

2/19/19


item 5



City Council Meeting

Item 5: Commercial Cannabis Policy Implementation Update

February 19, 2019



City of Santa Clara
The Center of What's Possible

Agenda

- Background
- Policy Framework
- Requested Council Direction

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POST MEETING MATERIAL



Background

- November 2016 – Prop 64 Passed
- 2017
 - State regulations developed
 - Council directed staff to develop commercial cannabis policy for Council consideration
 - Council authorized a moratorium on commercial cannabis (currently thru June 2019)
 - Council approved contract with SCI consultants
- January 2018 – State licensing began

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Background

- 2018
 - Early outreach with stakeholders and community
 - Review of other jurisdictions' cannabis policy and implementation
 - Council direction to pursue cannabis tax as revenue opportunity
 - Nov 6, 2018 – Measure M: Santa Clara Cannabis Business Tax approved by voters with 76.68% support.

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Cannabis Business Tax

- Initial Rates per Measure M:

| Business | Rate |
|----------------|--------------------------|
| Retail | 5% of gross receipts |
| Manufacturing | 5% |
| Cultivation | Greater of 5% or \$6/psf |
| Distribution | 3% |
| Nurseries | 3% |
| Testing | 3% |
| Transportation | 3% |

(Maximum limit: Up to 10% of gross receipts and Up to \$25 per square foot of canopy for cultivation)

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Revenue

- General range estimated at \$10-\$20 per capita or \$1.2 to \$2.4 million
- Revenue gains to State not as high as anticipated
- State adopting regulations to make it easier to obtain a license, including reduction in tax
- Number of local jurisdictions with cannabis program growing, but slowly

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Policy & Council Direction

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Commercial Cannabis Policy

Amendments to Municipal Code together with
corresponding resolutions

- Health & Safety Regulations (Title 8)
- Business License Regulations (Title 5)
- Land Use Regulations (Title 18)

2019 California Law/Regulations

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Health and Safety (Title 8)

Parameters of operating a commercial cannabis business

Ordinance: Types of businesses allowed

Resolution: Operational requirements (e.g., security requirements, hours of operation, requirements of personnel employed, etc.)

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Types of Businesses Allowed

- Retail
- Manufacturing (recommendation: non volatile solvents only)
- Cultivation (recommendation: indoor only)
- Distribution
- Nursery
- Testing
- Transportation

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Business License (Title 5)

Parameters for which a business may 1) apply (and be selected) for a license and 2) maintain a license

Ordinance: Business License Taxes

Resolution: Application and selection process; regulatory fees; cash management policy

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Business Licenses

Number of Licenses:

- Cap on Retail Licenses (recommendation: 3 storefront locations)
- No cap on other license types

Frequency of tax collection

- Quarterly

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Companion Policies (Resolution)

Application and Selection Process

- All business types apply for a local license
- Must satisfy all State and local requirements
- Merit based selection system for storefront retail licenses
- Timeline and forms to be developed

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Companion Policies (Resolution)

Cash Management

- Reviewing programs of other jurisdictions
- Subject to audit
- Collect data for recommendations on future modifications

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Companion Policies (Resolution)

Regulatory Fees

- Full cost recovery (staff and third party costs for implementation of the cannabis program)
 - Initial Application Fee
 - Final Application Fee
 - Annual Renewal
 - Annual Regulatory Fee
- Fee Study to be completed & presented to Council

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Land Use (Title 18)

Manner in which a business may operate: location and other land use requirements

Ordinance: Zoning

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State Law

Cannabis business must be located 600 feet away from:

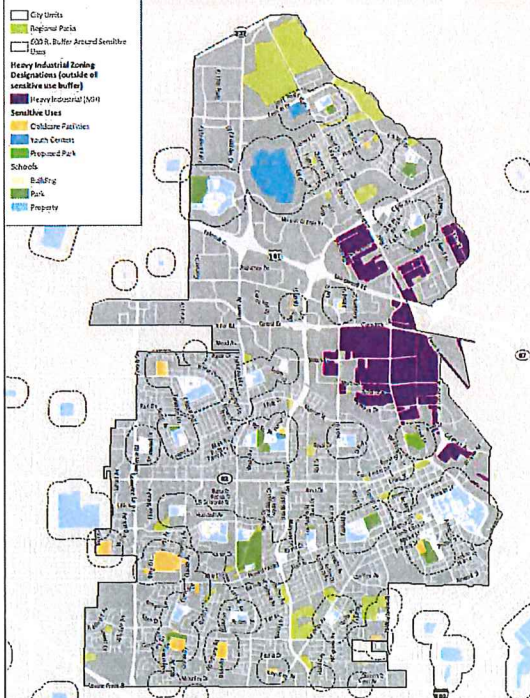
- Schools
- Recreational Centers
- Youth Centers
- Child Care facilities

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Color Key:

