

**Written Testimony for
Marijuana Laws in America: Racial Justice and the Need for Reform
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While we are disappointed that this hearing has no witnesses who support alternatives to complete marijuana legalization and commercialization, we appreciate the opportunity to submit testimony to the Committee. We represent Smart Approaches to Marijuana (SAM), the leading non-partisan national organization offering a science-based approach to marijuana policy. SAM was founded by former Congressman Patrick Kennedy, senior editor of *The Atlantic* David Frum, and Dr. Kevin Sabet, a former White House advisor to the Obama Administration as well as two other U.S. Administrations.

In addition to his service to the past three White House administrations, Dr. Sabet is also an Affiliated Fellow at Yale University and has more than 25 years of drug policy experience. Will Jones serves as the Communications and Outreach Associate at SAM and has had the privilege to work as community activist on issues of social justice at the local and national level. He later started the campaign against marijuana legalization and commercialization in Washington, DC. Mr. Jones is a proud husband, father, and also serves as a DC Firefighter/EMT and is completing his Master of Public Administration at George Washington University.

Many proponents of legalization have posited marijuana legalization as a solution for real issues that disproportionately affect communities of color. They cite the prevalence of minority groups jailed for minor possession charges as reason enough to legalize recreational marijuana. They charge that legalizing marijuana would, in part, reduce the number of people of color whom are jailed for minor possession. The arguments are predicated on a mythology that woefully misrepresents the impact of marijuana through the lens of social justice.

In reality, there is a middle ground that could attract a bipartisan consensus: smart decriminalization instead of legalization. The goal of the overall policy should be to reduce drug use and connect those who are suffering from addiction with recovery resources. Instead, the goal of the marijuana industry is to increase the use of their products by increasing the potency, making appealing new products like candies and gummies, and aggressively marketing these products to young demographics (See Appendix A).

Marijuana Arrest Rates – Common Misconceptions

Many believe marijuana legalization will reduce the number of minorities imprisoned or arrested for marijuana-related offenses. Legalization advocates and the marijuana industry have worked diligently to ensure that legalization is perceived as a social justice issue, arguing that without full legalization, minority populations will continue to be targeted inappropriately by law enforcement officials. Proponents of legalization argue that this policy is vital to achieving social justice.

As is evidenced by New York state's recent legislation, decriminalization and legalization are not inextricably linked in the way that marijuana industry proponents have claimed they are. In June, New York passed legislation to decriminalize the drug without legalizing it for recreational use.¹ In perpetuating the false dichotomy that social justice cannot be addressed without full-scale legalization, proponents have ensured confusion around the underlying issue of social justice, seeking to legitimize legalization and commercialization by tacking it on to an entirely separate issue.

We have worked diligently to encourage and aid other states in creating decriminalization legislation to begin to address the socio-economic disparities in marijuana-related arrests. In New Jersey, proponents of legalization delayed any consideration of social justice reforms until they could profit from legalization. A pure decriminalization bill by the Chair of the Senate Black Caucus that did not include the commercialization of marijuana was ignored despite widespread outcry among state legislators regarding the impact of marijuana-related offenses on minority communities.²

Even still, in states that have legalized recreational marijuana under the premise of reducing social injustice, arrest rates for certain marijuana-related offenses have increased, particularly for minority groups.

In Washington D.C. for example, between 2015 and 2017 (the years immediately following legalization), although total marijuana-related arrests decreased, distribution and public consumption arrests more than tripled. Among adults, 89% of marijuana distribution or public consumption arrestees were African Americans.³

Additionally, the 2017 marijuana-related African American arrest rate in Colorado is nearly twice that of Caucasians (233 in 100,000 versus 118 in 100,000).⁴ In Colorado, 39% of African American marijuana-related arrests in 2017 were made without a warrant, while only 18% of Caucasians were arrested without one.⁵ In Denver, the average number of annual Hispanic arrests for marijuana increased by 98% since legalization (107 average annual arrests pre-legalization vs 212.25 post-legalization); the average number of arrests for African Americans increased 100.3% from 82.5 per year to 165.25 per year.⁶ As pro-marijuana lobbyists argue that legalization will improve social justice in legalized states, disparities among use and criminal offense rates persist across race, ethnicity, and income levels.

