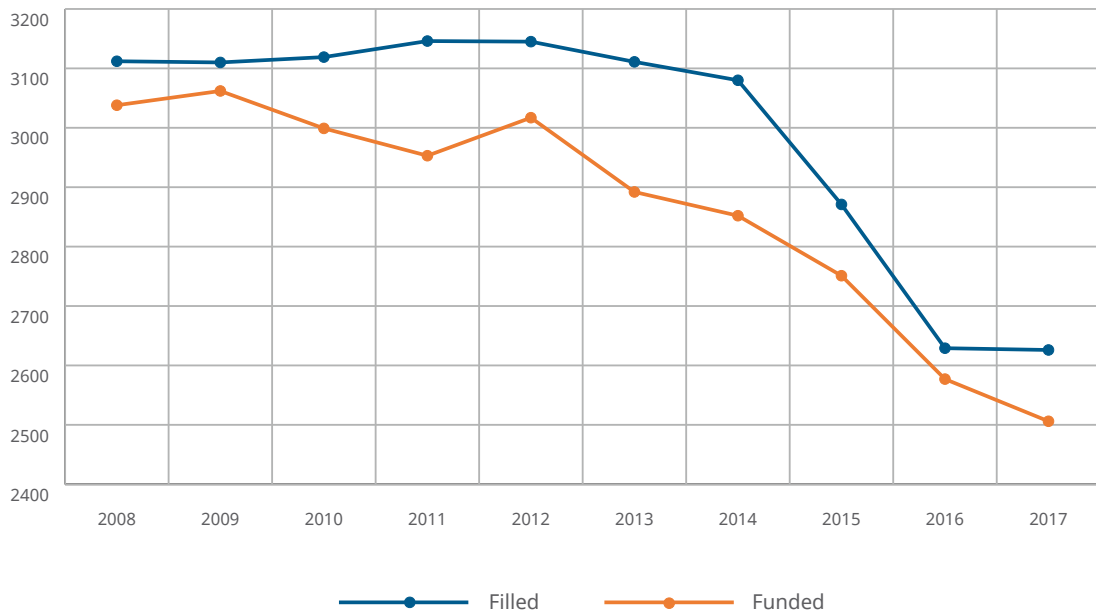*Source: Data from the Baltimore Police Department*

Personnel shortages are bad news for the Police Department. Staffing shortages make it more difficult for the BPD to have beat officers on patrol, in turn making it difficult to implement the community-oriented policing strategies that the Mayor, members of the City Council, and city residents have called for. Because the BPD must meet certain minimum deployments at all times—which the BPD refers to as "patrol constants"—staffing shortages lead to increases in overtime shifts, which in turn raise overtime costs and increase the probability of overtime fraud.

In the long run, heavy mandatory overtime decreases morale, creating a vicious cycle of departures and ever higher burdens on officers. As a recent Baltimore Police Department report put it, "Mandatory overtime, sometimes imposed with short notice, is hurting morale among the young patrol force and contributing to steady attrition in the ranks."[8]

The Baltimore Police Department is not alone in facing recruitment challenges. Across the country, local law enforcement agencies struggle to maintain consistent staffing levels. A review of academic analysis from around the U.S. points to three major challenges to recruitment.

1. **Policing is demanding, dangerous work and the pressures on police officers are increasing:** Policing has always exposed officers to danger. But with the growth in public awareness of acts of violence by police officers around the U.S., officers also feel like they are exposed to more and more public criticism.[9] At the same time, cities like Baltimore are turning to the police force to solve complicated social problems and provide a range of services, from facilitating community meetings to working with children to providing referrals to social services.[10]

Figure 3: Funded vs. Filled Sworn Officer Positions in Baltimore City

Source: Data from the Baltimore Police Department

2. **Young people are less interested in local law enforcement careers:** Relatedly, shifting attitudes among young people make policing a relatively less attractive profession. Police departments offer slow paths to advancement, are hierarchical, and offer relatively little flexibility.[11] Less than half of American youths consider a police department or agency a "desirable" or "acceptable" place to work—more than those who view military service that way but fewer than those who view corporations, schools, or other government agencies that way.[12]

3. **Police departments must compete with the private sector and with other regional law enforcement agencies:** Like any organization, police departments must compete for quality people. But the competitive landscape for police departments is challenging. Police departments compete with the private sector at large, which can offer not only better pay, but more flexible hours, part-time employment, choice of holidays, and other fringe benefits.[13] Similarly, police departments compete with regional law enforcement agencies, private security forces, and the military.[14]

There are no data to determine exactly how these factors impact recruitment in Baltimore. In an interview with members of the Baltimore Police Department's recruitment team, they argued that the biggest challenges for their department are the tight labor market and regional law enforcement agencies that offer more competitive salaries.[15] As highlighted in Appendix 1, many of the regional law enforcement agencies do offer higher salaries. But there may be other factors at play. The Baltimore Police Department has suffered significant reputational damage over the past few years, which could have contributed to the downtick in applications since 2015.

