

TO Interested Parties

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RE: Washington Voter Views of Drug Policy Reform After the *Blake* Decision

DATE September 13, 2021

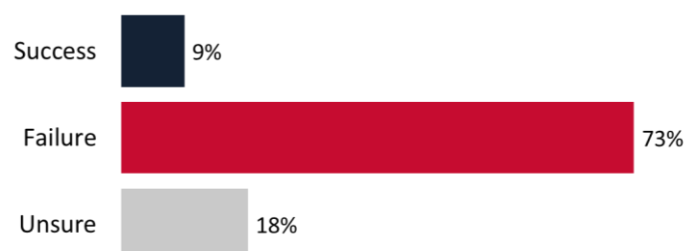
Fairbank, Maslin, Maullin, Metz & Associates (FM3) recently completed a survey of Washington voters to assess their attitudes about a range of issues related to drug policy in the state in the wake of the *Blake* decision.ⁱ The survey results show that **voters are eager to seize this moment to broadly rethink the state's approach to problematic drug use, and would like to shift from a criminal justice approach to one rooted in engagement, healthcare, treatment, and recovery services.** More specifically, they embrace a policy framework that would entail no criminal penalties for possession of personal use amounts of drugs, while doing more to connect people struggling with substance use disorder with services that can help them recover. Support for that framework is remarkably broad, cutting across every major subgroup of the electorate, and is durable in the face of pro and con arguments.

Specific survey findings included the following:

- **Voters are highly concerned about problematic drug use in Washington, but believe that government's current approach to the issue has failed.** More than two-thirds (68%) consider "problem drug use and drug dependency" a "very serious problem" in Washington, and 61% say the same for "drug overdoses" - levels of concern nearly identical to those expressed in polling two years ago. At the same time (as shown in **Figure 1**), by a margin of 9% to 73%, voters think government's approach to problematic drug use in the state has been a failure.

Figure 1: Perception of Government's Current Approach to Problematic Drug Use in Washington

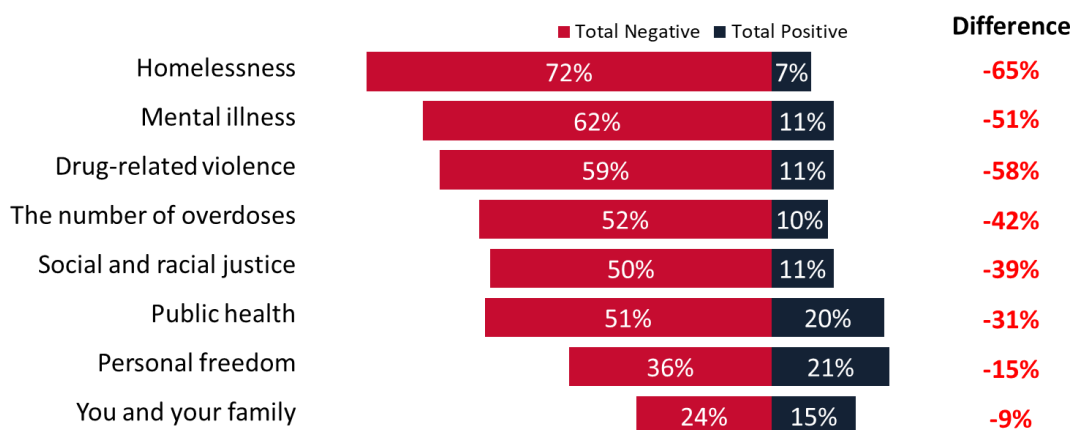
In your view, has government's approach to addressing problematic drug use in the state of Washington been a success or failure?



- Voters believe that the state’s current drug laws have wide-ranging negative impacts – on public health, racial and social justice, homelessness, and more.** As shown in **Figure 2**, voters were offered a series of aspects of life in Washington, and were asked to indicate whether the state’s current drug laws have a positive or negative impact on each. As the figure makes clear, voters believe that the state’s drug laws have a net-negative aspect on a diverse and wide-ranging set of aspects of life in the state.

Figure 2: Perceived Impact of Current Drug Laws on Aspects of Life in Washington

I am going to read you a list of specific aspects of life in Washington. After I read each one, please tell me whether you think our current drug laws have had a positive impact, no impact, or a negative impact on that aspect of life in Washington.



