



Olympia Police Department

MEMORANDUM

TO: Jay Burney, City Manager
FROM: Rich Allen, Police Chief
DATE: July 19, 2024
SUBJECT: Council Referral 2024-54 (Entheogenic Substances)

On 6-16-24, the Olympia City Council made a Referral Request to staff regarding a proposed resolution supporting decriminalization and declaring that no city funds would be used for arrest, investigation and prosecution solely for entheogenic plants and fungi.

The following information is in response to this referral.

Current Law

The law refers to these fungi as Psilocybin. Psilocybin is a controlled substance and is categorized as a Schedule 1 hallucinogen in Washington State (RCW 69.50.204). For purposes of Schedule 1 narcotics, it is unlawful to:

- To knowingly possess a controlled substance or use a controlled substance in public without a valid prescription, and classified as a Gross Misdemeanor offense, which, upon conviction, carries a maximum penalty of:
 - 1st offense – 180 days in jail and/or a \$1,000 fine
 - 2 or more convictions – 364 days in jail and/or a \$1,000 fine
- To manufacture, deliver, or possess with intent to deliver a controlled substance is a Class C felony (in the case of psilocybin) which, upon conviction, carries a maximum penalty of five years incarceration and/or a \$10,000 fine

Enforcement of laws regarding psilocybin in Olympia

We searched our records for the previous five years and did not locate any arrests or referrals to the prosecutor's office for the consideration of charges solely for the possession of psilocybins.

We did locate 5 arrests where psilocybin was present:

- 2019 – Narcotics possession arrest – MDMA, Adderall and Mushrooms
- 2020 – Subject arrested for warrant, located heroin, methamphetamine and mushrooms while searching the subject
- 2021 – Narcotics possession arrest – Xanax and mushrooms
- 2024 – Narcotics possession arrest – fentanyl, methamphetamine and mushrooms
- 2024 – DUI arrest – mushrooms were found while searching the subject. It is unknown if the mushrooms added to the impairment. The subject registered over the legal limit for alcohol during the breathalyzer test, so no further testing was conducted.

Council Resolution

I have reviewed the proposed resolution (drafted version as of 7-19-24). The proposed resolution states, in part:

“...the Council declares that the investigation, arrest, and prosecution of anyone engaging in entheogen-related activities, including but not limited to the cultivation of entheogens for use in religious, spiritual, healing, or personal growth practices, should be a City of Olympia low enforcement priority and declares no city funds or resources should be for investigation, prosecution, and arrest of individuals possessing or using entheogenic plants and fungi...”

“...This resolution does not permit driving under the influence of entheogenic plants and fungi. It does not permit the possession or distribution of entheogens in schools. It does not permit conduct that puts public safety at risk or causes a public nuisance that violates the law. Nothing in this resolution prohibits or discourages the investigation, arrest, or prosecution of such crimes.”

After consulting with the City Attorney, Mark Barber, I believe the second paragraph quoted above provides the police department with the necessary tools to address public safety risks, while simultaneously honoring the council’s intent.

Please let me know if you have any questions.