Figure 4: Baltimore Police Department Disqualifications, January - May 2017

Applicant Name	Total Applicants	Disqualifications	Marijuana Disqualifications	Marijuana as Percent of Disqualifications
All	665	120 (18%)	47 (7%)	39%
Baltimore City Residents	145	32 (22%)	12 (8%)	38%
African-Americans	233	48 (21%)	19 (8%)	40%

Source: Data from the Baltimore Police Department

Without changes to its recruiting practices, the Baltimore Police Department will continue to face personnel shortages. Over the past year, the Department has taken some positive steps forward. Before 2016, the average successful applicant waited an average of 12 to 14 months from the start of the application process to beginning the Police Academy. Now, the average wait is six months. Currently, the hiring process, including the background check and case management system, is paper based. The Department is now in the process of identifying a vendor that can help it move to an electronic system. These are positive signs, though much work remains to be done.[16]

But the Department is constrained by the existing three-year marijuana standard, which automatically excludes candidates who may otherwise be qualified.

During the first six months of 2017, for example, 7 percent of all candidates—and 8 percent of all city resident applicants—were disqualified for marijuana use, which was the most common disqualification for African-American males. In total, disqualifications for marijuana constituted almost 40 percent of all disqualifications.

Changing those rules would allow the Police Department to more fairly evaluate hundreds of candidates each year without automatic disqualifications. As explored in the next section, many other public safety agencies around the U.S. are moving in this direction.

Maryland's Marijuana Hiring Standards in National Comparison

In Maryland, police hiring standards are set by a state commission called the Maryland Police Standards and Training Commission. Over the last two decades, the Commission has modified its rules repeatedly. The structure of the Commission and its history of regulations are detailed in Appendix 2.

Prior to April 2017, the Commission's standards on marijuana required that candidates not have used marijuana more than five times since becoming 21 years old, or more than 20 times in their lives, and required three years between the last use of marijuana and the application to a Police Academy. In April 2017, the Commission simplified these requirements by dropping the five- and 20-use rules, and maintaining the three-year standard.

Despite moderating the rule, Maryland's 36-month marijuana-free standard remains as strict as any state in the country.

Figure 5: Statewide Standards on Marijuana Use for Police Officer Candidates for the Seven States that Set Marijuana Standards at the State Level

State	Last Acceptable Use of Marijuana	Notes
Alaska	12 months	Use excused if applicant less than 21 at time of use; Applicant may not have ever cultivated or sold marijuana.
Idaho	12 months	Use within last 12 months must have been "experimentation"; Regular use barred for 36 months; Applicant must not have been employed as a peace officer at time of use; Applicant may not have ever cultivated or sold marijuana; Applicant must not have been employed as a peace officer at time of use.
New Hampshire	12 months	Applicant must not have been employed as a peace officer at time of use; Applicant may not have ever cultivated or sold marijuana; New Hampshire Police Standards and Training Council can review and accept an applicant whose past drug use does not satisfy these standards if the applicant's "behavior pattern under the totality of the circumstances did not demonstrate a lack of good moral character."
South Dakota	12 months	
Nebraska	24 months	Applicant must not have been employed as a peace officer at time of use; Applicant may not have ever cultivated or sold marijuana.
Arizona	36 months	Use must have been "experimentation," which means less than 20 total uses or five uses since age of 21; Applicant may not have ever cultivated or sold marijuana.
Maryland (Prior to April 2017)	36 months	Use must have been "experimental," which means less than 20 uses AND not more than 5 uses since reaching age of 21; Applicant may not have ever cultivated or sold marijuana.
Maryland (Current)	36 months	Applicant may not have ever cultivated or sold marijuana.

As part of the research for this report, a countrywide survey of all 50 states was conducted. The results of this survey are included in Appendix 3. Forty-two states leave drug hiring standards for peace officers to individual cities and counties while seven states, including Maryland, use administrative bodies to set statewide drug use standards.[17][18] Within the universe of states that have set drug use standards with regard to marijuana, no state is stricter than Maryland.

