

Countering the Threat of Legalized Marijuana: A Blueprint for Federal, Community, and Private Action

David W. Murray, Brian Blake & John P. Walters

The Necessity of Responding

Recent [reporting](#) indicates that the Federal government will be taking a more serious approach to the marijuana threat and the enforcement of our nation's drug laws. This is a welcome and long-overdue development, as the state-level legalization of marijuana is bringing with it significant and foreseeable costs. Decades of experience have taught us the damage that accompanies drug use; embarking on a legalization course that assuredly leads to higher levels of prevalence will increase the damage greatly as use broadens and intensifies.

With the destruction of prevention efforts as drug use becomes normalized, more young Americans are caught in the drug-use trap. By recently legalizing the highly-potent, increasingly dangerous forms of industrial marijuana, California alone is poised to expose a population of nearly 40 million people to the actions of a commercial, socially-acceptable marijuana market, in full violation of federal law. That figure is larger than the population of Canada, and must be added to the affected populations of the several states that have also passed such laws, as well as the populations in other states to which their drugs are smuggled.

Checking and turning back the drug threat, increasingly propelled by legalization efforts, is an urgent need. The expansion of marijuana use, science now tells us, cannot be isolated from its impact on other drug epidemics. Marijuana legalization risks [increasing](#) not only mental disorders, but further, the illegal use of other substances of abuse, which a larger marijuana market accelerates and sustains.

The impact of the marijuana "gateway" effect has been substantiated in multiple research reports. For example, recent findings have shown that teen misuse of opioid drugs is strongly [linked](#) to marijuana use, and to the additional use of [multiple](#) substances of abuse including cocaine and alcohol. No society has ever gone where America is now headed, with the current and coming level of acceptable, even normative, drug use. The marijuana epidemic comes at a time when America has already absorbed shocks from a

multitude of parallel behavioral disorders and challenges to mental health, driven not only by the burdens of alcohol and tobacco use as behavioral disorders, but as well by continued methamphetamine use and sharply rising opioid and cocaine use that together constitute, as a now chronic condition, a larger crisis of substance abuse.

The current trends threaten America's freedoms, its economic productivity, and its educational attainments. These achievements may prove unsustainable if a substantial fraction of citizens is living in a chronically drugged state.

The effects of growing drug use are already visible in states like Colorado. For example, safety-conscious engineering and construction firms face a [troubling](#) rise of drug use in the pool of available workers, while for [trucking](#) firms, "legalization has made an already critical shortage of drivers worse."

In towns like Pueblo, [emergency](#) medical practice is being transformed, say doctors, "affecting just about every aspect of medicine that you can think of," such as a sharp increase in infants born exposed to the drug. A large influx of homeless, seeking marijuana access, are creating tent cities, as [physicians](#) express fear of a potential public health "disaster" that could overwhelm the public health system with communicable diseases. And any promise of tax-revenue windfalls must be measured against the threat increased marijuana use presents to economic performance, as it degrades the very labor force that makes America an economic power.

Rising criminality also results from legalization and more pervasive drug use; not only the expansion and entrenchment of a criminal cartel-controlled [black market](#) that thrives on the nationwide increase in drug prevalence, but as well the [criminal](#) behavior of the intoxicated or addicted as they are affected by their drug use. Far from being driven out of the market by legalization, as Colorado has demonstrated, these criminal elements flourish as they exploit the many cracks within the legalization regime, including those enterprises seeking to avoid taxes or age and potency restrictions. Meanwhile, drugged driving and drug-fueled violence will [increase](#).

Given declining labor force [participation](#), poor educational performance in important, key communities, and the fragmenting of core institutions (such as the intact family and functioning community), increasing habitual drug use, and the socialization of an emerging generation to accept its presence and consequences, will only fuel these destructive forces.

Moreover, those who will suffer most from drug use consequences are the vulnerable and marginalized members of society. A [growing](#) income inequality, for instance, can only be worsened by disproportionate

educational failure, the impact of diminished intellectual capacity, and the risks of crime.

