

It Is Time for a Common-Sense Marijuana Policy

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Brooke Gehring spent most of the Great Recession behind a desk at a corporate bank dealing with the aftermath of the popped housing bubble. It was an unlikely place to find her golden-egg-laying goose. Gehring's phone was ringing non-stop with callers asking about recently foreclosed bank-owned properties. She worked in downtown Denver, and the callers were inquiring about properties to use for pot businesses. Gehring would take advantage of the budding marijuana-growing industry in Colorado and apply her banking skills to start a business. In 2015, her enterprise made \$11 million.

In the last five years, Nick Smith was arrested three times for having small amounts of pot. His license was suspended, thanks to strict marijuana laws in Texas. Because of this, Smith accrued thousands of dollars in fees, had to give up his music career and struggles to support his little daughter. His commute to work takes twice the time it used to.

These are just two out of many stories that depict the state of marijuana policy in the United States. The drug that has been used by almost 80% of 18 to 34-year-olds in the US can potentially either destroy or help fulfill the American dream, depending on where you live and what you look like. The differences in marijuana laws are drastic from state to state: Texas spends \$250 million a year prosecuting marijuana users and sellers, and possessions charges can land a Texan in jail from 90 days to 99 years. Colorado gains \$135 million in revenue from pot and doesn't penalize possession.

But the racial aspect of marijuana enforcement is the most unconscionable aspect. According to a study by the American Civil Liberties Union, in states like Wisconsin and Kentucky, African-Americans are six times more likely to be arrested for pot. In Washington, D.C., and Iowa, that number goes up to eight times. Meanwhile, whites and blacks use marijuana at similar rates.

But most of us know all of this already. The disparity in marijuana arrests has been written about ad nauseam and studied at length. No member of the American left is unfettered by the 1994 interview with Nixon's domestic policy chief, John Ehrlichman, when he told Dan Baum that "The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the anti-war left and black people. We couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities."

So how has policy changed since then?

A CHANGING TIDE

We are at a threshold in American politics. Desperation in the political realm has lent celebrity a powerful voice: We have one in our highest office and two are eying a run in the next election. The media and science are under siege. Americans are being forced, via political and social voices, to choose between a white nationalism-heavy brand of populism and an all-or-nothing commercialized post-structuralism. It is a hard time for common sense.

At the base of this polarization are issues that matter, but are framed only by these two extreme viewpoints. This is why marijuana policy may be the one to defend. The first year of President Donald Trump's term has seen many of the Obama-era policies rolled back, but his direction on marijuana policy should unify those in favor of common sense.

In 2013, President Barack Obama's Deputy Attorney General James M. Cole signed a memorandum that would well reflect the administration's "hands off" marijuana policy. The Cole memo relayed that while marijuana is a dangerous and illegal drug on the federal level, many states are legalizing its use. It instructed prosecutors to concentrate on keeping the drugs from minors and focus pursuing dangerous criminals, as the federal government simply did not have the funds to go after every marijuana user and seller.

At the start of 2018, Attorney General Jeff Sessions repealed the memo, essentially eliminating a policy that discouraged federal prosecutors from enforcing a federal prohibition against individuals or businesses that comply with state law. Sessions could be paving the way for a possible crackdown on legal marijuana businesses.

A BLEAK OUTLOOK

The Justice Department's move leaves states and their inhabitants in a difficult situation. While state governments are in the clear legally for passing marijuana-friendly laws, so is the federal government in pursuing its own prohibition.

According to a report by the Congressional Research Service, courts have ruled that one state permitting what the federal government prohibits doesn't immediately mean the state is in "positive conflict" with federal law. States are also allowed to tax criminal activities, thanks to Supreme Court decision in *Dept. of Revenue of Montana v. Ranch* (2014). In this case, a family was arrested, fined and had their marijuana crop confiscated and destroyed by federal law enforcement. Montana had already issued a punitive fine on the families crop, putting the second fine at issue with the constitutional right not to be charged twice for the same crime (also known as double jeopardy). Even though federal law reigns supreme in the Constitution, the law is only as good as the enforcement behind it. If prosecutors begin going after marijuana entrepreneurs, Congress is the only body that can change the tide. That is, however, unlikely.

