Marijuana: Exploring the next steps in marijuana control

Sheila Lacroix

Library Coordinator, CAMH Library
Centre for Addiction and Mental Health

This paper is based on the panel presentation at the 2015 SALIS conference that brought together experts to discuss the possibilities and challenges of progressing away from the criminalization model for marijuana control. Three areas were addressed: approaches to control policy; public health issues in particular relating to the health and behavior of adolescents and youth; and the challenges in the United States of federal versus state law. There are different models and approaches to control, such as decriminalization as in the Portuguese model or a government monopoly controlling supply and demand. Each jurisdiction must balance benefits with costs. Concerning adolescents and youth, health promotion combined with enforceable age limits on access could be the best approaches. In the United States, states continue to move towards legalization without federal government challenges against state laws and regulations. Approaches underway in Washington State and Colorado were highlighted; each has a system of government controls on production, distribution and sales, and limitations on consumer usage.

Keywords
Cannabis; Marijuana; Decriminalization; Policy; Legalization

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Now that some jurisdictions have legalized the recreational, non-medical use of marijuana, Western society seems to be on the brink of a major attitude and policy shift. To explore some of the issues related to this shift, a panel of experts was assembled at the 2015 SALIS Conference to offer their perspectives on issues such as: approaches to policy; possible consequences to adolescent/youth health and behavior; challenges of the uneven legal landscape, as marijuana becomes a mainstream drug like alcohol and tobacco.

This paper is based on the presentations of the panelists and the discussion that followed. Dr. Thomas Babor shared his expertise on relevant alcohol and drug policy; Dr. James Lange, his experience with campus prevention; and Dr. John Minan his expertise in the complex legal environment involving three levels: state, federal, and international. A resource list was prepared in advance and updated as a result of the discussion. It is appended to this article.

Lessons Learned from Alcohol Control (and common sense)

Dr. Thomas Babor, Chair, Department of Community Medicine and Health Care, University of Connecticut School of Medicine.

Dr. Babor began with a review of the shortfalls of regulatory measures for drugs, including marijuana. For example, interdiction of foreign supply leads to increases in domestic production and other supply controls only seem to result in transient market disruptions. Locally, small enforcement operations are challenging to conduct and efforts to reduce source crops in developing countries have not reduced supplies substantially. In summary, there is not enough research about the effectiveness of policies to control drug supplies and distribution through enforcement, interdiction or incarceration to guide applying regulatory measures. Dr. Babor discussed the range of options for marijuana, from hard prohibition to legalization, both commercial and non-commercial; the question is simple but the answers complex.

Dr. Babor outlined the four dimensions of legalization that need to be considered:
- The organizations allowed to provide the drug,
- The regulations under which they operate,
- The nature of the products, and
- The price.

Concerning commercial legalization, is the alcohol model appropriate? There are some advantages, such as being subject to business regulations, and the licensing of producers and sellers, to name some. But there are disadvantages to this model. Marijuana is not like alcohol. It costs little to produce and distribute. Would an increase in availability, lower pricing, and advertising and promotion increase use and change attitudes about social acceptability, in particular for children and young people? Approximately two thirds of U.S. teens who already use marijuana reported that legalization would likely increase their use (Partnership for Drug-Free Kids, 2013). Perceived risk of marijuana usage harm has been decreasing among adolescent students since 1991 although the percentage of U.S. reporting past month marijuana use remains steady at 6.5%, 16.6% and 21.2% for 8th, 10th and 12th grade students respectively (Monitoring the Future, 2015).

![Figure 1 Percent perceiving great risk of smoking marijuana regularly](image-url)
Will social media be inundated with marketing messages as in the case with alcohol and e-cigarettes? Dr. Babor provided examples of ‘enticing’ advertisements. The perceptions of young people are a big issue.

