



SEPARATING MARIJUANA FACT FROM FICTION IN NEW YORK

RESPONSE TO THE “ASSESSMENT OF THE POTENTIAL IMPACT  
OF REGULATED MARIJUANA IN NEW YORK STATE”

*AUGUST 2018*

## Executive Summary

Recently, New York State (NYS) released what they claimed to be “an extensive assessment of current research and literature to evaluate the cost-risk benefit of legalizing the recreational adult use of marijuana.”

The overall conclusion of this assessment was that marijuana poses little public health risk and should be considered for legalization. But a closer look finds several flaws in the report that questions its purpose and conclusions.

Unfortunately, it appears that the conclusion of the NYS report was written before the data were analyzed. The legalization of recreational marijuana is presented in the introduction as a *fait accompli*: “It has become less a question of whether to legalize but how to do so responsibly.” Much of the report discusses how to decrease the dangers of legal recreational marijuana. The best way to lessen the danger is to keep it from being commercialized, normalized, promoted – and legalized.

The report conflates the issues of medical marijuana and commercial sales of recreational marijuana. The potential medical benefits of medical cannabis are already available in New York. Adding indiscriminate recreational use does not increase any health benefit to New Yorkers.

Smart Approaches to Marijuana (SAM) is advised by a scientific advisory board of researchers from institutions such as Harvard and Johns Hopkins. SAM believes in the need for rational, well-informed public policy – legislation that maximizes public health benefits and minimizes harms.

This state-issued report reads more like a marijuana lobbyist’s manifesto, as we found no credible opposing evidence cited.

Based on our findings, the reference to unlisted “subject-matter experts” that the report apparently relied on, and the fact that state medical groups like the New York Society for Addiction Medicine (NYSAM) were not consulted with, **we are formally requesting that the state of New York publicly disclose all sources that were consulted and those that contributed to creation of the document.** We believe that National Institute of Health (NIH) scientists, NYSAM physicians, and other experts should have the chance to review these findings.

Below are the top claims from the report and rebuttals.

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**CLAIM:** “A 2017 Marist Poll showed that 52 percent of Americans 18 years of age or older have tried marijuana at some point in their lives, and 44 percent of these individuals currently use it.”

**CORRECTION:**

The best usage data are not found in polls, but rather scientific studies conducted by the National Institutes of Health. According to the most recent National Survey on Drug Use and Health (NSDUH) data, **10.58% of Americans 12 or older and 10.84% of New York State residents reported being current users** and 44% of Americans have tried marijuana at some point in their life ([NSDUH, 2016](#)).

**CLAIM:** “In 1999 the Institute of Medicine (IOM) found a base of evidence to support the benefits of marijuana for medical purposes.”

**CORRECTION:**

This report is supposed to be about non-medical marijuana. We should not conflate the two issues. Still, there have been several reviews since this was published almost twenty years ago. The 1999 IOM report stated: “**Because of the health risks associated with smoking, smoked marijuana should generally not be recommended for long-term medical use**” and called for a “heavier investment in research.”

Released at the beginning of 2017, the [most recent](#) National Academy of Sciences report said: “**Despite increased cannabis use and a changing state-level policy landscape, conclusive evidence regarding the short- and long-term health effects—both harms and benefits—of cannabis use remains elusive.**” The July 24, 2018 [issue](#) of the *Annals of Internal Medicine* stated that “Americans’ view of marijuana use is more favorable than existing evidence supports.”

Again, this NYS report recommended *recreational* legalization, and we should separate the issue of the possible therapeutic benefits from this study.

**CLAIM:** "Most women who use marijuana stop or reduce their use during pregnancy."

**CORRECTION:**

Dr. Nora Volkow, NIH's drug abuse director, published a report last year in response to an **alarming trend being seen across the country of increased cannabis use during pregnancy and warned of the detrimental health risks of in utero cannabis exposure** ([Volkow et al., 2017](#)).

Even more alarming is a recent study that was not included in this report where **researchers found nearly 70% of 400 Colorado dispensaries surveyed in a scientific, undercover study were recommending cannabis products to mothers experiencing morning-sickness in the first trimester** ([Dickson et al., 2018](#)).