Further, there are already dramatic increases in social costs, and, particularly, health care costs [associated](#) with marijuana legalization, such as an estimated 15 to 22 percent increase in simultaneous use of marijuana and alcohol, resulting in “considerable economic and social costs from downstream health care expenditures and productivity loss.” Substance abuse, as well as costing lives, takes a huge toll on public health.

A commercialized, aggressively-advertised drug market, flush with cash to deploy lobbyists and seek political protection in state and federal capitals, will hasten and institutionalize the capture of a new generation and thereby threaten new levels of abuse and mental disorder.

Where Does the Threat Stand?

According to the most [recent](#) nationwide measure of illicit drug use, the National Survey on Drug Use and Health (NSDUH), fully 10.1 percent of Americans 12 and older report being current (or “Past Month”), users of an illicit substance.

That translates into 27.1 million Americans regularly consuming drugs. (“Past Year” users are usually about 75 percent higher than the Past Month figures; hence, there are about 48 million Past Year consumers of any illicit drug.)

Of these, nearly 4 million are current misusers of prescription pain killers. Another nearly 4 million are misusers of prescription tranquilizers, stimulants, or sedatives. Add to this figure the nearly 2 million cocaine users and nearly 1.5 million methamphetamine and heroin users, according to the estimates—which are in some instances overlapping categories of use.

Regardless of overlap, the overwhelming driver of these statistics is marijuana use, with 22.2 million Past Month users; moreover, their use is intensifying over time, trending towards daily use, the most harmful type.

[According](#) to some researchers, since 1992, Past Month users who were “heavy users,” consuming 25 or more days per month, have gone from 9 percent of the total to 40 percent. There are now about 8 million “daily/near-daily” users, and they are using increasingly potent and dangerous forms of the drug.

And the consequences of this intensifying use are [rising](#) sharply, as are the personal and social cost.

Drug-induced overdose [deaths](#) in 2015 stood at 52,404 Americans (in that single year), mostly from opioids, a figure that portends to rise steeply once 2016 is measured. It is into this disastrous mix that expanding legal marijuana, first commercialized in only one state in 2014, will add its burden.

Inexorably, all the adverse consequences are increasing, accelerating the [fastest](#) for heroin and marijuana.

The Future of Legalization: A Worsening Epidemic

No one knows exactly what will happen next, though the comforting scenarios offered by drug legalization advocates are particularly dubious and fly in the face of research and experience. Nonetheless, there are estimates of increased use and damage, as well as projected scenarios drawing upon recent knowledge of the dangers of marijuana to mental health, that detail the destructive effect of the marijuana market on communities.

One of the most dangerous areas of change is in young adult cocaine use. Here, the collateral impact of a legal marijuana market on the use of other illicit drugs can be seen in recent increases in cocaine use by young adults, coincident with the rise of marijuana legalization.

From 2003 through 2011, according to the NSDUH reporting, current use of cocaine by those 18-25 had dropped fully 50 percent. But then this trajectory reversed. From 2013 through 2015, Past Month cocaine use by this age group is up 55 percent.

The impact is even more plain when we examine marijuana use itself. In 2008, the number of Past Year marijuana users stood at 25 million, which number had been stable for some time. But aided by the Obama Administration's neglect of federal law and embrace of state-level legalization, that figure surged, rising to 36 million by 2015, an increase of 44 percent over seven years.

That figure translates into a steady rate of increase of over 6 percent a year; unless there is some dramatic break in trajectory (conversely, there could be a possible acceleration of change as legalization spreads), the projections for the future are dismal. In a few short years, marijuana users, measured from the end of the Bush Administration, could double, rising to some 50 million Past Year marijuana users nationwide. Even in states where legalization has not been permitted, prevention education has nevertheless been seriously undermined by the aggressive marketing of legalization advocates which is amplified by sympathetic media. Soaring rates of use across America can be no surprise.