Police departments in 36 cities were surveyed; they were chosen because they resembled

Baltimore in terms of demography, geography, or crime profile, or because they were located in states with statewide standards. The results are included in Appendix 3. Because of resource constraints, traditional statistical methods in generating the sample size were not deployed. Nevertheless, the results are telling. Of the 36 departments surveyed, 17 have established public drug hiring standards for police candidates. None has a stricter marijuana standard than Baltimore. Many cities with similar crime profiles to Baltimore— like Hartford, New Orleans, and St. Louis— have more lenient standards. The cities that share with Baltimore a three-year marijuana-free standard for police candidates—like Albuquerque—do not face the kinds of recruitment challenges of Baltimore.[19]

Of course, these standards are not static. Like Baltimore and Maryland, other cities and states are regularly re-evaluating their drug hiring rules. Prior research suggests that the current trend line is toward more lenient standards. For example, a survey by Diana Bruns at Savannah State University found that, of the police departments that had recently changed their drug hiring standards, more than 80 percent had moved toward more lenient standards, while less than 20 percent had moved toward stricter standards.[20]

To better understand what is driving these trends, four police departments that have recently moved or tried to move toward more lenient standards were interviewed: Seattle; Charlotte, North Carolina; San Antonio; and Louisville, Kentucky. The experiences of these four cities show that multiple factors are driving reform: a desire to stay in line with community norms, concern about the loss of otherwise qualified candidates, and a realization that the marijuana standards do not perform a useful screening function.

Figure 6: Select City Standards on Marijuana Use for Police Officer Candidates

State	Last Acceptable Use of Marijuana	Notes
Boston, MA	No city standard	No state policy
Detroit, MI	No city standard	No state policy
Miami, FL	No city standard	No state policy
Newark, NJ	No city standard	No state policy
Hartford, CT	12 months	No state policy
New Haven, CT	12 months	No state policy
Seattle, WA	12 months	No state policy
New Orleans, LA	24 months	No state policy
Boise, ID	35 months	12 months
Baltimore, MD	36 months	36 months
Little Rock, AR	36 months	No state policy
Louisville, KY	36 months	No state policy

For example, over the past decade, Seattle has shifted its standards twice. First, it moved from a three-year marijuana standard to a one-year standard, and then shifted from a one-year standard to a one-year guideline, under which use of the drug in the last year would weigh against candidates but not automatically disqualify them. In the view of the Seattle Police, the standard has appropriately evolved in tandem with the community's values. Washington State recently legalized marijuana, putting the Police Department in the difficult position of potentially disqualifying candidates who are using a legal substance. With the new standard in place, candidates can be assessed without prejudgment and in the context of their life as a whole. As Sergeant Nicholson from the Department's recruitment team noted, "We're not looking for perfect people. Police officers are human and we need to look at them holistically."

In contrast, both Charlotte and Louisville emphasized that their marijuana standards posed barriers to recruitment. In the last few years, Charlotte moved to a year standard for marijuana, where previously the standard had been longer. As a captain in the Charlotte Police Department put it, "the world has changed and marijuana has become so popular again, so we had to adjust." Although it does not track data on candidate disqualification, the Department suggested that they had previously seen too many recruits to the Police Academy disqualified for youthful marijuana use.

The Louisville Police Department told a similar story. In 2016, it proposed to move the standard from three years to a single year to expand recruitment and increase the diversity of its police force. However, in Louisville, the Police Department's hiring standards are controlled by the Police Merit Board, a commission made up of three sworn officers and three citizens. The Merit Board rejected the proposed changes and counter-proposed increasing the standards. In the end, the standards remained unchanged. According to the Police Department, the reaction was grounded in the relatively conservative values in Louisville.

San Antonio had yet a different explanation. Prior to 2015, San Antonio disqualified candidates who had either used marijuana one or more times in the last 24 months, or more than three times in the past five years. Together, these rules were disqualifying roughly 2 percent of all candidates. The San Antonio Police Department realized that the five-year standard was complicated, that it did not serve any useful screening function, and that candidates were unlikely to accurately recall their marijuana use in the past five years anyway. In 2015, the Department's recruitment team initiated an effort to drop the five-year rule. There was no political opposition, and the rule was quickly changed.

Other cities, like Los Angeles, have moved away from strict hiring standards altogether and have opted for a more holistic approach. In this model, sometimes referred to as the "whole of person" approach, police departments review each person without any predefined standards and evaluate prior conduct in light of the person's whole life. For example, a criminal offense at age 18 looks different for a 19-year-old who also reports heavy drug use than it does for a 35-year-old with a solid employment track record, no record of drug use, and a stable family. Similarly, light marijuana use might be discounted for an individual who otherwise checks out in terms of lifestyle, psychological profile, and career.

