

Testimony of Peter V. Black, Member
American Federation of Government Employees (AFGE), AFL-CIO
in support of:
The Cannabis Users Restoration of Eligibility (CURE) Act

My name is Peter V. Black. I am an active member of the American Federation of Government Employees (AFGE), AFL-CIO, Local 421. AFGE is the Nation’s largest federal employee union, representing approximately 750 thousand dedicated public servants throughout the country. At its National Convention in 2022, AFGE adopted a resolution calling for an end to the prohibition on responsible cannabis use by federal employees.¹ The CURE Act will achieve this goal. More importantly, the CURE Act will grant the federal government the flexibility to hire the talented, trusted workforce our Nation needs.

I proudly serve my country as a Trial Attorney for a federal agency.² The government has consistently evaluated my performance as “Outstanding.” I am also a former cannabis user. I stopped using cannabis before applying for federal employment and have abstained ever since. I confessed my past cannabis use to my employing agency. Because of the grace and good sense of my employing agency's management, my past cannabis use was overlooked so that I might use my skills to serve my country. Many others are not so lucky. I was dismayed to learn in March 2021 that the Biden Administration had terminated several White House staffers for past cannabis use. Since then, I have advocated for others to receive the same opportunity I have to serve my country. The CURE Act will accomplish this.

Current federal policy declares all cannabis consumers categorically unsuitable for federal employment, regardless of whether such consumption is responsible and regardless of whether one’s job functions include safety-sensitive duties. This arbitrary prohibition needlessly limits the talent pool from which the federal government may recruit. Indeed, more than one in six Americans aged twenty-six

¹ Am. Fed'n of Gov't Employees, *Resolution to Support Deleting Responsible Off-Duty Marijuana Usage from Suitability Criteria, Resolution # 4003* (2022), <https://www.afge.org/globalassets/documents/generalreports/2022/11/2022-constitutional-amendments-adopted-1000-4000.pdf> at 71.

² I have prepared these comments solely in my individual capacity, as a personal petition to Congress. See 5 U.S.C. § 7211. The views expressed herein are mine alone, and may not reflect the views of my employing agency, of AFGE, or of Local 421. This document was not prepared during official time or using government-funded equipment or any other official resources.

or older have used cannabis in the past year, as have one in three Americans in the crucial employment recruiting ages from eighteen to twenty-five.³ Although many in the private sector are more than willing to recruit from the broadest possible talent pool,⁴ the federal government continues its moribund effort to recruit a twenty-first century workforce using a twentieth-century mindset.⁵ The CURE Act will allow the federal government to recruit the best and the brightest from among this demographic.

The federal government's blanket prohibition on cannabis use by its employees may originally have been based on the misguided belief that even off-duty, responsible cannabis use may lead to increased workplace accidents.⁶ The best available evidence, however, does not demonstrate an association between off-duty cannabis use and adverse effects on workplace safety.⁷ The CURE Act correctly recognizes that federal employees may choose to consume cannabis on their own time, on their own private property, and still faithfully, effectively, and safely serve the American people.

³ *Highlights for the 2021 National Survey on Drug Use and Health*, U.S. DEP'T OF HEALTH & HUMAN SERVS. at 1 (Jan. 4, 2023), <https://www.samhsa.gov/data/sites/default/files/2022-12/2021NSDUHFFRHighlights092722.pdf>.

⁴ Danielle Abril & Taylor Telford, *Smoking weed after work? A growing number of employers don't mind*, WASH. POST (Jul. 17, 2023), <https://www.washingtonpost.com/technology/2023/07/17/marijuana-drug-test-weed-work/>; Lisa Nagele-Piazza, *Amazon Drops Marijuana Screening, Supports Federal MORE Act*, SOC'Y FOR HUMAN RES. MGMT. (Jun. 4, 2021), <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/amazon-drops-marijuana-screening.aspx>.

⁵ See, e.g., Charles Levinson, *Comey: FBI 'Grappling' With Hiring Policy Concerning Marijuana*, WALL STREET JOURNAL (May 20, 2014), <https://www.wsj.com/articles/BL-LB-48089> (quoting then-FBI Director James Comey as saying, "I have to hire a great work force to compete with those cyber criminals and some of those kids want to smoke weed on the way to the interview.").

⁶ See Phillip J. Hilts, *Drugs Not Factor In Nimitz Crash, Navy Testifies*, WASH. POST (Jun. 19, 1981), <https://www.washingtonpost.com/archive/politics/1981/06/19/drugs-not-factor-in-nimitz-crash-navy-testifies/4fe028ef-bf25-4d94-9746-30dede77deca/>; Sal A. Paolantonio, *Not in My Navy*, PROCEEDINGS (Aug. 1982), <https://www.usni.org/magazines/proceedings/1982/august/not-my-navy>; Vanessa David, *Sailors Cautioned After Legalization of Marijuana*, MILITARY NEWS (Jan. 2, 2013), <https://www.military.com/daily-news/2013/01/02/sailors-cautioned-after-legalization-of-marijuana.html>.