There are noncommercial options. One is through a government monopoly that controls supply and demand. The government could cover retail distribution and outsource production to the private sector. Prices can be kept competitive enough to undercut black market demand and purchase amounts can be limited. Other options include allowing grow-your own or non-profit user cooperatives to handle both production and distribution. The Portuguese decriminalization approach was highlighted. In Portugal, all drugs are decriminalized. Possession and drug usage are prohibited but violations are administrative, not criminal. Drug trafficking continues to be a criminal offense. Since this change in policy in 2001 there have been no catastrophic effects.

Dr. Babor concluded that marijuana policy is a “work in progress that should be monitored systematically.” The shift away from strict prohibition to milder sanctions does not seem to increase use substantially. Each society or jurisdiction must balance the economic benefits of legalization with the social and psychological costs. For further reading, he suggested Drug Policy and the Public Good (Babor et al., 2010) and Cannabis Policy: Moving Beyond the Stalemate (Room, Fischer, Hall, Lenton, and Reuter, 2010).

**Marijuana: Next steps – Adapting campus prevention efforts in a changing legal environment**

**Dr. James Lange, Director, Health Promotion, San Diego State University (SDSU)**

Dr. Lange began with the news that in January 2016, California will likely follow the legalization trends seen in Colorado, Washington and Alaska, when a similar measure comes to the state’s ballot. Policy and prevention approaches on campus must be adapted.

Dr. Lange took us back almost a hundred years to when the populace in some states was voting for alcohol legalization after a period of prohibition – a reminder that getting public input regarding issues like this is not new! He also highlighted the proliferation of marijuana research which has skyrocketed since year 2000. More than 10,000 publications have been indexed in the research databases Medline and PsycINFO so far this decade. Monitoring the Future data show no recent dramatic change in marijuana use amongst college students, with annual prevalence hovering between 30 and 40 percent over the past decade. Unfortunately, perceived risk and attitudes have not been tracked specifically for college students.

Post-legalization, some of the challenges faced by SDSU will be the result of dealing with campus restrictions and policy that will be at odds with the rest of the state. Currently, as required by the federal Drug Free Schools and Community Act, SDSU does not allow for the possession, use or distribution of marijuana, which is federally classified as illegal, even with a medical recommendation; this will not change under state legalization. The messages for SDSU students in the ‘Just in Case’ flyer designed in preparation for Proposition 19, the 2010 marijuana legalization initiative in California, which wasn’t passed, will not change.

There is an indication that federal laws are softening. Should this happen, it is anticipated that students using cannabis for medicinal purposes may have to be accommodated; fair housing could enable medical marijuana on campus. Smoking policy will have to be addressed to align with tobacco smoking.

How best to handle students? College students are older (past the more vulnerable age), well educated, and social-justice-oriented. They have an experience-based understanding of relative risk and recognize hypocrisy and biases, although not without biases themselves. They are more open to a political discussion than being on the
receiving end of prevention efforts. College students are familiar with responsible use of alcohol, but for marijuana, being illegal, defining responsible use is problematic. Any agreement on what abuse or irresponsible use looks like remains to be sorted out. Little is known about the social context of marijuana use in a legal environment but abstinence approaches will not work.

Instead of prevention messaging, Dr. Lange recommends health promotion, including promoting responsible use and avoiding negative ‘reefer madness’-type health messages which can invoke a backlash in students. An information campaign to change views on driving under the influence is warranted as knowledge of harmful effects on driving needs to be disseminated. Students seeking help have access to the Marijuana eCHECKUP TO GO SDSU resource which they can use to explore use in a confidential environment. Dr. Lange’s approach is primarily to be there to answer questions, while avoiding confrontation, in the hopes that a health promotion approach will minimize any harms to student health and safety that legalization in the state might precipitate.