Evolving Norms on Marijuana Use, Locally and Nationally

The sale and/or use of marijuana has long been illegal in the United States.[21] American views on marijuana, however, have become significantly more liberal in recent decades. Public support for the legalization of marijuana—which was 12 percent in 1969, the first year for which data are available—remained below 30 percent prior to 2000.[22] In the late 1990s, however, support for the legalization of marijuana began rapidly

Figure 7: Percentage of Americans Who Support Marijuana Legalization
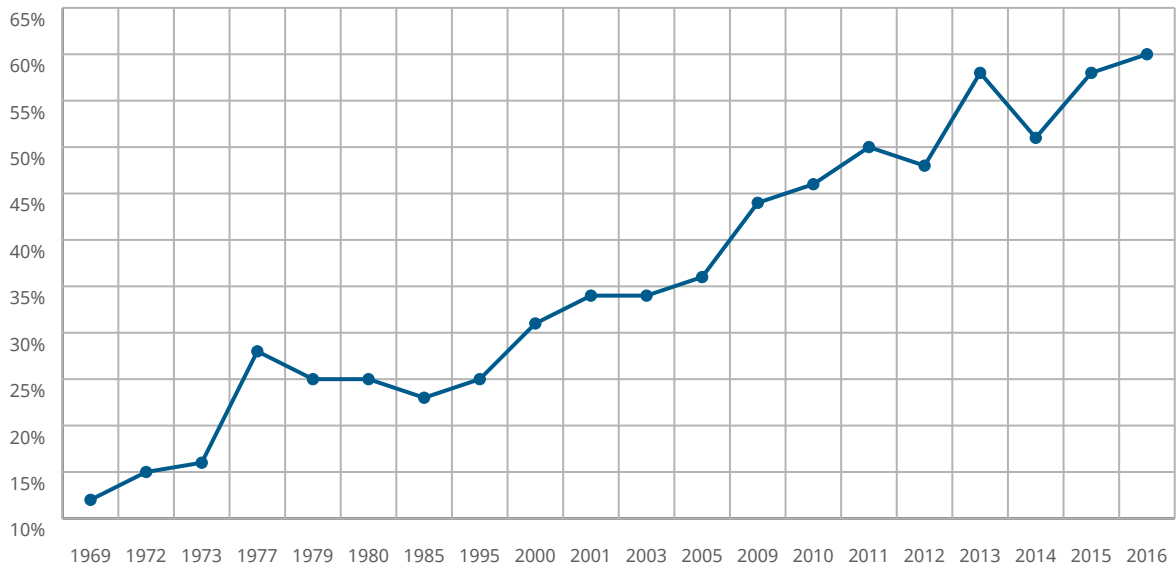
Source: Art Swift. "Support for Legal Marijuana Use up to 60% in U.S."

increasing.[23] This trend continued through the early 2000s, and a majority of Americans first supported the legalization of marijuana in 2013.[24] By 2016, 60 percent of Americans supported the legalization of marijuana.[25]

In line with shifting public opinion, individual states have relaxed their prohibitions on marijuana. In 1996, California became the first state to permit medical uses of marijuana, and in 2012, Colorado and Washington became the first states to permit recreational use of marijuana. As of August 2017, 29 states—as well as the District of Columbia, Guam, and Puerto Rico—permit medical uses of marijuana; eight of these states and the District of Columbia also permit recreational use of marijuana.[26]

Views on the impacts of marijuana on an individual's health have also evolved, suggesting that ideas about the negative consequences of marijuana are based more on public perception of the drug than on

medical science. One poll has tracked the views of young people on the impacts of marijuana. In 1980, 8.3 percent of those ages 19 to 22 said that there was great risk of harm from trying marijuana once or twice; 13.9 percent said there was great harm from smoking marijuana occasionally; and 43.9 percent said there was great harm in smoking marijuana regularly.[27] In the early 1990s, these percentages reached all-time highs of 19.7 percent, 31.3 percent, and 78.6 percent, respectively, and then began declining.[28] In 2015, the percentages had fallen to 10.6 percent, 15.6 percent, and 33.3 percent—near or below the levels seen in 1980.[29]

Maryland tracks these national trends closely. As noted in the Introduction, multiple polls over the last few years have demonstrated that more than 50 percent of Maryland residents support the legalization of marijuana. Polls also show that nearly 70 percent of Maryland residents support decriminalization of marijuana use and possession.[30]