⁷ NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *THE HEALTH EFFECTS OF CANNABIS AND CANNABINOIDS: THE CURRENT STATE OF EVIDENCE AND RECOMMENDATIONS FOR RESEARCH* 227, <https://doi.org/10.17226/24625> (2017) ("There is insufficient evidence to support or refute a statistical association between general, nonmedical cannabis use and occupational accidents or injuries."); J.C. Zhang *et al.*, *Cannabis use and work-related injuries: a cross-sectional analysis*, 70 OCCUPATIONAL MEDICINE 570 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7732753/pdf/kqaa175.pdf>; Inst. for Work & Health, *Cannabis use linked to higher injury risk, but only among those who use at or before work*, 108 AT WORK 1 (2022), https://www.iwh.on.ca/sites/iwh/files/iwh/at-work/at_work_108.pdf; see also Rahi Abouk *et al.*, *Does Marijuana Legalization Affect Work Capacity? Evidence from Workers' Compensation Benefits*, NAT'L BUREAU OF ECONOMIC RESEARCH (2021), <https://www.nber.org/papers/w28471>.

Moreover, the CURE Act will reduce conflict between states' rights and federal law. Recreational cannabis use is permitted under the laws of 23 states and the District of Columbia. An additional 15 states permit medical cannabis use. It is likely that an outright majority of states will permit recreational cannabis use within the next few years. Though cannabis use remains technically impermissible under Federal law,⁸ the Federal Government has largely declined to enforce prohibition.⁹ This patchwork of laws leads to confusion among citizens as to what is and is not permitted. Against this backdrop of changing laws and social norms, the off-duty, responsible use of cannabis can no longer be said to evince a general disregard for established rules and regulations.

The CURE Act is also consistent with prior acts of Congress. Congress has repeatedly directed the Office of Personnel Management (OPM) to review its off-duty cannabis use policies. The Committee report for the Financial and General Government Appropriations Bills for both Fiscal Years 2022 and 2023 "encourage[d] OPM and the Suitability Executive Agent to continue to review policies and guidelines regarding hiring and firing of individuals who use marijuana in states where that individual's private use of marijuana is not prohibited under the law of the State."¹⁰ However, OPM continues to threaten otherwise high-performing federal employees with termination, and otherwise well-qualified applicants with disqualification, for consuming state-legal cannabis. The CURE Act, then, is the next logical step to translate Congress' policy preferences into action.

Finally, the CURE Act will encourage truthfulness in background investigations for federal employment. Today, cannabis use on one's own time is a mainstream, mundane activity, more common even than tobacco usage.¹¹ Over two-thirds of

⁸ 21 U.S.C. § 812(c)(1)(c)(10).

⁹ See, e.g., *Standing Akimbo, LLC v. United States*, No. 20-645, 594 U.S. ____ (Jun. 28, 2021) (slip op.) (statement of THOMAS, J., re: denial of cert.), available at https://www.supremecourt.gov/opinions/20pdf/20-645_9p6b.pdf; James M. Cole, *Guidance Regarding Marijuana Enforcement* (Aug. 29, 2013) (rescinded Jan. 4, 2018), <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>; Bradley Arant Boult Cummings LLP, *Attorney General Garland Reconfirms the DOJ's Hands-Off Approach Toward Federal Marijuana Prosecution*, JDSUPRA (May 2, 2022), <https://www.jdsupra.com/legalnews/attorney-general-garland-reconfirms-the-9983989/>.

¹⁰ H.R. Rep No. 117-19, at 96 (2021); H.R. Rep No. 117-393, at 95 (2022); accord H.R. Rep No. 116-122, at 77 (2019); H.R. Rep No. 116-456, at 91 (2020); see also Letter from Rep. Earl Blumenauer, et al., to Pres. Joseph R. Biden, <https://blumenauer.house.gov/sites/blumenauer.house.gov/files/2021-03-25%20Letter%20to%20Biden%20re%20Marijuana%20Employment%20Policy%20%281%29.pdf> (Mar. 25, 2021); Letter from Rep. David P. Joyce to Pres. Joseph R. Biden, <https://joyce.house.gov/sites/joyce.house.gov/files/DJ%20Cannabis%20Concerns%20Letter%20to%20Biden%20.pdf> (Mar. 22, 2021).

¹¹ Ayana Archie, *Marijuana use is outpacing cigarette use for the first time on record*, NAT'L PUB. RADIO (Aug. 30, 2022), <https://www.npr.org/2022/08/30/1120024399/marijuana-cigarette-use-gallup-poll>.

Americans believe cannabis should be legal—and this figure has held steady for several years.¹² It is simply no longer the case that off-duty, responsible cannabis use evidences a general disregard for authority. Thus, far from affirming respect for authority and the rule of law, OPM's current policy of asking all applicants and employees to confess their cannabis use incentivizes them to lie during their investigations, thereby breeding contempt for the law. The CURE Act will remove this incentive.

Thank you for the opportunity to comment on the CURE Act. I support the bill as drafted, and respectfully urge the Committee and the House to approve the bill forthwith without amendment. I am available for questions.

Respectfully submitted,

/s/Peter V. Black

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¹² Jeffrey M. Jones, *Marijuana Views Linked to Ideology, Religiosity, Age*, GALLUP (Nov. 15, 2022), <https://news.gallup.com/poll/405086/marijuana-views-linked-ideology-religiosity-age.aspx>.