A more specific scenario has been presented by the economists of the RAND Corporation, who projected the impact of legalization on the state of California. Their analysis focused on marijuana consumption by Past Month users. The California Society of Addiction Medicine [offers](#) a summary of their findings, some of which are:

- Cannabis legalization would plausibly lead to a 58 percent increase in consumption.
- Increased consumption would result from price reduction and removal of legal penalties.
- Based on current prevalence rates, a 58% increase in consumption would likely generate an additional 305,000 users meeting DSM-IV criteria for marijuana abuse or dependence in California, for a total of 830,000.
- The price of marijuana will substantially decline, likely by more than 80 percent.
- The RAND report projects an average taxation rate of \$50 per ounce.
- High taxation could create strong incentives for tax evasion and thus contribute to continuation of a black market for marijuana.
- High taxation may create incentives for users to switch to higher-potency forms of marijuana to minimize cost.
- Increased treatment admissions would result in a \$1.5 million increase in cost, of which perhaps \$1 million would fall on the taxpayer.
- Increased Emergency Department episodes would result in a \$1.9 million to \$2.6 million increase in cost.

(The RAND report numbers do not reflect increased costs to criminal justice, workplace productivity, educational failure, or lives derailed.)

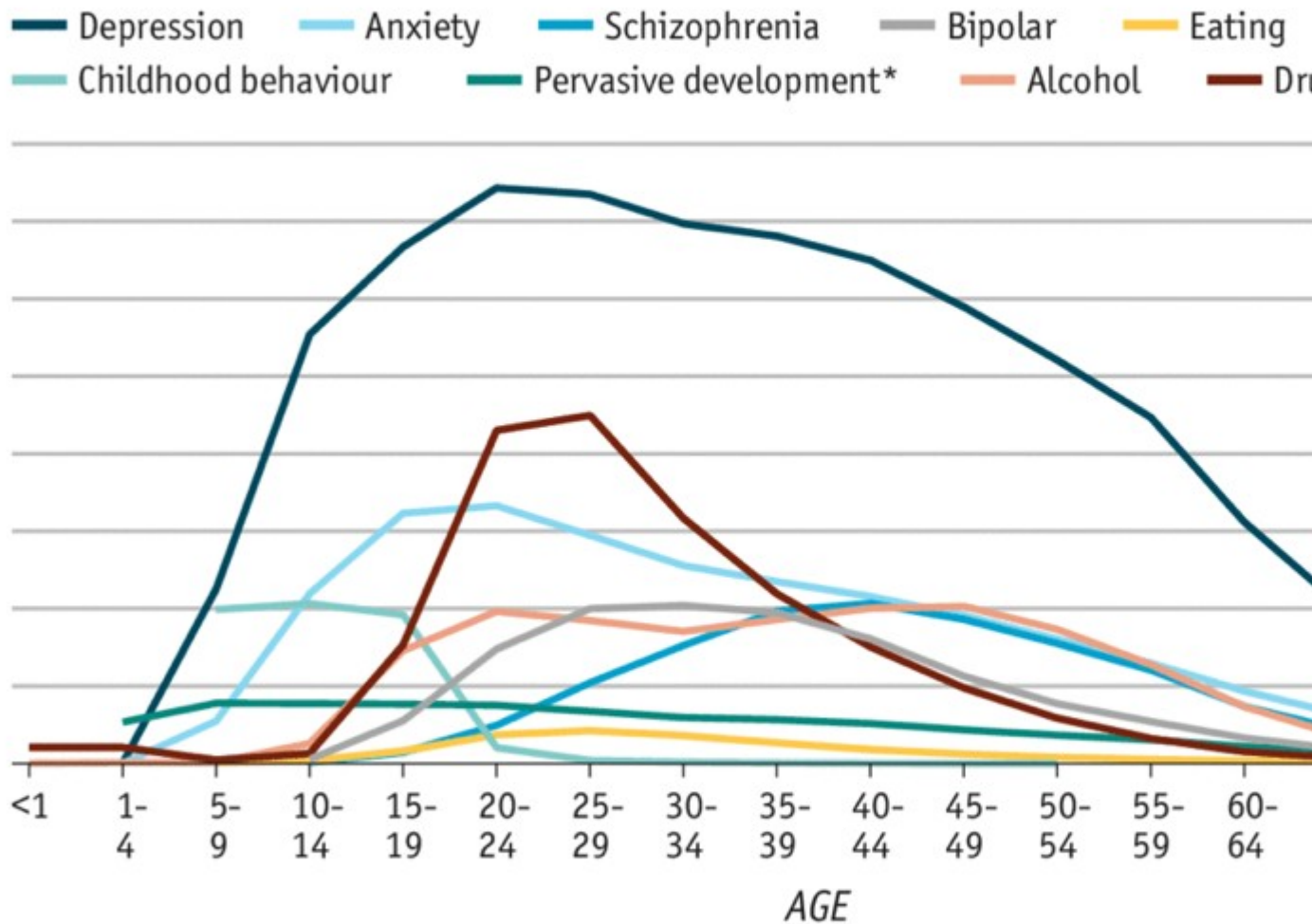
If these RAND projections were scaled to the national level, marijuana use alone would quickly rise from the 22.2 million Past Month users of 2015 to become 35 million Past Month users.