Figure 8: Trends in Harmfulness as Perceived by Respondents Aged 19-22
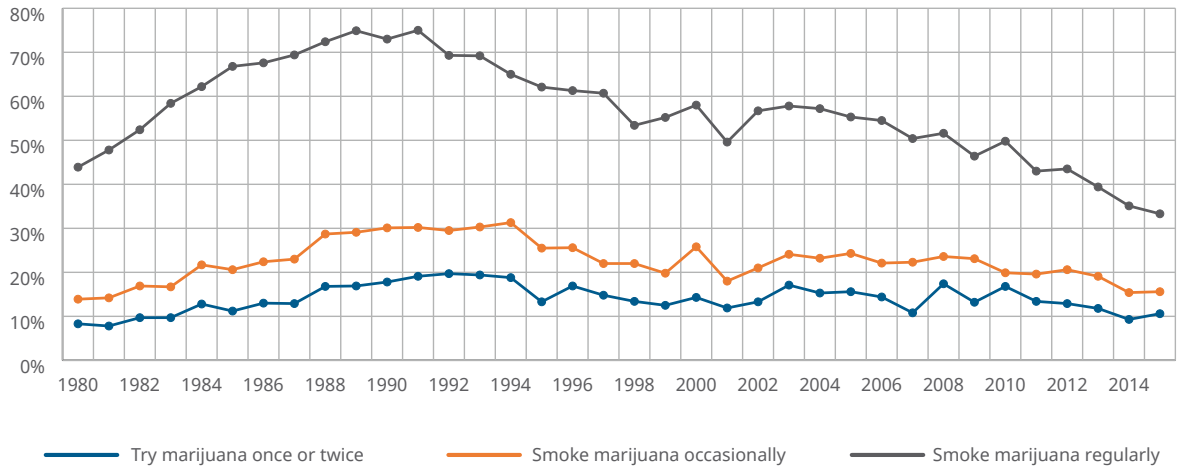
Source: Lloyd D. Johnston et al. Monitoring the Future: National Survey Results on Druge Use, 1975-2015, Vol. 2.

State lawmakers have responded by decriminalizing marijuana possession and by legalizing medical marijuana, and members of the Assembly and Senate are pushing for full legalization.

Like the nation more generally, a higher percentage of Maryland residents also report use of marijuana now than in the past. In 2003, 10.2 percent of Maryland residents reported having used marijuana in the past year.[31] This number fell to a low of 8.4 percent in 2006—but it rapidly increased over the next decade to 15.1 percent in 2015, the last year for which data are available.[32]

Similarly, the percentage of people in Maryland who perceived great risk from smoking marijuana was 34.9 percent in 2003.[33] This number hit a high of 40.5 percent in 2007—but it, too, rapidly fell over the next decade to 26.1 percent in 2014, the last year for which data are available.[34] In other words, only roughly one-quarter of Maryland residents perceive marijuana use as posing danger to the health of an individual. One corollary is that many

Marylanders—roughly 40 percent to 50 percent—have used the drug at some point in their lives.[35]

These trends in public opinion, public use, and state action suggest that while some Maryland residents are still concerned about marijuana use, there is a broad and growing acceptance of the drug and its use by adults.

Evaluating Arguments for a Marijuana Hiring Standard

When it comes to a shift in police hiring standards, there does not appear to be any empirical evidence on the impacts of stricter or less strict standards on actual police performance. Nor does any police department in the country maintain publicly available records correlating officer performance with a history of marijuana use.

In the absence of empirical evidence, the debate comes down to indirect evidence,

expert opinion, and values. As noted, police hiring standards are typically justified on the grounds that marijuana use is a good indicator for other types of behavior or activities that make someone unfit to be a police officer, or in terms of community norms that the Police Department and its officers must uphold. But these arguments rest on shaky ground when it comes to the Baltimore Police Department, as explored below.

Marijuana as Signal or Indicator

The argument that marijuana is an effective hiring indicator is based on the idea that screening for marijuana screens for other problematic behaviors or traits. This is really two separate arguments:

1. **Recent marijuana use is a good indicator for fitness to be a police officer because candidates who have recently used marijuana are more likely to use other drugs or engage in criminal behavior.**

To be effective, the Baltimore Police Department needs sober, stable policemen and women who are addiction-free, cannot be blackmailed, and will not be tempted by the availability of drugs in their course of work.

There is some research to suggest that among police officers, recent use of marijuana correlates with the use of other drugs, like cocaine and hallucinogenic substances, and with other problematic behaviors like binge drinking and drinking and driving. The research also suggests that heavy lifetime use of marijuana correlates with drug use, arrests, and heavy drinking.[36]

Given these correlations, some police forces use marijuana standards as a short-cut to screen for other problematic behaviors. Although it is likely true that marijuana screening will screen out many candidates who have used other drugs or engaged in other troubling behaviors, marijuana use is not an efficient—or fair—way

to detect those behaviors. As a method of screening candidates, it is both too narrow and overly broad.

Marijuana standards are too narrow because many people have drinking problems or criminal records and do not use marijuana and would, therefore, not be disqualified. They are overly broad because many people use marijuana but have no criminal records, do not drink heavily, and do not use other drugs. In other words, recent marijuana use is a very inaccurate indicator of other problems. The Baltimore Police Department uses interviews, psychological exams, and a polygraph test to evaluate candidates for a variety of risk factors. It is that test—and a more holistic evaluation of the results—on which applicants should stand or fall, rather than marijuana standards that can unfairly disqualify some otherwise fit candidates.

