



August 6, 2021

Office of the National Drug Control Policy
Executive Office of the President
1600 Pennsylvania Avenue
Washington DC, 20006

Re: Doc 86 FR 35828 Application of Equity in U.S. National Drug Control Policy

The Coalition for Cannabis Policy, Education, and Regulation (CPEAR) and its Center of Excellence appreciates the opportunity to provide comments on the Application of Equity in the U.S. National Drug Control Policy posted in the Federal Register on July 7, 2021. The Center of Excellence for CPEAR is a group of subject matter experts from academics, think tanks, public safety officials, medical and mental health professionals, and social equity organizations. The Center of Excellence works to develop policy while guiding the national conversation on the federal regulation of cannabis.

Formal consultations for the National Drug Control Strategy often involve direct relationships between ONDCP and the consulting group, organization, or subject matter expert. What are recommendations for broadening its formal consultations to gain broader perspectives earlier in the policy development process?

Create a task force dedicated to researching the impacts of state-led drug policies and its effect on local communities

ONDCP should engage with a task force to discuss the impacts of evolving state-led drug policies and its effect on local communities. A potential task force would be comprised of drug policy reform advocates, small business advocacy organizations, sovereign nations, community-based organizations, and state and local policymakers and regulators, and other stakeholder groups located in states where cannabis use is permitted. ONDCP should also take the opportunity to understand what actions the federal agency can take to understand how these policies have affected equity outcomes in the local communities that have been subject to these policy changes. This task force should establish national guidelines for equitable drug policy reform based on existing data and begin disparity studies where data doesn't exist yet.

As part of this consultation process, CPEAR would welcome the opportunity to introduce ONDCP to its Center of Excellence, an in-house think tank focused on getting federal regulation of cannabis right. The Coalition's Center of Excellence is comprised of leaders throughout the United States who are experts on a broad array of issues that will be affected by federal cannabis legalization, including:

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| <input type="checkbox"/> Data and research | <input type="checkbox"/> Public safety | <input type="checkbox"/> Substance use disorder |
| <input type="checkbox"/> Regulatory and enforcement structures | <input type="checkbox"/> Product format and potency | <input type="checkbox"/> Driving under the influence |
| <input type="checkbox"/> Legacy and state systems | <input type="checkbox"/> Criminal justice reform | <input type="checkbox"/> Youth use prevention |
| <input type="checkbox"/> Financing and minority capital access | <input type="checkbox"/> Social equity | <input type="checkbox"/> Marketing and advertising |
| <input type="checkbox"/> Tax policy | <input type="checkbox"/> Patient access | <input type="checkbox"/> Environmental sustainability |
| | <input type="checkbox"/> Medical benefits and mental health | <input type="checkbox"/> Workplace safety |



The Center of Excellence works to analyze the effect federal cannabis legalization would have on these policy areas and how they should be integrated into a national legal framework. We believe our Center of Excellence members, who volunteer their time, would prove to be an excellent resource for ONDCP.

How might research examine equity in the context of law enforcement actions against drug trafficking or transnational criminal organizations? Are there existing applicable research frameworks that might be applied to ONDCP's Grant Administration Programs or other multi-jurisdictional task forces?

Reform High-Intensity Drug Areas (HIDTA) Program Cannabis Impact Reporting

We urge ONDCP to evaluate its current data reports as being produced by the HIDTA Program. These reports have fallen out of step with the state-led policy changes that have taken place in states across the country. As a result, the cannabis-related data and the conclusions drawn by its authors in recent iterations of the report have illustrated an inaccurate understanding of cannabis use and its societal impact.

The Rocky Mountain High-Intensity Drug Trafficking Area Report published in 2015 and repeatedly updated, covering the impact of legalization of marijuana in Colorado, is a recent example of the problematic nature of these reports.¹ For example, the report misrepresented findings of a traffic safety study conducted by the U.S. National Highway Transportation Safety Administration (NHTSA), which assessed the risk of vehicle accidents associated with the use of cannabis and other substances. These inaccuracies were pointed out by the former Colorado Governor John Hickenlooper in a letter to former Attorney General Jeff Sessions.²

Others have engaged in statistical breakdowns of these reports, here we wish to highlight a few ways that methods used, or not used, in these reports hurt public dialog and prevent a deeper understanding of the impact of new drug laws:

First, these reports do not spend the requisite effort to add context to the data it presents. Data around cannabis-related issues are incredibly complex. The legislation enacting legalization often provides more training and resources for law enforcement to address cannabis-related issues. That additional training and resources may well account for the increases seen in the data. These sorts of biases exist throughout the data sets and warrant extremely careful handling of the data. Without this context, those who read and believe the report are liable to jump to false and counterproductive conclusions.