More marijuana use is linked to increased unemployment, school drop-out, IQ loss, welfare dependency, domestic violence, workplace costs, accidents, military recruitment difficulties, and a host of other social ills, each of which is associated with regular marijuana use and will grow proportionately as use expands.

Moreover, these consequences would likely increase every year. A recent *Lancet* [article](#) on the global burdens of mental disorder and substance abuse shows the major impact of these afflictions:

Global burden of mental and substance disorders

Disability-adjusted life years by age group, 2010, m



Source: H. A. Whiteford et al. "Global burden of disease attributable to mental and substance use disorder", the *Lancet*, August 2013

*Including autism

Economist.com/graphicdetail

Other estimates show that behavioral diseases such as drug and alcohol use (here also including obesity) drive as much as [70 percent](#) of overall health care spending in the US. Moreover, there is a clear association between drug abuse and blood-borne diseases such as HIV/AIDS and hepatitis. Moreover, there is a further association between marijuana use and [increased](#) workplace accidents and injuries on the job.

In the United States, the National Institute on Drug Abuse [estimates](#) the combined costs of alcohol, tobacco and illicit drug use exceeds more than

\$700 billion annually in costs related to crime, lost work productivity, and health care (with illicit drugs alone, according to a 2011 White House study, [costing](#) no less than \$193 billion). The fact that a great expansion of marijuana availability and use will further drive increased damage from all illicit drug use cannot be denied.

Turning Back the Threat: Federal, Community, and Private Action

Federal Measures:

The current danger was caused by a deliberate determination by the Obama Administration to suspend the enforcement of multiple federal laws, primarily the Controlled Substances Act (CSA), which renders marijuana illegal and subject to Schedule I restrictions. Additional risks arise from past Congressional efforts to alter the CSA to make marijuana legalization federal law.

Congress should continue to reject marijuana legalization and the new Justice Department leadership should create a path to restore the full enforcement of the CSA.

Policymaking and enforcement actions will be aided by Administration and Congressional actions to restore key federal monitoring systems that measure drug production, distribution, treatment need, drug consequences, and the trajectory of drug epidemic outbreaks, as several of these data sets were shut down during the eight years of the Obama Administration. To track and respond to the drug epidemic, the nation needs more information and it needs that information in real-time.

To take one example, it would be helpful to again establish how many individuals are seeking emergency room and treatment assistance caused by the use of marijuana and other drugs. In an era of Big Data, robust data collection instruments will educate the public as to the danger, make it possible to target responses and evaluate their effectiveness.

The Federal enforcement of existing law, and fully funding such actions as “enforcement priorities,” will go far towards protecting our communities, especially from encroaching criminal cartels, their wealth, and their corrupt allies.

The CSA and allied measures contain many provisions, the enforcement of which has been suspended. For instance, there are provisions of the federal Drug-Free Workplace Act which can be brought to bear on the states, among which are restrictions on contracting and federal grants for states not in compliance. There are further workplace safety, hiring, and workmen’s insurance and compensation issues that can be pursued effectively. Additionally, federal agencies such as the Food and Drug Administration and the Environmental Protection Agency possess authorities over some marijuana products and can address issues regarding the marketing and

sales of the drug, as well as the cultivation and industrial production of marijuana, all of which could be enforced to good effect.