2. **Marijuana use directly impairs individuals, physically or psychologically.**

Marijuana has proven to have negative side effects on users. Short-term effects include impaired short-term memory, impaired motor coordination, and altered judgment. In high doses, it can lead to paranoia and psychosis. The long-term health effects include altered brain development and potentially lower IQ, chronic bronchitis, and increased risk of psychotic disorders. Individuals who start smoking regularly at a young age have increased risk for long-term addiction. Long-time users can also have lower educational outcomes and diminished life satisfaction.[37]

Like the use of marijuana as an indicator for other drug use or criminal behavior, however, the recency of marijuana use is not an accurate screen for physical or psychological damage. The existing Baltimore Police Department screening process is designed to evaluate the ability of candidates to perform their work physically and intellectually. In the highly

unlikely case that an individual has suffered extensive damage from marijuana use, such damage would be visible in the screening process. On the other hand, there is no evidence that a candidate with a history of light marijuana use who quit marijuana three years ago is any healthier or less likely to have physical or psychological issues than a candidate with a light history of marijuana use who quit one year ago. What is important is that the candidate not have suffered any major impacts from prior drug use, that they not have a dependency on the drug, and that they have demonstrated a willingness and ability to remain substance free before joining the Baltimore Police Department. A three-year standard for being marijuana free is in this sense somewhat arbitrary.

This is not to say that the Baltimore Police Department should hire individuals with a history of routine or heavy marijuana use. Marijuana is still illegal in the state of Maryland, and regular ongoing use could impact the performance of an officer. But a more holistic evaluation process is just as likely to screen out problematic candidates as a three-year standard.

Enforcing Community Norms

If there is not a firm belief that marijuana use is inherently bad—or that it is a useful way to evaluate the physical, psychological, or behavioral fitness of a police officer—then marijuana standards must be about enforcing community norms. This, however, is a political question—not an empirical one. The argument runs, in essence, that police departments serve a symbolic role in their communities and should, therefore, demonstrate fidelity to the law by disqualifying police candidates with a history of drug use.

This argument has merit when it comes to many kinds of criminal activities. People with a public record of theft, violence, or other crimes should not be allowed to join a police force; their participation would undermine public confidence in the institution and potentially lead to increased levels of corruption and abuse.

The question is, therefore, whether the use of marijuana is so objectionable that a police department should make great effort to avoid hiring officers with a history of use. This ultimately comes down to community values. In Louisville, the publicly accountable Merit Board felt that even relatively light marijuana use could not be condoned. As this report details, many other communities around the U.S. feel differently. There is no definitive answer here, though when it comes to Maryland, the trends in public opinion, the recent decriminalization of marijuana, and the legalization of medical marijuana suggest a growing public comfort with the use of the drug.

Recommendations and Conclusion

As this report has detailed, the Baltimore Police Department is consistently understaffed relative to authorized force, and it struggles to recruit an adequate number of officers. This has driven up overtime costs, reduced morale, and made the Department less effective. The Police Department is taking steps to improve its recruitment process, including speeding up the application timeline, but much work remains to be done.

Among other factors, recruitment efforts are hindered by a statewide rule that automatically disqualifies anyone who has used marijuana in the last three years. This rule has a disproportionate impact on African-American candidates, is among the strictest rules in the United States, is out of line with evolving community norms, and plays no useful function in the candidate screening process.

Therefore, the Maryland Police Standards and Training Commission is urged to eliminate its current marijuana standard altogether. Under Maryland law, local police departments can choose to set standards stricter than those imposed at the state level. In essence, the Maryland Police Standards and Training Commission would be delegating authority for marijuana

standards to individual police departments, providing greater flexibility to adapt to local circumstances, values, and needs.

This move would put Maryland closer in line with the rest of the United States. Only six states other than Maryland impose statewide drug standards for police hiring, while 42 delegate that authority to individual police departments.[38]

In the case of Baltimore, it is further recommended that the Baltimore Police Department refrain from setting any predetermined marijuana standard. Instead, the Department should rely on its existing, extensive candidate screening process to determine whether an individual's overall drug history (as well as physical and psychological profile) disqualifies him or her from serving. Heavy and/or frequent marijuana use should continue to weigh in this evaluation, as heavy alcohol use and other drug use does.

In the end, the marijuana standard is about norms and expectations. There may be communities that believe that even minor marijuana use should disqualify an individual from joining the police department. Public opinion, widespread use of marijuana, and the state's marijuana laws all suggest that Baltimore is not one of them.

About the Author

Nate Loewentheil grew up in Southwest Baltimore. He is a social entrepreneur, public policy expert, researcher and writer. Most recently, he served as a senior policy advisor to former President Barack Obama and led the White House Taskforce for Baltimore City.

Endnotes

1 Data provided by the Baltimore Police Department.

2 Data provided by the Baltimore Police Department. As of June 2017, the BPD had 2,851 authorized positions, 2,626 funded positions, and 2,506 sworn officers. Of those 2,506 officers, an additional 300 to 400 officers are unavailable for duty at any given time.

