



Cato Unbound: Ending Cannabis Prohibition in America

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Ending Cannabis Prohibition in America

The now [forty-year-old organized effort to reform cannabis laws in America](#) is on the precipice of major socio-political reforms with approximately fifty percent of the population no longer supporting the nation's seventy four-year-old Cannabis Prohibition. While reformers have made tremendous gains, notably at the state level, which have placed them at this crossroads, obstacles to full cannabis legalization are abundant and deep-seated in Congress and the federal government.

This paper seeks to identify important areas of concern for cannabis law reform, highlight the factors that have created a positive environment for reform, recognize who are the last and largely self-interested factions in society who fervently defend and/or prosper from Cannabis Prohibition's *status quo*, and what are some of the strategic decisions that reformers can implement that will hasten an end to Alcohol Prohibition's illegitimate, long-suffering cousin.

Important Areas Of Concern For Cannabis Law Reformers

There are several areas of concern for reformers, notably the federal vs. state disconnect in Washington, D.C.; citizens' illogical fear of cannabis more than alcohol; and the political box canyon potentially created by medical cannabis.

Federal vs. State Government Disconnect –

On a recent video essay broadcast October 20, CNBC host and former senate staffer [Lawrence O'Donnell lamenting about Cannabis Prohibition](#) said 'that only in the U.S. Senate can there be zero discussion about a policy change fifty percent of the country

supports'. In a nutshell, despite [14 states having decriminalized cannabis possession](#), and [16 states and the District of Columbia 'medicalizing' cannabis](#), the U.S. Congress and the executive branch (along with a federal judiciary that is totally deferential to Congress' intent and will regarding anti-cannabis laws) have a [near total disconnect](#) between what the governed want vis-à-vis reforming cannabis laws and elected policymakers on Capitol Hill who strongly support the *status quo*.

The [numbers](#) that frame this political quandary: 75% of the public support medical access to cannabis; 73% support decriminalizing cannabis possession for adults and [now 50% of the population support outright legalization](#) (California, where one out of eight U.S. citizens live, [nearly passed a legalization voter initiative last fall](#), only losing by three percentage points). So it can be asserted with confidence that 'soft' cannabis law reforms of medical access and decriminalization enjoy overwhelming public support and that the 'hard' reform of legalization has now moved into the majority (The recent [Gallup poll](#) showed only 46% of citizens continue to support Cannabis Prohibition).

However, even with clear polling data to help guide them away from restrictive policies no longer supported by the public, the Obama Administration's [fifth attempt this October since he took office to introduce 'digital democracy' into policymaking decisions](#) by creating a public website where citizens and organizations can post online petitions seeking changes in the ways government works, the president was once again confronted by the public's number one question: *Why do we have Cannabis Prohibition in 2011? Shouldn't it be ended as an ineffective public policy?*

Unfortunately, like the previous four opportunities to confront public unrest about Cannabis Prohibition, despite the NORML petition being number one with 72,000 signatures, [the Obama Administration once again totally rejected any public calls for cannabis law reforms](#) and re-asserted the federal government's primacy over the states in enforcing national Cannabis Prohibition laws (see discussion below).

Cannabis' Fear Factor –

Recent polls and focus group data gathered by cannabis law reform advocates post last year's near-victory in California for Prop. 19 (the initiative that would have legalized cannabis) revealed an important and troubling public perception that reformers need to largely overcome to be successful: Almost fifty percent of the general public in California—where the issue of reforming cannabis laws have been vetted like no other place on earth since the late 1960s— illogically fears cannabis more so than alcohol products.

Forgive the pun, but reformers have to do a better job 'normalizing' cannabis use such that its responsible use causes no greater concern in the public's eye than the responsible use of alcohol. Otherwise, it is hard to imagine cannabis becoming legal anytime soon if fifty percent of the public fears the product and the consumers who enjoy it.