- More than two-in-five voters are aware of the *Blake* decision, and most of them have some sense of its implications.** Fully 42% say that they have heard something about the decision, including 15% who say that they have heard “a great deal.” When asked to explain – in their own words - what they had heard, the vast majority of the comments focused on the reduction or elimination of criminal penalties for drug possession, indicating a fairly broad understanding of the decision’s impacts.
- By a two-to-one margin, Washington voters want to take the opportunity offered by *Blake* to re-think the state’s drug laws.** As detailed in **Figure 3** on the following page, when given an explanation of the decision and an articulation of two different potential legislative responses nearly three in five (59%) say they want to take the opportunity to replace the state’s previous drug laws with a more effective alternative. Only about one-third would prefer to return to the previous status quo – making a small technical adjustment to state laws and restoring previous criminal penalties.

Figure 3: Voters’ Preferred Legislative Response to the Blake Decision

As you may know, the Washington State Supreme Court struck down the law that made possession of drugs a felony because it did not require prosecutors to prove someone knew they had drugs on them in order to find them guilty. As a result, there is no current State law against the possession of drugs in Washington and the State will be required to clear previous records for drug possession and refund related fines and fees. It remains illegal to manufacture, sell, or distribute drugs in Washington. In response to this decision, what do you think the State Legislature should do?

Legislative Approach	% Choosing
Reconsider and replace past drug possession laws with more effective addiction and treatment alternatives that better promote public health and safety	59%
Make a technical change to state law, and return to the same system of criminal penalties for drug possession that Washington has used for decades	35%
Don’t know	6%

- Voters overwhelmingly prefer an approach based on engagement, healthcare, treatment and recovery to the state’s current criminal justice approach to dealing with drug use.** Voters have a clear vision of the principles they think should guide a new set of drug laws in Washington: more than seven-in-ten (71%) want an approach rooted in public health, while fewer than one-quarter would like to keep drug possession a crime (as shown in **Figure 4**). This preference cuts across every major subgroup of the Washington electorate.

Figure 4: Voters’ Preferred Approach to Dealing with Problematic Drug Use

Statement	% Choosing
The best way to address drug use is through engagement, healthcare, treatment, and recovery services addressing the root causes of addiction	71%
The best way to address drug use is to keep it a crime, letting police take drug addicts off the street	23%
Don’t know	6%

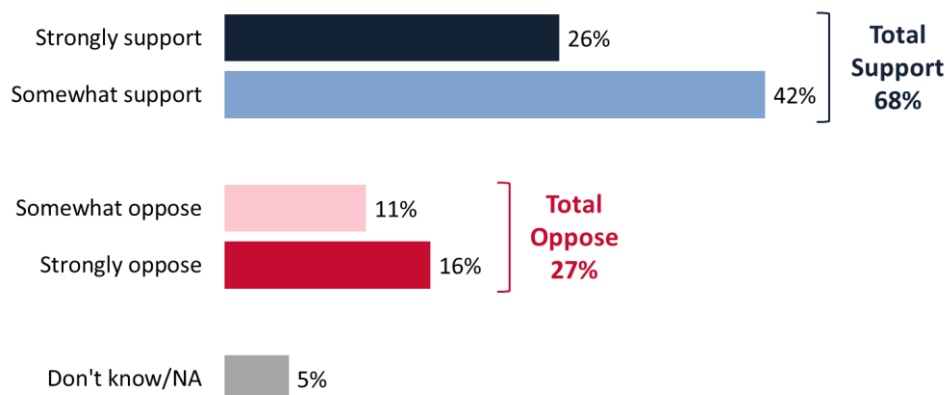
The combination of these last two questions is revealing; while just over one in three (35%), would support a “technical fix” to *Blake*, when police authority to detain individuals for drug possession is named explicitly, support for going back to a criminal framework is even lower - less than one-quarter of those polled. The broadest consensus is around shifting to an approach focused on engagement, treatment, and recovery.

- **A detailed policy proposal based on these principles wins support from more than two-thirds of Washington voters.** To get a more precise understanding of the legal framework voters would like to adopt, survey respondents were presented with a comprehensive policy proposal as detailed below in **Figure 5**. The proposal received an overwhelmingly positive reaction, with 68% of voters in support and just 27% opposed.