3 Christopher Ingraham, "Support for Marijuana Legalization Has Hit an All-time High," *The Washington Post,* March 25, 2016; https://www.washingtonpost.com/news/wonk/wp/2016/03/25/support-for-marijuana-legalization-has-hit-an-all-time-high; "State Marijuana Laws in 2017 Map," March 23, 2017, Governing, http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html.

4 Data from Baltimore Police Department on recent applications. The U.S. Equal Employment Opportunity Commission has suggested that marijuana standards nationally are impacting diversity in police forces: EEOC, Advancing Diversity in Law Enforcement (District of Columbia: DOJ, 2016), accessed July 2, 2017, https://www.eeoc.gov/eeoc/interagency/police-diversity-report.cfm.

5 Justin Fenton, "Baltimore Police Overtime Spending Soars as Department Grapples with Understaffing, Shift Changes," The Baltimore Sun, April 22, 2017, http://www.baltimoresun.com/news/maryland/investigations/bs-md-ci-police-overtime-budget-woes-20170408-story.html.

6 Brian Kuebler, "BPD Struggles to Recruit New Officers after Freddie Gray," ABC2 News, April 29, 2016, http://www.abc2news.com/news/region/baltimore-city/bpd-struggles-to-recruit-new-officers-after-freddie-gray.

7 Data provided by the Baltimore Police Department.

8 Kuebler, "BPD Struggles to Recruit New Officers after Freddie Gray," Anthony Batts, Public Safety in the City of Baltimore: A Strategic Plan for Improvement (Baltimore: Baltimore Police Department, 2013), accessed July 2, 2017, https://www.documentcloud.org/documents/838086-baltimore-police-a-strategic-plan-for-improvement.html

9 David Whetstone et al., "Recruiting: A Comparative Study of the Recruiting Practices of State Police Agencies," International Journal of Police Science and Management 8, no. 1 (2006): 53; Lisa Marie Pane, "Police Relax Hiring Standards to Attract More Officers," Portland Press Herald, November 14, 2016, http://www.pressherald.com/2016/11/14/police-relax-hiring-standards-to-attract-more-officers/.; Muhammad Ra'oof, "Expanding the Qualified Candidate Pool to Meet Police Recruitment Challenges: A Multiple-Case Study," (dissertation, Northcentral University, 2014), 4.

10 Alfred Stone and Stuart DeLuca, Police Administration: An Introduction, (New Jersey: Pearson, 1994); Whetstone, Recruiting, 53; Bruce Taylor et al., Cop Crunch: Identifying Strategies for Dealing with the Recruiting and Hiring Crisis in Law Enforcement (District of Columbia: NCJRS, 2006), accessed July 2, 2017, https://www.ncjrs.gov/pdffiles1/nij/grants/213800.pdf, 5.

11 Richard Bowyer, Recruiting 21st Century Army Warriors: A Task Requiring National Attention (Pennsylvania: U.S. Army War College, 2007), accessed July 2, 2017, http://handle.dtic.mil/100.2/ADA468428; Wilson et al., Recruiting and Retaining America's Finest: Evidence-Based Lessons for Police Workforce Planning (California: RAND, 2010), accessed July 2, 2017, http://www.rand.org/content/dam/rand/pubs/monographs/2010/

RAND_MG960.pdf; Jeremy Wilson, "Articulating the Dynamic Staffing Challenge: An Examination of Supply and Demand," Policing: An International Journal of Police Strategies & Management 35, no. 1 (2012), 338.

12 National Research Council, Attitudes, Aptitudes, and Aspirations of American Youth: Implications for Recruitment (District of Columbia: National Academies Press, 2003).

13 Taylor, Cop Crunch, 3.

14 Jeremy Wilson and Clifford Grammich, Police Recruitment and Retention in the Contemporary Urban Environment: A National Discussion of Personnel Experiences and Promising Practices from the Front Lines (California: RAND, 2009), accessed July 2, 2017, http://www.rand.org/content/dam/rand/pubs/conf_proceedings/2009/RAND_CF261.pdf, 1.

15 Major Jim Handley (Baltimore Police Department) in discussion with author, June 9, 2017.

16 Police forces around the U.S. are focusing on hiring and retention strategies. The U.S. Department of Justice recently published a report highlighting some of these projects and strategies: Office of Community Oriented Policing Services, Hiring for the 21st Century Law Enforcement Officer: Challenges, Opportunities, and Strategies for Success, (Washington, D.C.: DOJ, 2017), accessed July 2, 2017, https://ric-zai-inc.com/Publications/cops-w0831-pub.pdf.

17 One additional state, Georgia, forbids the use of drug history in evaluating police officers. North Carolina rules could be interpreted as a statewide standard. See Appendix 3 for additional detail.

