

Mr. GIORDANO. I have never had that brought to my attention at any time that this has in any way hindered prosecution of a case because even in the Marihuana Tax Act there is, for instance, the possession. While it calls for a penalty of 2 to 10 years, imposition of sentence can be suspended or probation can be given. So, as I say, this has not been the case that it has caused any problem that I know of with the prosecutors.

Mr. ROUSH. Well, I ask that question because of my own experience as a prosecuting attorney in a small county where I had to make decisions as to whether to prosecute or not—and maybe I was just being overly compassionate—but there were times when I felt that if I succeeded in a prosecution, the person would be punished too severely, and I showed some restraint when perhaps as a good public servant I shouldn't have shown that same restraint. This is what prompted my question.

Do you agree with the Task Force on Drugs which is part of the President's Commission on Crime, in its recommendation that we reduce the penalty for simple possession from a felony to a misdemeanor?

Mr. GIORDANO. That isn't what the task force said. Now, there was a report in there by one of the consultants of the task force that made this recommendation, but the Commission's recommendation was that the whole problem of marihuana and the dangers of marihuana should be subjected to a full study.

Mr. ROUSH. I had that with me yesterday but I was under the impression this was one of what they called tentative recommendations of the task force. They used the word tentative, but we will verify that later.

You said all violators under 18 years of age are treated as juvenile delinquents and are not subjected to the regular penalties of the act. Now, to what penalties are they subjected?

Mr. GIORDANO. They are tried as juvenile delinquents and they are placed in the custody of the Attorney General, as I recall, usually to the age of 21 and with no criminal record.

Mr. ROUSH. No criminal record was kept of this or at least a record which is subject to public scrutiny?

Mr. GIORDANO. That is right.

Mr. ROUSH. Now, you also said that the provisions of the Youth Corrections Act are available to violators 18 to 22 years old and to many between the ages of 22 and 26. What penalties are they subjected to under this act?

Mr. GIORDANO. They are subject to a penalty of up to 6 years, indeterminate.

Mr. ROUSH. In this instance then they could be subject to a felony penalty?

Mr. GIORDANO. They would be charged, 22 to 26, with a felony, but the penalty would be an indeterminate sentence of up to 6 years.

Mr. ROUSH. It would still be a felony?

Mr. GIORDANO. Yes.

Mr. ROUSH. From your statement and from your reiteration of your statement, I take it you do feel the existence of a criminal penalty for simple possession is a deterrent—