There are likewise provisions regarding such matters as child endangerment in institutions and households, laws that prohibit the presence or use of controlled substances where children are present.

It is also imperative that we reform the federal treatment and recovery systems, rendering them more effective at treatment delivery, and that we re-establish federal drug prevention efforts of proven effectiveness, such as a national anti-drug media campaign, and through support of school-based prevention efforts, such as court-approved random student drug testing for purposes of identifying and securing help for at-risk youth, while sending a prevention message to all.

Finally, let us not forget the important symbolic role strong federal leadership can offer. For the past eight years, parents, teachers, coaches, healthcare providers, law enforcement, and other community leaders have been looking to Washington for action and rhetoric that reinforced the prevention messages they were promoting in their communities. They were disappointed by the Obama Administration. Most parents don't expect the federal government alone to keep their kids off of drugs, but what they should expect is that leaders in Washington do not undermine their prevention efforts in word or deed.

Community Actions:

The federal government can turn back the open and illegal marijuana market and it can attack the largest and most dangerous multi-national trafficking organizations. However, the vast majority of drug enforcement will always remain a state and local responsibility. In addition, much treatment and prevention work is carried out by private individuals and organizations. Some of these are supported by government funding, but private leadership and the private application of resources have the power to make communities better or worse.

For example, state and local drug courts and diversion programs can help break the cycle of addiction and crime by placing individuals into supervised treatment and recovery programs. In addition, universal physician screening, intervention, and referral to treatment initiatives have already proven effective in interrupting drug abuse and limiting the risks of addiction. Such measures can be joined with similar efforts in the workplace and in community, religious, and family institutions. Finally, random student drug

testing is one of the most powerful prevention measures to help young people in communities at risk.

These steps can be encouraged by national leaders, but they require local initiative to turn opportunities into measures that save lives.

New and better actions by states, communities, and individuals can be best supported, not only by federally-funded data sets, but by real-time information about the marijuana threat, with detail down to the state and neighborhood level. Making the problem visible and “here” will reinforce urgency and, most of all, responsibility.

The Actions of Private Citizens Through the Courts:

The willful production, distribution, and commercial sale of addictive, health-destroying products should be limited or penalized through lawsuits. The evidence of private damage to individuals and communities, and the costs imposed by such commercial actions, is overwhelming, and the fact that such actions were deliberate and done in the face of ample knowledge of the effects makes such businesses complicit and vulnerable to citizen action.

Legal action against the damage caused is manifestly needed, and legal aid foundations, as well as private support, should be mobilized to restore responsibility and uphold the law against drug producers and traffickers. Commercial activity worth billions of dollars is at stake, and it has been accompanied by willful advertising and marketing encouragement, much of it clearly directed at youth. Court intervention on behalf of citizen lawsuits is appropriate, and will likely be successful, particularly in light of the decades-long legal difficulties still experienced by the tobacco industry.

Further, in states that have legalized commercial marijuana sales, such legalization should not protect the industry from legal attack by state and local authorities. The willful causing of harm and the long history of product liability actions present a manifest opportunity for prosecutors and attorneys general. These may also proceed independent of any other actions by government or private individuals, with the goal of establishing responsibility for the costs and damage imposed by heedless commercial activity conducted in violation of federal law.

Conclusion

America is at risk of hobbling a generation, who will face a future of increased failure, despair, and loss of capacity. For decades, legalization advocates have been able to argue for the projected benefits of legalization,

while an often-too-sympathetic media downplayed or ignored the known harms. With legal marijuana going from theoretical to reality in states like Colorado, those days are coming to an end. The most recent expansion of legalization at the state level has accelerated the soon-to-be visible damage.

The larger crisis of epidemic levels of substance abuse and its lethal consequences cannot be controlled unless we directly confront the serious threat of runaway marijuana use. The trends are not sustainable. Fortunately, recent history has shown that effective action and clear leadership can turn these failures back. The sooner that effort begins, the better the outcome for America.