Examining the conflict between federal and state law

Dr. John Minan, Professor of Law, University of San Diego

Dr. Minan presented the legal framework surrounding marijuana from both a state and federal perspective. President Nixon signed into law the Comprehensive Drug Abuse Prevention and Control Act of 1970 as a part of the War on Drugs. Among other things, it criminalized the possession, use, manufacture, and distribution of marijuana. Over time, individual states adopted medical marijuana and personal use marijuana laws. This required the United States Department of Justice (DOJ) to adopt flexible enforcement guidelines. These guidelines allowed states with strong and effective regulatory and enforcement systems in place to take over local control if federal priorities were not threatened.

To date, twenty-three states have legalized marijuana use, primarily for medicinal purposes. Four states, Colorado, Washington, Oregon and Alaska, have also legalized personal, non-medical use as well. California, Maine, Arizona, Nevada, Massachusetts and Ohio may follow in 2016 depending on voting outcomes. Problems have arisen with bordering states that claim the federal legislation is being violated,
increasing the risk of marijuana passing through borders from legalizing states into their own. Dr. Minan discussed the motion currently pending with the Supreme Court of the United States that has been filed by Nebraska and Oklahoma against Colorado. They complain that they are being harmed by cross border trafficking from Colorado, arguing that this is in conflict with the Controlled Substance Act and the DOJ policy on diversion from states where it is legal to other states. They also argue that Colorado’s law violates international treaties to which the United States is a signatory. In Dr. Minan’s opinion, it is not likely that the court will grant the Nebraska-Oklahoma motion, so the climate of uncertainty continues. As these types of claims are territorial, the Supreme Court may not be interested in getting involved. However, should the court decide to weigh in, it could be a “game changer.”

Dr. Minan also flagged as problematic the issue of edible marijuana, a lack of uniform packaging standards, and trademark issues. Without standards and industry compliance there could be lawsuits based on negligence. At present the federal laws limit federal involvement, there are no uniform standards at the state level, and there remain important public health concerns. To further complicate the legal landscape, tribal communities can set their own laws which may be in conflict with state laws. For example, in Washington State, all such communities have not chosen to legalize. Finally, Dr. Minan predicts marijuana legalization will continue to be adopted by various states, in spite of the lack of direction at the federal level.

Legalization in action

Dr. Babor mentioned the range of options available for decriminalization /legalization. Below is a brief overview of how legalization is unfolding in Washington State and Colorado, where non-medical marijuana use became legal in 2012. Both could be described as a mixed system: a commercial model with government controls.

In Washington, restrictions include a minimum age of 21; a prohibition on public consumption; a stipulation that retail outlets be 1000 feet away from schools and playgrounds (in 2015 the buffer was reduced to 100 feet from transit, community centers and libraries); and a ban on home growing for non-medical use. At present, the retail price has dropped but the taxes are high and advertising is restricted. Major change came with the passing of the Cannabis Patient Protection Act in 2015, which introduced a regulated medical marijuana system, previously unregulated, and aligns this with the existing recreational system. Although privately owned, marijuana producers, processors and retail stores are under the oversight of the Liquor and Cannabis Board (LCB), formerly the Liquor Control Board. Medical marijuana will now be sold in retail stores as well, under state regulation. Stores can be licensed to sell recreational only, medical only, or a combination. The taxes are different for the two types and there are differences in the amount of marijuana that medicinal users can purchase/possess compared to recreational users. The LCB and the Department of Health share responsibilities.

Colorado has experienced an explosion in the number of retail stores selling marijuana. The government has launched a “Good to Know” public information campaign. You must be 21 to purchase, possess, or use retail marijuana and it is illegal to use in public. Possession is limited to one ounce. Unlike Washington residents, Coloradans can grow their own, limited to six plants. You cannot take marijuana out of the state and non-residents can only possess one quarter ounce. The Marijuana Enforcement Division (MED) of the Colorado Department of Revenue, which also monitors gaming, liquor and tobacco, is responsible for licensing and regulating the medical and retail marijuana industry. A system has been developed to track compliance with the law and marijuana production to point of sale.
Further discussion

The focus has been on non-medical use, which perhaps could be criticized as being too narrow. It is recognized that opening up the pharmacopoeia to once again include marijuana has affected a market that was dominated by illicit use. It will be interesting to see how having a product marketed as both a prescription drug and a regulated commodity unfolds. All three panelists commented on the challenges and risks of edible marijuana. Finally, the use of the term ‘recreational use’ was criticized. It doesn’t adequately reflect use beyond prescribed medical use.