Figure 5: Support for a New Drug Policy Framework

This proposal would have the following elements:

- *Continuing to have no criminal penalties for personal use amounts of drugs;*
- *Reinstating felony penalties for possession of more than a personal amount;*
- *increasing the availability of outreach, drug treatment and recovery support services; making drug possession by people under 21 a civil infraction and confiscating their drugs, and confiscating the drugs of people who use drugs in public; and*
- *Making no change to the current criminal laws on sale or manufacture of illegal drugs.*



As impressive as the overall support for this policy framework is its demographic reach. The proposal is backed by nearly every major subgroup of Washington voters, including:

- 82% of Democrats, 57% of independents, and 59% of Republicans;
- 70% of white voters, and 61% of voters of color;
- 70% of voters under age 55, and 67% of those age 55 and older;
- 68% of men and 68% of women;
- 70% of parents of children under 18, and 70% of non-parents;
- 69% in King County outside Seattle, 67% in Snohomish County, 73% in Pierce County, 66% in Eastern Washington, and 74% in Clark County; and
- 67% of those aware of the *Blake* decision, and 69% of those who are not.

In addition, support for this policy framework is remarkably durable – after an exchange of pro and con arguments, it is still backed by 68% of voters and opposed by only 26%.

- **Individual elements of that policy have support from overwhelming majorities of voters as well.** As shown in **Figure 6**, each major policy element of the proposal wins backing from at least two-thirds of Washington voters.

Figure 6: Support for Elements of the Reform Proposal

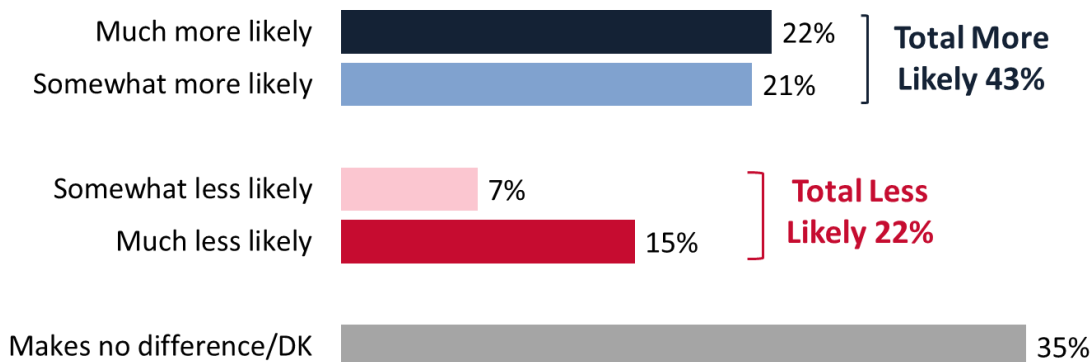
Policy Element	Total Support	Total Oppose
Continuing to have no criminal penalties for possession of personal use amounts of drugs, reinstating felony penalties for possession of <u>more</u> than personal use amounts; and increasing the availability of outreach, treatment, and recovery support services	67%	28%
Additionally, making drug possession by <u>people under 21</u> a civil infraction and confiscating their drugs	78%	18%
Additionally, confiscating the drugs of <u>people who use drugs in public</u>	85%	12%

It is noteworthy that the latter two policies shown in Figure 6 received broader support than two alternatives that would have imposed additional penalties:

- ✓ Citing people who use drugs in public with a 125-dollar fine (*71% support*)
 - ✓ Making drug possession by people under 21 a misdemeanor like for alcohol or cannabis (*70% support*)
- **A state legislator who backs this policy framework would be more likely to earn voters’ support.** By a two-to-one margin (as shown in **Figure 7** on the following page), once acquainted with the rationales for the policy voters are more likely to vote for a legislator who supports this comprehensive reform. That preference is strong among Democrats (63% of whom are more likely to back such a legislator, and just 8% less likely), and largely a break-even proposition among independents (32% to 28%) and even Republicans (27% to 36%).

Figure 7: Impact of Policy on Legislator Support

And if your State legislator supported this policy, would you be more likely to vote for them, less likely to vote for them, or would it make no difference in your vote?



In sum, **Washington voters offer a clear and consistent endorsement of a comprehensive revision of the state’s approach to problematic drug use.** Voters believe that the state’s current drug laws have failed to accomplish their goals, and are doing more harm than good in a variety of aspects of life in the state. Voters see the *Blake* decision as offering an opportunity to develop an entirely new approach – one that they want rooted in public health rather than criminal justice. Two-thirds support a policy framework that would continue to have no criminal penalties for personal use possession of drugs – support that cuts across every major subgroup of the Washington electorate, and endures even in the face of pro and con arguments.

ⁱ **Methodology:** From March 27 - April 1, 2021, FM3 completed 600 online and live telephone interviews (on both landlines and cell phones) with likely November 2022 voters in Washington state. The margin of sampling error for the study is +/-4.0% at the 95% confidence level; margins of error for population subgroups within the sample will be higher. Due to rounding, not all totals will sum to 100%.