Chair of the Senate Judiciary Committee Chuck Grassley (R-IA), Senator Lindsey Graham (R-SC) and Representative Bob Goodlatte (R-MA) often flit at support for expanding research, but they have consistently blocked legislative change. For example, at a hearing on potential medical benefits and risks of marijuana in July of 2016, Grassley stressed the possibility of CBD (a non-psychoactive and useful active ingredient in marijuana) to treat pediatric epilepsy. But even this hearing saw National Institute of Health, Drug Enforcement Administration and Food and Drug

Administration scientists cautiously promoting research, stumbling over answers to simple questions on marijuana's Schedule I designation, citing “the message” a change would send and “lack of knowledge” as reasons for this caution. While heroin overdoses takes 15,446 lives a year, and cocaine overdoses kill 10,619 people every year, both are scheduled lower than marijuana, which has never taken a single life, according to the DEA's own drug fact sheet. The US government's official stance is that these drugs are more addictive and more dangerous than marijuana.

COST, COALITION AND COMMON SENSE

We are a long way from a change on this issue. Not for a lack of will: A 2015 Gallup poll showed that 60% of Americans support legalization of marijuana. There is, however, a deficit of power. No real conservative can welcome the cost of prohibition, both monetary and personal. Nobel Laureate Milton Friedman, the father of free-market economics, called the prohibition of marijuana a “moral disaster.” What budget hawk can overlook the waste of \$3.4 billion that the libertarian CATO Institute approximates is spent on marijuana prohibition in 2008? After studying the effects of marijuana legalization on states, it found the evidence for arguments that “legalization spurs marijuana and other drug or alcohol use, increases crime, diminishes traffic safety, harms public health, and lowers teen educational achievement” to be absent.

At the same time, no liberal can let any issue take precedent while Americans rot in jail, face harassment on a daily basis for possessing a drug that has yet to kill a single person. This is the issue that underpins so many social-justice talking points, from the school-to-prison pipeline to racial equality.

Imagine if cops couldn't stop a young black man just because the officer “smelled weed.” Imagine if black boys didn't have to fear stop and search because police no longer have an easy probable cause. Stanford University has created the first comprehensive repository for police encounters in the US: The Open Policing Project revealed that legalizing marijuana “a sharp decline in the number of traffic stops.”

Imagine if the children Milton Friedman called in an interview before his death “innocent victims” were saved. Imagine if the drug could be used to treat glaucoma, as the National Eye Institute agrees it can. Imagine if epileptic seizures and those caused by the childhood disorder known as Dravet syndrome were prevented, and people could live happy, symptom-free lives, as studies suggest. From multiple sclerosis to Alzheimer's and anxiety, the two active ingredients in marijuana, THC and CBD, have been found in very limited studies to do simply amazing things.

And these are the medical uses we know. Because of the federal government's classification of marijuana as Schedule I drug, it is very difficult to research. In fact, only 6% of studies explored the substance's possible medical benefits.

Americans can never forget the early disagreements that drove three of our founding fathers to pen the Federalist Papers calling for the dissolution of the Confederacy and adoption of something much greater: a union of the United States of America. Everyone's new favorite founding father, Alexander Hamilton, doled out a serious verbal takedown in the Federalist Paper #9, a response to critics of a strong central government. He said that those who argue against the creation of a union where arguing for an “incurable disorder and imbecility in Government.”

His point helped etch the society we live in today, where our differences from state to state make each one a cauldron of culture and traversing the US like a carnival ride, and, also, a constitutional republic based on equal protection of the law.

With the addition of sanctuary cities and conflicts between whole states and the executive branch of government, we are splintering our nation along lines that may never mend. While this may seem like a time to let states figure out marijuana policy in Trump's America — much like their actions in other policy subsets — in doing so a key opportunity will be missed. Taking this moment to forgo the striations of federalism and show to the world that this experiment in democracy is malleable yet, still, unbreakable.

The outrage that is felt when a boy is shot in the city is similar to that when a rural life is lost to an opioid — both could have been prevented by policy change. It is not good enough to allow one person to retire early for the same behavior someone else is imprisoned for.

While there are seemingly endless issues to protest, petition, sue, write and speak about, I believe this one has persisted on the same level of imbecility in government that Hamilton spoke of, for far too long. I implore Americans to let this be the issue that welcomed back common sense.