Arrests of people of color have risen, contrary to what legalization proponents suggest. The evidence only bolsters the reality that the system itself is what warrants further investigation, not the legality of the drug. The charge that marijuana legalization will eliminate racial bias in the justice system is unfounded. The opposite has been proven.

The effect on young people of color in states that have legalized marijuana further exemplifies the alarming misconception that legalization reduces the number of minorities being charged with violations of marijuana laws. Across Colorado, minority juveniles suffered. The average number of marijuana-related arrests among Hispanic juveniles increased 7.3% (770/year to 825/year), and the average number of marijuana-related arrests among African-American juveniles increased 5.9% (230/year to 243.5/year).⁷ Additionally, drug suspension rates in Colorado schools with 76% or more students of color are over two times higher compared to Colorado schools with fewer than 25% students of color.⁸ Colorado schools that had 25% or fewer youth of color had 313 marijuana-related suspensions per 100,000 students compared to 658 marijuana-related suspensions per 100,000 students for schools comprised of populations with 76% or more youth of color.⁹ In Washington, DC juvenile marijuana-related arrests increased 114% between the three years before and after marijuana legalization.¹⁰ The legalization of marijuana has served to further incriminate minority youth.

Economic Impact – the Marijuana Industry in Communities of Color

The marijuana industry has increasingly exploited minority communities with disastrous outcomes. Several consequences are borne of this.

First, higher crime rates follow areas in which marijuana stores set up shop. In 2017, the number of court filings charged with the Colorado Organized Crime Control Act that were linked to a marijuana charges increased 284% since 2012.¹¹ A study funded by the National Institutes of Health (NIH) showed that the density of marijuana dispensaries was linked to increased property crimes in nearby areas. Researchers found that in Denver, Colorado, neighborhoods adjacent to marijuana businesses saw 84.8 more property crimes each year than neighborhoods without a marijuana shop nearby.¹²

Second, marijuana store owners seek out lower-income and minority communities as prime locations for their shops. Just as Big Tobacco has targeted lower-income communities as an important consumer-base,¹³ the marijuana industry seeks a similar base to establish addiction-for-profit businesses. As reported by the Truth Initiative, an organization committed to exposing the truth about Big Tobacco, tobacco companies historically have targeted and advertised to lower-income communities and communities of color.¹⁴ The marijuana industry has done the same.

In Los Angeles, the majority of dispensaries have opened in predominately African-American communities.¹⁵ Additionally, an overlay of socioeconomic data with the geographic

location of pot shops in Denver shows marijuana stores are located disproportionately in disadvantaged neighborhoods.¹⁶ In Oregon, the state conducted an analysis on the distribution of state-sanctioned dispensaries and found that sites were disproportionately concentrated among low-income and historically disenfranchised communities.^{17,18}

Yet these stores rarely employ members of the community or improve economic opportunities for the communities they target. In fact, nationally, less than 1% of all pot shops are owned by minorities of any community.¹⁹ In Massachusetts, the phenomenon is further exemplified. Massachusetts requires that all “Marijuana Agents,” persons who work at marijuana businesses, register with the state. Demographic analysis revealed that of 1,306 agents who applied in the city of Boston, 73% were Caucasian, 6% were Hispanic, and 4% were African-American.²⁰ This is unrepresentative of the city’s population. According to recent census estimates, Caucasians comprise 44.9% of the population of Boston; Hispanics 19.4%; African-Americans, 25.3%.²¹ The economic opportunities touted by the industry are missing in practice.

Furthermore, in efforts to curb the marketing practices of Big Tobacco, state governments acted to ensure that advertisements were limited, and the reach of tobacco companies was curbed. States like Massachusetts and New York imposed barrier rules restricting the ability of Big Tobacco to set up shop within a certain distance from schools, community centers, and churches.²² The governments not only recognized that their youth were at risk, but that in particular, their minority youth were at risk.²³ Still, as communities attempt to impose barriers and distance marijuana from young people and young minority people, marijuana companies have expressed outrage. When the Kansas City government moved to restrict marijuana dispensaries from setting up shop within 750 feet of schools, churches, and child care centers, marijuana advocates were dismayed and promised to push back on the initiative.²⁴ Elsewhere, local governments have given the marijuana industry even greater leniency that is contradictory to the efforts that were initiated to curb the tobacco industry years ago.