18 For an example of extensive delegation to individual departments, see 16 227 Me. Code R. 16 ch. 3 § 1(H).

19 Note that some cities—like Boise—have stricter standards than those required by the state.

20 Diana Bruns, "Exploring Change in Drug Policy Standards among Local Law Enforcement Agencies," Western Journal of Criminal Justice 2, available at http://www.wiu.edu/coehs/leja/cacj/research/documents/past/Article%20Bruns.doc.

21 California (1913) and Utah (1915) were the first states to prohibit marijuana. Other states joined them over the following decades, including aborted efforts at a national prohibition, e.g., efforts to pass the Uniform State Narcotics Drug Act from 1915-1932. The first national prohibition came in the form of the Marihuana Tax Act of 1937, which levied massive taxes on nonmedical sales of marijuana. The current national prohibition is codified as the Controlled Substances Act of 1970.

22 Art Swift, "Support for Legal Marijuana Use up to 60% in U.S.," Social Issues, October 19, 2016, http://www.gallup.com/poll/196550/support-legal-marijuana.aspx.

23 Id.

24 Id.

25 Id.

26 Deep Dive, 2017, National Conference of State Legislatures, http://www.ncsl.org/bookstore/state-legislatures-magazine/marijuana-deep-dive.aspx.

27 Lloyd D. Johnston et al., Monitoring the Future: National Survey Results on Drug Use, 1975-2015, Vol. 2 (Michigan: University of Michigan, 2016), last accessed July 2, 2017, http://www.monitoringthefuture.org/pubs/monographs/mtf-vol2_2015.pdf, Table 6-1.

28 Id.

29 Id.

30 Public Policy Polling, "Maryland Survey Results," September 29, 2013, American Civil Liberties Union, http://www.aclu-md.org/uploaded_files/0000/0460/marijuanapollmarylandresults2.pdf; Goucher College, "Hogan Maintains High Statewide Job Approval Rating; Marylanders Give State High Marks as a Place to Live," February 23, 2016, Goucher College, http://www.goucher.edu/Documents/Poli_Sci/hughes/Spring%202016%20Goucher%20Poll%20Release%20(Tuesday%20Feb%2023)%20FINAL%20FINAL.pdf; "Washington Post-University of Maryland poll, September 27-30, 2016," October 7, 2016, The Washington Post, https://www.washingtonpost.com/politics/polling/washington-postuniversity-maryland-poll-september-2730/2016/10/07/b731f0a2-8bab-11e6-8cdc-4fbb1973b506_page.html.

31 Substance Abuse and Mental Health Services Administration, Estimates of Marijuana Use and Related Indicators, Maryland, 2002-2014 (Maryland: Center for Behavioral Health Statistics and Quality, 2016), last accessed July 2, 2017, https://www.samhsa.gov/sites/default/files/topics/data_outcomes_quality/maryland-2002-2014.pdf., Table 2.

32 Substance Abuse and Mental Health Services Administration, 2014-2015 National Survey on Drug Use and Health: Model-Based Prevalence Estimates (Maryland: Center for Behavioral Health Statistics and Quality, 2016), last accessed July 2, 2017, https://www.samhsa.gov/data/sites/default/files/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015.pdf, Table 1.

33 Substance Abuse and Mental Health Services Administration, Marijuana Use, Maryland, 2002-2014, Table 6.

34 Id.

35 Based on national averages: Justin McCarthy, "More Than Four in 10 Americans Say They Have Tried Marijuana," Well-Being, July 22, 2015, http://www.gallup.com/poll/184298/four-americans-say-tried-marijuana.aspx; Seth Motel, "6 Facts About Marijuana," Pew Research Center, http://www.pewresearch.org/fact-tank/2015/04/14/6-facts-about-marijuana.

36 Mike Roberts, "Marijuana Use by Police and Public Safety Applicants: Negative Background Correlates of Frequency and Recency of Use," (presentation, 2014 Psychological Educational Sessions at the International Association of Chiefs of Police, Virginia, 2014), available at http://www.theiacp.org/Portals/0/documents/pdfs/PSYCH2014_ImpactofLegalizedMarijuana.pdf.

37 Nora D. Volkow et al., "Adverse Health Effects of Marijuana Use," New England Journal of Medicine 370, no. 23, 2014.

38 Note again that Georgia forbids outright the use of drug history in evaluating police officers.

The

Abell Report

High Standards? Reassessing the Use of Marijuana Standards to Screen Police Recruits in Maryland

by Nate Loewentheil
September 2017

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The Abell Foundation is dedicated to the enhancement of the quality of life in Maryland, with a particular focus on Baltimore. The Foundation places a strong emphasis on opening the doors of opportunity to the disenfranchised, believing that no community can thrive if those who live on the margins of it are not included.

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