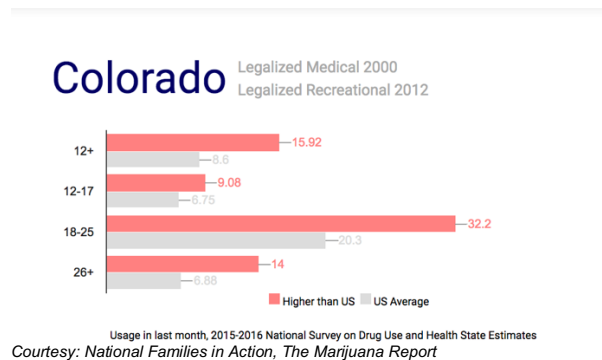
A clinically-controlled study published this year found that mothers vulnerable to mental illness who smoked during pregnancy put their child at higher risk to develop significantly more psychotic symptoms earlier in life compared to mothers who didn't smoke marijuana, but had similar vulnerabilities ([Bolhuis et al., 2018](#)).

**CLAIM:** "Data from multiple sources indicate that legalization in Colorado had no substantive impact on youth marijuana use."

**CORRECTION:**

Despite widely publicized reports by the state of Colorado, pro-legalization lobbyists, and others with revenue-producing interests; reliable data sources say otherwise. According to NSDUH state estimates, **Colorado now leads the nation in the percentage of 12- to 17-year olds who have tried marijuana for the first time** ([NSDUH, State Estimates, 2017](#)). **In adolescents and adults, Colorado is well above the national average.**

All state-collected data related to adolescent substance use is done via the Healthy Kids Colorado Survey – a state sponsored assessment to replace all other national and state surveys administered in school. Until 2017, these data have not met the CDC's standard qualifications for sampling methodology since 2011 – the year before recreational marijuana became legal in Colorado. **The 2015 HKCS has been widely criticized for misrepresenting and promoting misleading messages surrounding adolescent drug use** ([Murray, 2016](#)).



As a result of questionable reports publicized by the state of Colorado and pro-legalization activists, local investigative journalists at the *Denver Post* interviewed numerous law enforcement officers, educators and advocates; in addition to analyzing databases. They ultimately concluded that state-produced data appears to be unreliable ([Migoya, 2017](#)).

**"Records do not account for many young offenders who either are not reported to police, are not ticketed because police say there's too little to cite or have infractions that are not tabulated because of programs designed to protect minors from blemished records."**

**CLAIM:** "There has been no increase in violent crime or property crime rates around medical marijuana dispensaries."

**CORRECTION:**

The relationship between marijuana establishments and crime is mixed at best. A study funded by the National Institutes of Health showed that the **density of marijuana dispensaries was linked to increased property crimes in nearby areas** ([Freisthler, et al., 2017](#)).

Colorado Public Radio reported similar findings – particularly in Denver and Pueblo – and noted the visible association with increased gang violence seen in both cities likely due to a high density of dispensaries and illegal activity, including the black market ([Markus, 2017](#)).

**CLAIM:** “Marijuana is an effective treatment for pain, greatly reduces the chance of dependence, and eliminates the risk of fatal overdose compared to most opioid-based medications.”

**CORRECTION:**

This is inaccurate and is confounding medical and recreational use. This statement was based on a survey that 17 medical marijuana patients took while being prescribed opioids. Self-report data can be useful but have no value in informing serious public health risks. Several recent and widely-circulated studies show strong contradictory evidence to this claim.

Researchers found **that patients reporting marijuana use actually experienced more pain on average when admitted to the hospital** following a traumatic injury than those that did not. Compared to non-users, they required more opioid medication to cope with the pain and consistently rated their pain higher during the duration of their stay ([Salottolo et al., 2018](#)).

A 4-year prospective study in the highly respected *Lancet* journal followed medical marijuana patients with a dual opioid prescription **and found that marijuana use did not reduce opioid use or prescribing. Users reported greater pain severity and more day-to-day interference than those that did not use marijuana** ([Campbell et al., 2018](#)).

**CLAIM:** “Regulated marijuana introduces an opportunity to reduce harm for consumers through labeling.”

**CORRECTION:**

Non-FDA approved commercially-produced products have received only minimal regulatory attention. Recent studies have shown **rampant mislabeling of the active cannabinoid ingredients in concentrates and edibles** ([Peace et al., 2016](#)).

**The FDA has published warning letters on the severe mislabeling of commercial products consistently seen on the market since 2015** ([FDA, 2015-17](#)).

This claim was cited from the Drug Policy Alliance website. **The DPA and its affiliates have directly funded campaigns to legalize all forms of marijuana including edible products throughout the US.** They also call for the legalization of all drugs. This is not a credible source.

**CLAIM:** “The status quo (i.e., criminalization of marijuana) has not curbed marijuana use.”

**CORRECTION:**

Non-public, personal use of Marijuana is not criminalized in NYS nor are possession of small amounts for personal amounts - often a reason for imprisonment. In 2016 23.5% Americans reported using legal drugs compared to 10.6% using illegal ones – signaling that the law matters in preventing drug use ([NSDUH, 2016](#)).