Learning from experts in different fields, as well as SALIS colleagues, has helped to broaden our knowledge base. Moving forward toward marijuana decriminalization or legalization is undoubtedly challenging. Even though the answers are not easy and there is insufficient research to provide direction when it comes to legalization strategies, it looks like the momentum is increasing. In the United States, the trend so far seems to be adopting a mixed system that balances a commercial model with government controls, building on existing tobacco and alcohol controls. How well the balance works in terms of public health considerations undoubtedly will be a focus of study for researchers and policy makers.

References


Marijuana control: Exploring the next steps

Select literature and resources.
Compiled by Sheila Lacroix, CAMH, for: Marijuana: Next Steps? Panel Discussion. 2015 SALIS Conference, San Diego, April 28 – May 1, 2015
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There is a huge amount to read on the topic of marijuana policy: position papers, research reviews and summaries, media reports, blog posts. More recently, the discussion has gravitated from decriminalization to legalization. Both present unique challenges.

This resource list was prepared for the panel discussion, but has since been updated and includes some references provided by the presenters. The resource list is limited to journal articles, reports, policy papers, government documents, and websites.

Policy/Law

CCSA encourages further evidence-informed, multi-sectoral dialogue to develop policy. Three recommendations for shaping policy: reducing the criminal justice impact; reducing the health impact; reducing the social impact.
CAMH’s researched-based recommendations take into consideration both that cannabis use results in health risks and that criminalization heightens health harms and causes social harms. Recommendations: Legalization combined with strict health focused regulation.

Marijuana: Exploring the next steps in marijuana control
Substance Abuse Library and Information Studies: Proceedings of the 37th Annual SALIS Conference

**Public health issues**


The Washington State Poison and Drug Information Centre tracks marijuana exposure calls and published the trends periodically in the Toxic Trends Reports. Exposures have increased since 2011 with the most in age categories 13–19 and 20–29.


This report presents initial efforts in monitoring use and health impacts, and reviews current scientific information to guide the development of policies and consumer education.


With the introduction of legalization in Colorado and Washington the authors have been prompted to help policymakers understand decisions faced and lessons to be learned from public health approaches and regulating alcohol and tobacco.

Public Health Issues - Lower Risk Cannabis Use Guidelines (LRCUG)

Many jurisdictions have developed safe alcohol drinking guidelines. Should marijuana become legal, why not reduce risk with guidelines for the public?


**Focus on youth**

The research clearly indicates that, like alcohol and tobacco, harms to children and adolescents should be a concern.


The technical report is a thorough review of a number of issues relating to marijuana: health, epidemiology, experiences of the impact of legalization or decriminalization. In its policy statement, the Academy reaffirms its position against legalization and recommends that marijuana be decriminalized. The position also makes recommendations where marijuana is sold legally. These include: It should be sold in child proof packaging and that there be strict enforcement of rules and regulations that limit access, marketing and advertising to youth. Canadian Centre on Substance Abuse. (2015). The Effects of Cannabis during Adolescence. Retrieved from: http://www.ccsa.ca/Resource%20Library/CCSA-Effects-of-Cannabis-Use-during-Adolescence-Report-2015-en.pdf This edited work has contributions from several experts in the field and provides a review of current evidence of the risks to adolescents who use marijuana. Dr. Harald Kalant highlights several important findings that should be considered when policy decisions are made. For a summary of the report, see: http://www.ccsa.ca/Resource%20Library/CCSA-Effects-of-Cannabis-Use-during-Adolescence-Preview-2015-en.pdf Colorado Department of Health & Environment. Effective Policy & Programs to Restrict Youth Access & Exposure to Drugs/Alcohol: Applications for Marijuana. Retrieved from https://docs.google.com/a/state.co.us/document/d/1LsVfodSKeHo1HBUqIF7iDHBrSRuBRIFM6iZaV0z160/edit?pli=1 A Table listing recommendations and best practices to effectively restrict access and prevent use by youth, based on other substances. It includes state and local level initiatives and considerations.