Medical Cannabis' Political Limitations –

While NORML is the *sui generis* of medical cannabis in the United States (first suing the Drug Enforcement Administration to reschedule cannabis as a medicine in 1972, [NORML vs. DEA](#)), the organization recognizes that absent substantive changes in the federal government's Controlled Substances Act (and controlling International treaties envisaged and championed by America at the United Nations), qualified medical patients accessing lawful cannabis with a physician's recommendation in states that authorize such is an untenable conflict with the existing federal laws that do not, under any circumstance, allow for the therapeutic possession, use or manufacture of cannabis.

This state and federal conflict regarding Cannabis Prohibition laws came into full view this year [despite previous attempts otherwise by the Obama Administration to slightly modify the federal government's historic recalcitrance](#) in allowing states greater autonomy to create cannabis controls, and in some cases such as [Colorado](#), to establish tax and regulate bureaucracies specifically for medical cannabis.

Federal actions against medical cannabis in 2011:

*US Attorneys in California [deny the city of Oakland the ability to set up a city-sanctioned arrangement with medical cannabis industry](#) to cultivate and sell medical cannabis;

*The Internal Revenue Service (IRS) ruled that [medical cannabis dispensaries are not legitimate businesses under federal law](#) and therefore can't take standard business tax deductions;

*The Bureau of Alcohol, Tobacco and Firearms (BATF) sent a memo to all gun dealers in the U.S. warning them [not to make any sales of guns or ammunition to medical cannabis patients](#), even those who possess a state-issued 'medical cannabis patient' card. In effect, this federal action has rendered medical cannabis patients with no Second Amendment rights;

*Federal banking regulators regularly [harass and threaten local and state banks not to do business with commercial medical cannabis businesses](#), even if the businesses have state and city-issued licenses to sell medical cannabis;

*US Attorneys in California and the DEA [sent warning letters to otherwise state-compliant medical cannabis businesses that are properly zoned under local laws to shut down or move away](#) from federally-funded schools, day care or recreation centers within 1,000 feet of the dispensary;

*These same US Attorneys are [now threatening to legally pursue newspapers and magazines](#) that advertise what are otherwise legal, state and city-authorized businesses and their lawful commerce.

Also, under numerous state Supreme Court decisions, [lawful medical patients can be denied employment](#); along with driving privileges (which was recently [overturned](#) in

California), [child custody](#), [Section Eight housing](#), [university residences](#), and even be [denied a life-saving organ transplant](#).

With so many onerous institutional discriminatory practices and restrictions—and the price of medical cannabis remaining inordinately high because of the existence of Cannabis Prohibition—patients who genuinely need access to this low toxicity, naturally occurring herbal medicine would be far better served by [ending Cannabis Prohibition in total than trying to carve out special legal exemptions to existing prohibition laws](#).

Why Cannabis Reform Is More Popular Now Than Ever Before

The rapid increase in public support for cannabis law reform is made possible by *five* factors:

- 1) *Baby Boomers are now largely in control of most of the country's major institutions* (media, government, entertainment, education and business) and they have a decidedly different perception and/or relationship with cannabis than the World War II generation (AKA, the Reefer Madness generation), who, were largely abstinent of consuming cannabis.
- 2) *These crushing recessionary times have forced many elected policymakers to drop their support for rigorous enforcement of Cannabis Prohibition laws*. Numerous states and municipalities have adopted half measures towards legalization, notably decriminalizing possession or adopting a lowest law enforcement priority strategy.
- 3) *Medical cannabis first becoming legal in 1996 by popular vote in California*. After the nation's largest and most politically important state adopted medical marijuana guidelines, sixteen states and the District of Columbia have followed suit setting up a terrific state vs. federal government conflict that has already visited the U.S. Supreme Court twice ([2002](#) and again in [2005](#)).
- 4) *The advent of the Internet in the mid 1990s* allowed citizens to communicate directly with each other at very low costs, create large social networks of like-minded community members, avoid mainstream media (which readily serves as a lapdog, rather than government watchdog in the war on some drugs) and educate themselves with verifiable and credible information about cannabis (rejecting government anti-cannabis propaganda programs like the controversial [DARE](#) program in the public schools and the [Partnership for Drug-Free America's](#) ineffective ad campaigns in the mainstream media).
- 5) *Americans are apparently (and finally!) becoming increasingly Cannabis Prohibition weary* after seventy-four years. In comparison, [America's great failed 'social experiment' of Alcohol Prohibition lasted about a dozen years](#).