In 2017 in New York State, marijuana made up 0.003% of non youthful-offender felony sentences to prison. There were no youthful offender felony marijuana sentences for prison. Misdemeanor marijuana arrests made up 8.5% of all state misdemeanor arrests ([NY State Division of Criminal Services, 2018](#)).

The recent rush to **legalization across the country has pushed marijuana to the number one spot for recent first-time drug users aged 12 or older in 2016 compared to any other illicit drug** ([NSDUH, 2016](#)).

**CLAIM:** “Legalizing marijuana results in a reduction in the use of synthetic cannabinoids.”

**CORRECTION:**

This claim is inaccurately attributed to the report [Global Drug Survey](#) which indicates that countries that decriminalize marijuana have lower rates of synthetic marijuana use. The claim cannot be found in that reference. And, even if there is an association between decreased synthetic use and *decriminalized* marijuana, it does not follow that *legalizing* marijuana will cause a reduction in synthetic use. We emailed Professor Adam R Winstock, Founder & CEO of the Global Drug Survey, to ask his opinion. He replied, "It's not clear cut," indicating uncertainty. There is not much data on decreased synthetic use in countries with decriminalization (Zucker doesn't even say "countries with legalization" which is actually the issue at hand because only Uruguay would fall into that category).

**CLAIM:** "The over-prosecution of marijuana has had significant negative economic, health, and safety impacts that have disproportionately affected low-income communities of color."

**CORRECTION:**

Marijuana does not need to be legalized to address valid social justice concerns. Although overall drug-related offenses have decreased in states that have legalized; minorities have still disproportionately been targeted for the arrests that do still occur. Such as in 2014, **two years after legalization in Colorado, the marijuana arrest rates for African-Americans (348 per 100,000) was almost triple that of Whites (123 per 100,000)** ([Co. Dept. of Public Safety, 2016](#)).

Colorado has seen an increase in crime in regions that attract recreational users. Although the rise in crime cannot be attributed to legalization of marijuana alone, much of the violence has been attributed to increased gang violence where dispensaries are densest ([Markus, 2017](#)).

Current drug policies can be changed without legalization.

**CLAIM:** "The negative health consequences of marijuana have been found to be lower than alcohol, tobacco, and illicit drugs including heroin and cocaine."

**CORRECTION:**

This statement is questionable because it was based on a [theoretical model](#) that estimated human consumption averages for each substance and calculated a risk ratio using lethal doses reported in animal studies. Basic research is necessary for understanding the biology underlying addiction; however, the transferability of dosing schedules between species has not been conclusively established.

Much of the reason alcohol and tobacco exert more costs to society than many illegal drugs is because those two drugs are legalized and commercialized. As Dr. Nora Volkow, head of NIH's drug abuse institute stated, "**Repeated marijuana use during adolescence may result in long-lasting changes in brain function that can jeopardize educational, professional, and social achievements.**"

*"However, the effects of a drug (legal or illegal) on individual health are determined not only by its pharmacologic properties but also by its availability and social acceptability."*

*"In this respect, legal drugs (alcohol and tobacco) offer a sobering perspective, accounting for the greatest burden of disease associated with drugs not because they are more dangerous than illegal drugs but because **their legal status allows for more widespread exposure.**"*

**CLAIM:** "The impact of legalization in surrounding states has accelerated the need for NYS to address legalization."

**CORRECTION:**

This statement reads as if two wrongs somehow make a right. NYS should not be forced into legalizing marijuana because other states are considering it (several surrounding states, it should be noted, have considered and then defeated proposals to legalize marijuana). Even if a surrounding state or two legalizes marijuana, NYS can stand out as the state promoting health, well-being, family-centered tourism – not more drug use.

This statement totally ignores newer polls such as the 2018 [Emerson College poll](#) that found that the majority of New Yorkers do not support the legalization of marijuana. **A plurality support either decriminalization or the current policy.**

"The poll -- conducted by the same college that recently conducted a poll for pro-marijuana groups Marijuana Policy Project (MPP) and the Drug Policy Alliance (DPA) -- **reported that 56% of respondents did not favor legalizing the recreational sales of marijuana.**

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Smart Approaches to Marijuana (SAM) is a nonpartisan, non-profit alliance of physicians, policy makers, prevention workers, treatment and recovery professionals, scientists, and other concerned citizens opposed to marijuana legalization who want health and scientific evidence to guide marijuana policies. SAM was co-founded by former Congressman Patrick Kennedy and former Obama Administration senior drug policy advisor, Dr. Kevin Sabet. SAM has affiliates in more than 30 states.

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