Public Health – the Impact of Marijuana in Lower-Income Communities

In addition to the financial consequences for minority groups, minority women and children face a new risk. A study by the American College of Obstetricians and Gynecologists reported that young, urban women from lower income levels have a 15–28% rate of marijuana use during pregnancy. Between 34 and 60% of marijuana users continue marijuana use throughout pregnancy due to a decreased perception of risk and stigma.²⁵ The misrepresentation of marijuana effects has disproportionately impacted pregnant women in lower-income communities. The American Academy of Pediatrics tells us that pregnant women should not use marijuana due to widely established health harms associated with use.

An alarming mythology perpetuated by the marijuana industry is that marijuana-legal states have seen a decrease in opioid deaths. This claim is based loosely on a 2014 study that recently has been debunked by researchers at Stanford University.²⁶ The opioid epidemic has disproportionately impacted lower-income communities.²⁷ According to the Brookings

Institution, this disproportionate impact is owed in part to the lack of education and the lack of treatment centers in these communities.²⁸ By taking over the messaging, the marijuana industry capitalizes on the vulnerability of the communities hit hardest by the epidemic.

The health risks of marijuana are lost amid confusing and misleading advertisements that target communities that lack educational resources. Today's high-potency marijuana is addictive,²⁹ and linked with serious mental health illnesses such as psychosis,³⁰ and lowers educational outcomes, especially for those who use it heavily.³¹ These lower-income communities face a new threat to their health with inadequate resources to combat the effects.

Conclusion

The truth is, marijuana reforms can and should center on alternatives to incarceration, such as drug treatment courts, pre-arrest diversion, and more research. The full legalization and commercialization of marijuana will spawn Big Tobacco 2.0 — and because of today's highly intoxicating THC levels, far worse social justice harms and impacts to targeted communities.

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² Barchenger, S., & Racioppi, D. (2019, May 22). NJ Legal Weed: Top State Lawmaker Sweeney Rejects Marijuana Decriminalization. *APP*. Retrieved from <https://www.app.com/story/news/local/new-jersey/marijuana/2019/05/22/nj-weed-sweeney-marijuana-decriminalization/3747328002/>

³ DC Metropolitan Policy Department. (2018). Marijuana Arrest Data. Washington, District of Columbia. Retrieved February 2019, from <https://mpdc.dc.gov/node/1347766>

⁴ Colorado Department of Public Safety. (2018). Impacts of Marijuana Legalization in Colorado: A Report Pursuant to Senate Bill 13-283. Division of Criminal Justice.

⁵ Colorado Department of Public Safety. (2018). Impacts of Marijuana Legalization in Colorado: A Report Pursuant to Senate Bill 13-283. Division of Criminal Justice.

⁶ Colorado Department of Public Safety. (2018). Impacts of Marijuana Legalization in Colorado: A Report Pursuant to Senate Bill 13-283. Division of Criminal Justice.

⁷ Colorado Department of Public Safety. (2018). Impacts of Marijuana Legalization in Colorado: A Report Pursuant to Senate Bill 13-283. Division of Criminal Justice.

⁸ Colorado Department of Public Safety. (2016). Marijuana Legalization in Colorado: Early Findings - A Report Pursuant to Senate Bill 13-283.

⁹ Colorado Department of Public Safety. (2016). Marijuana Legalization in Colorado: Early Findings - A Report Pursuant to Senate Bill 13-283.

¹⁰ DC Metropolitan Policy Department. (2018). Marijuana Arrest Data. Washington, District of Columbia. Retrieved February 2019, from <https://mpdc.dc.gov/node/1347766>

¹¹ Colorado Department of Public Safety. (2018). Impacts of Marijuana Legalization in Colorado: A Report Pursuant to Senate Bill 13-283. Division of Criminal Justice

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