**Focus on youth - Survey data**

Will legalization result in an increase in use and/or a change in perceptions of risk? It is probably too soon to tell, but here are some sources for data reflecting recent trends. Marijuana use is high – one of the big three: Alcohol, Tobacco, Marijuana. Before studying data from the various surveys, you may want to consult the following chart from the Alcohol and Drug Abuse Institute (ADAI), University of Washington: Marijuana Use Surveys: Different Methodologies May Produce Different Estimates http://learnaboutmarijuanawa.org/marijuana_surveys_methodology_matrix.pdf

**US**

Reporting data to 2013, daily marijuana reached the highest rate in three decades and continued to climb, according to the 2014 Monitoring the Future data to a rate of 5.9%, the highest rate since 1980. However, 2014 saw a slight decrease in annual prevalence of use to 34.4%.


Teen marijuana use decreased slightly in 2014. Past month use by 8th graders was 6.5%. Daily use remains high (close to 6% of 12th graders) and still a concern. Attitudes about perceived risks have shifted. Only 36.1% of high school seniors think that regular use puts the user at risk.

Europe


Use is not consistent across countries, but, overall, 13% of students reported past year use. An average of 5% were classified as having an elevated risk of developing cannabis-related problems. France and Monaco had the highest prevalence – 1 in 5 used over the past month.

Ontario, Canada


Past year cannabis use has dropped from 28% to 23% from 1999 to 2013. However, 2.7% of students, grades 9-12, report symptoms of cannabis dependence.

In the News


Additional websites / Web resources of interest

Drug Policy Alliance
www.drugpolicy.org/reforming-marijuana-laws

Advocates for legalization. Has a section on reforming marijuana laws.

Robert Mikos, Professor of Law, Vanderbilt Law School
http://law.vanderbilt.edu/bio/robert-mikos

Dr. Mikos is the leading U.S. expert on federalism and drug law. His website offers access to many of his publications that discuss the challenging issue of federal versus state law when it comes to legalizing and regulating marijuana.

Rand Corporation
www.rand.org

In addition to the report cited above, find other reports under the Topic ‘Marijuana’.

From Colorado

State of Colorado Website for Retail Marijuana Information & Resources
http://www.colorado.gov/marijuana

Information for different audiences: parents, public, visitors, retailers, community agencies.

From Washington State

Learn About Marijuana: Science-Based Information for the Public. By ADAI (Alcohol and Drug Abuse Institute), University of Washington
http://LearnAboutMarijuanaWA.org

Includes information for adult recreational marijuana users to minimize risks.

CPPA Impact on the LCB
http://www.liq.wa.gov/content/cppa-impact-lcb

In 2015 Washington passed the Cannabis Patient Protection Act. This summarizes the impact on
the work of the Liquor and Cannabis Board, formerly the Liquor Control Board. Retail stores may now sell marijuana for medical use (with correct authorization) and for non-medical use. Under this law, all marijuana producers, processors and retail stores must be licensed under the LCB. *Stalemate.* New York: Oxford University Press, Inc.

**Additional resources**


**Contact the author**

Sheila Lacroix
Library Coordinator
CAMH Library
33 Russell Street
Toronto, ON Canada M5S 2S1
416 535-8501 x36982
sheila.lacroix@camh.ca