

Resource Document on the Need to Monitor and Assess the Public Health and Safety Consequences of Legalizing Marijuana

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- *APA Operations Manual*.

Council on Addiction Psychiatry Council on Psychiatry and Law

The voters of California established a regulatory framework for legalizing medical use of marijuana in 1996 when they approved the Compassionate Use Act (1). California's law and analogous laws enacted by a significant number of other states (2) are in direct conflict with federal *Controlled Substances Act* (3). However, the U.S. Department of Justice has promulgated enforcement guidance to the U.S. Attorneys, declining to enforce the federal law against persons who comply with the requirements of state law in the absence of conduct that endangers supreme federal interests identified in the enforcement document, such as interstate distribution of marijuana or sale of marijuana to minors (4).

In November 2012, the voters of Colorado (5) and Washington (6) approved initiatives legalizing recreational use of marijuana and directing the respective state legislatures to enact a comprehensive regulatory framework for licensing cultivation and distribution of marijuana to persons 21 or older and imposing taxes on marijuana transactions. Again, although cultivation, distribution and possession of marijuana for recreational purposes remain illegal under federal law, the U.S. Department of Justice promulgated additional enforcement guidance to the U.S. Attorneys declining to enforce the *Controlled Substances Act* against persons who comply with the requirements of Colorado and Washington law. This is predicated on the absence of interstate distribution of marijuana or other conduct that endangers the overriding federal interests identified in the enforcement document (7). Specifically:

- Preventing distribution of marijuana to minors.
- Preventing revenue from sale of marijuana from going to criminal enterprises.
- Preventing diversion of marijuana from states where it is legal under state law in some form to other states.

- Preventing state-authorized marijuana activity from being used as a cover or pretext for trafficking of other illegal drugs or other illegal activity.
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use.
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands.
- Preventing marijuana possession or use on federal property.

Many medical and public health organizations (8), including the APA (9), have opposed the legalization of marijuana for either medical or recreational purposes because of concerns about the impact of its use on child and adolescent development, driving, mental and physical health, and the aggregated effects of the increased prevalence and intensity of marijuana use on the public health, safety and welfare. At the same time, many observers have expressed concern about the costs of the current prohibition and the unequal impact of prosecution and punishment for marijuana offenses (10). Some drug policy analysts have suggested that a carefully designed regulatory approach might be preferable to the current policy if it were to avoid the high costs of prohibition while containing legalized consumption within reasonable limits (11). One of the central questions raised by this debate is how different approaches to legalization are likely to affect prevalence and patterns of marijuana consumption. Yet, there is little direct evidence on this key issue. Scientific discussion focuses either on the effects of the "coffee house" experiment in the Netherlands or on the extensive literature on the effects of alcohol and tobacco regulation (12). Analysts agree that extrapolating findings about the effects of marijuana legalization from these very different contexts is highly speculative (13).

The best way of developing useful information about marijuana regulation would be to monitor and evaluate the experiments now underway in the states that have legalized marijuana, especially Washington and Colorado. While Washington (14) and Colorado (15) have expressed their intention to monitor patterns of drug use and adverse health effects, the federal government has not yet formulated and implemented a systematic plan, with uniform

data elements, for monitoring, measuring and evaluating the effects of these recent state innovations in marijuana regulation on the public health and safety. Nor has the federal government insisted that the states undertake this task themselves in accord with a common set of requirements. Formulation of a surveillance plan is both necessary and feasible based on the ample scientific literature on marijuana consumption, alcohol and tobacco regulation, and control of illegal drug markets (16).

References

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