Second, the reports work hard to frame legalization in the worst light, and often in ways that do not align with the lived experience from these states. The driving data from the Colorado reports, presented as percentage increases in traffic deaths, makes Colorado's roadways look incredibly unsafe. However, the same data set, the Fatal Accident Reporting System, shows that Colorado's

¹ Rocky Mountain High Intensity Drug Trafficking Area Report Volume 3 (2015); <https://bit.ly/3Cg0yt6>

² Hickenlooper, John, to AG Jeff Sessions. (2017): <https://bit.ly/3xqvC5s>



death rate, both by population and by vehicle miles traveled, is below the national average.³ We believe that driving while intoxicated remains a prevalent problem that should be addressed, but by putting this data in such a biased context, the effort comes across as fearmongering rather than a legitimate raising of issues and challenges. This biased framing risks undermining actual potential challenges as they arise.

Third, the reports make minimal effort to highlight positive developments from cannabis reform. Youth use surveys from multiple states have shown flat or even decreased use since legalization. The reports only give a cursory acknowledgment of this fact. Additionally, the reports spend no time focusing on reduced incarceration rates, or other potential positives from cannabis legalization.

Fourth, the reports make little effort to delineate between causation and correlation. For instance, many of the reports show that cannabis usage amongst adults is some of the nation's highest. But of course, cannabis legalization is most popular in states that enjoy cannabis usage. These states were already amongst the highest users of cannabis before legalization.

Due to federal prohibition of cannabis, there are sadly very few sources of data or research on the impact of cannabis and cannabis legalization. What few sources of data that assess the impact of legalization are thus more important now than ever. Our subject matter experts are concerned that these agenda-driven data reports will erode public confidence that the federal government can accurately monitor the effects of cannabis legalization on communities. As a guidepost, ONDCP should guide these multi-jurisdiction taskforces to draw lessons from State of Colorado's biannual report on the impact of cannabis legalization.⁴ The report provides a more expansive view on data and objectively outlines the shortcomings of the available data streams. Moreover, ONDCP should be pushing for counter-reports on the impacts of prohibition on both individuals and communities. Finally, ONDCP should be gathering data on the potential benefits in the area of harm reduction for opioid abuse and other substance abuse.

Cannabis legalization continues to be a complex issue given its roots in the War on Drugs, and the disproportionate effect that campaign had on minority communities. HIDTA research needs to be reformed to highlight the complexities of the state-led evolution of cannabis legalization. Specifically, reports should analyze the effect cannabis legalization has had on public health and safety through an equity lens, wherein such data is broken down into race, gender, and location.

ONDCP Should Engage in Realtime Data Monitoring

Our subject matter experts suggests that ONDCP capitalize on the opportunity to play a larger role in the ongoing evolution of cannabis policy taking place in Congress and across the country. As a guarantor of public safety, ONDCP has the responsibility to guide the national conversation by utilizing its grants for research aimed at improving the understanding the societal impacts of cannabis policy

³ <https://www.iihs.org/topics/fatality-statistics/detail/state-by-state>

⁴ Impacts of Marijuana Legalization on Colorado (2021): https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf



on minority communities. More importantly, ONDCP can be influential in crafting policies to improve public safety and health around cannabis use, including multiple substance use, and youth abuse prevention.

To that end, ONDCP should be monitoring track and trace data across legal states to understand the inventory of the entire market, the pattern of cannabis transactions and the rate of manufacturing and cultivation taking place. This data can provide insight into any potential diversion to the illicit market taking place across the country and aid with objective enforcement efforts carried out by federal and state authorities.

In states where cannabis use is permitted ONDCP should monitor state-led resentencing and automatic expungement programs. Additionally, mandatory reporting of discrimination based on cannabis in the provision of a) a federal public benefit b) recommendations and opinions regarding veteran participation in a state cannabis program by health care providers of the Department of Veterans Affairs or health care providers of Indian health programs and c) for purposes of the immigration laws.

ONDCP should monitor each state's data relating to cannabis-impaired driving, including a) the number of cannabis-impaired drivers; b) the rate of cannabis-related motor vehicle accidents; and c) the rate and severity of injuries because of cannabis-related motor vehicle accidents as well as ongoing and new research related to the development of an impairment standard for driving under the influence.

Conclusion

We appreciate the opportunity to provide you with our input on improving stakeholder engagement and data monitoring. We strive to be stewards of data, science, and best practices, and hope to be able to work with you in the future.

Sincerely,

The Center of Excellence at the Coalition for Cannabis Policy, Education, and Regulation