Who Actually Wants Cannabis Prohibition To Continue?

One of the principle lessons in the *Art of War* is to ‘know thy enemy’. Therefore, it behooves cannabis law reformers to understand what small, but powerful factions in American society actively work to maintain the *status quo* of Cannabis Prohibition:

1) Law enforcement – There is no greater strident voice against ending Cannabis Prohibition than from the [law enforcement community](#)—from local sheriff departments to the Fraternal Order of Police to State Police departments to federal law enforcement agencies.

2) Federal and state bureaucracies born from Cannabis Prohibition itself – Washington, D.C. and most state capitals have created dozens of anti-cannabis government agencies to both maintain and enforce existing Cannabis Prohibition laws. Examples: [Drug Enforcement Administration](#), [Office of National Drug Control Policy](#) (AKA, drug czar’s office), [DARE](#), [Partnership for a Drug-Free America](#), [National Institute on Drug Abuse](#), [Substance Abuse Mental Health Services Administration](#), [National Drug Control Information Center](#), etc...

Many of these bureaucracies in turn provide most of the funding to so-called ‘[community anti-drug organizations](#)’ to create the false appearance of local grassroots opposition to any cannabis law reforms.

3) Alcohol, tobacco and pharmaceutical companies –

Historically, alcohol, tobacco and pharmaceuticals companies play both ends of the middle when opposing cannabis law reforms for the simple reason that all of these industries will lose a portion of their market share to legal cannabis.

4) Private corporations that prosper from Cannabis Prohibition –

Numerous private companies donate significant funding annually to anti-cannabis politicians and organizations to [maintain the status quo](#). Examples of such are private prisons, drug testing companies, rehabilitation services, communication companies, contraband detection devices, interdiction services and high-tech companies.

Reformers can hasten the end of Cannabis Prohibition

-Cannabis law reformers need to better politically organize via the Internet, resolve to [no longer vote for pro-Prohibition candidates](#), and to [fund and champion pro-reform candidates](#).

-Bipartisan support to end Cannabis Prohibition is a political given. However, since the 1990s every single major cannabis law reform initiative that has been successful has been funded by one of two liberal, politically divisive billionaires ([George Soros](#) and [Peter Lewis](#)). Reformers need to achieve greater political and funding diversity to significantly advance cannabis law reforms in today’s highly divided national political landscape.

-Recognize that most all of the major policy reforms are first achieved at the local and state level, in time putting due political pressure on the federal government to follow suit.

-Cannabis law reformers need to better work in concert with other like-minded political and social organizations that also oppose failed government programs or seek redress for grievances against the government.

-Reformers need to create a far more simpler reform narrative that juxtaposes 'pot tolerant' citizens against 'intolerant' citizens in the same manner that Alcohol Prohibition pit 'wets' against 'drys'.

-Reformers need to continue demonstrating the [tremendous cost to taxpayers of maintaining Cannabis Prohibition](#); the loss of needed tax revenue and the genuine lack of social controls that enhance public safety.

-Reformers need to keep directing public and media attention to the serious destabilization of the country's borders created by the tremendous illegal succor of Cannabis Prohibition in countries like [Mexico](#).

-Continuing what cannabis law reformers have been successfully achieving for forty years, which is to say winning a 'hearts and minds' campaign in the population, and recognizing that elected policymakers in Washington are not going to be able to lead the country out of its long-suffering Cannabis Prohibition without public advocacy that is derived from effective, politically diverse and bottoms up grassroots stakeholdership.