Heavy Industrial -
Purple

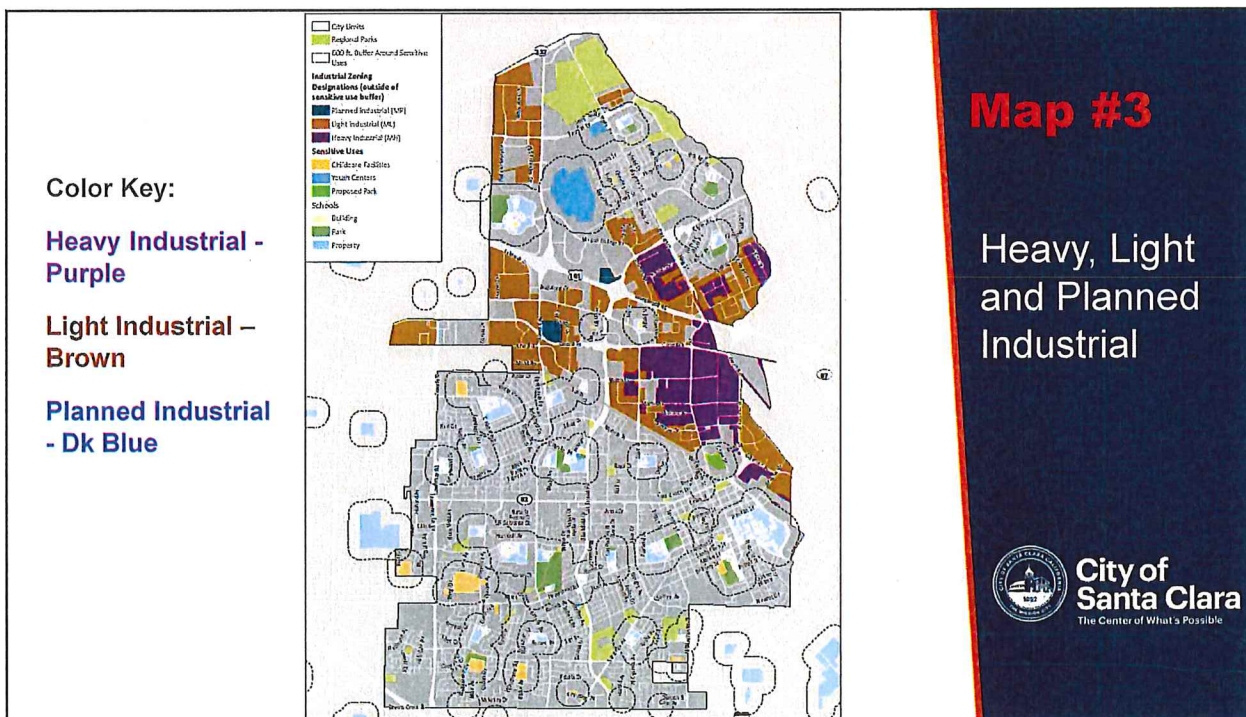
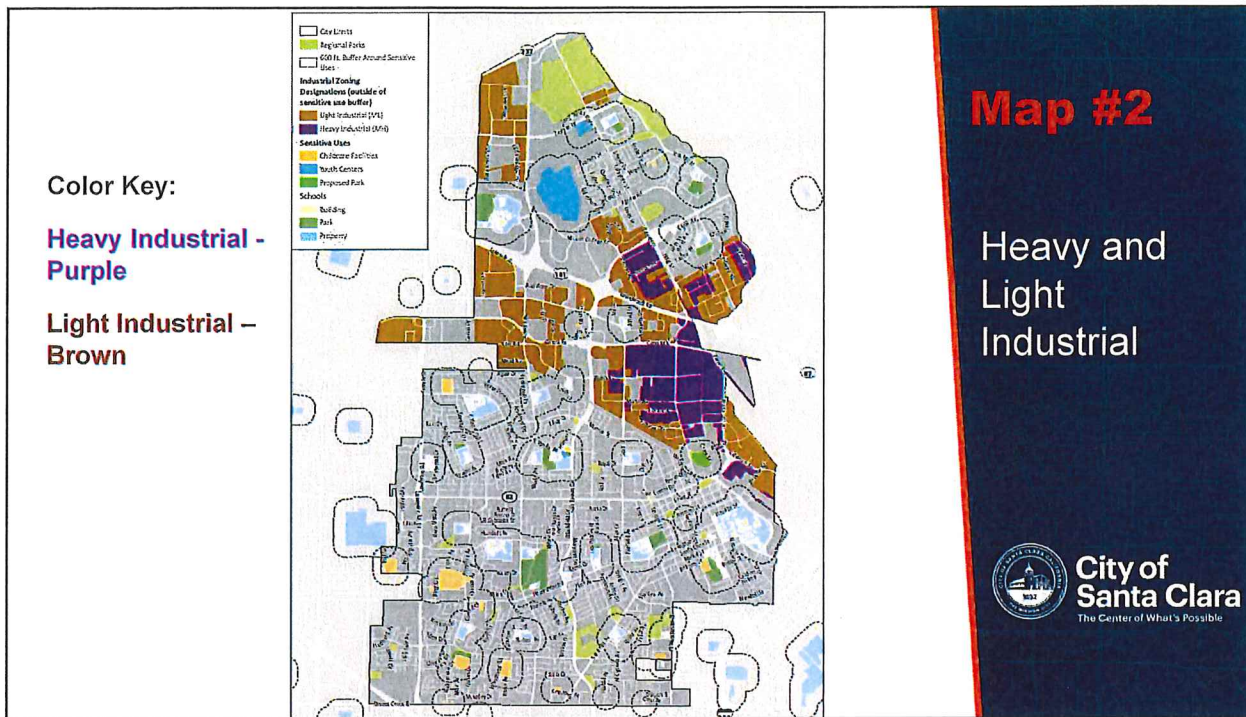
City Limits
Regional Parks
COG 3.0 Buffer Around Sensitive Uses
Heavy Industrial Zoning Designations (outside of sensitive use buffer)
Heavy Industrial (NIM)
Sensitive Uses
Childcare Facilities
Youth Centers
Recreational Park
Schools
Building
Park
Property

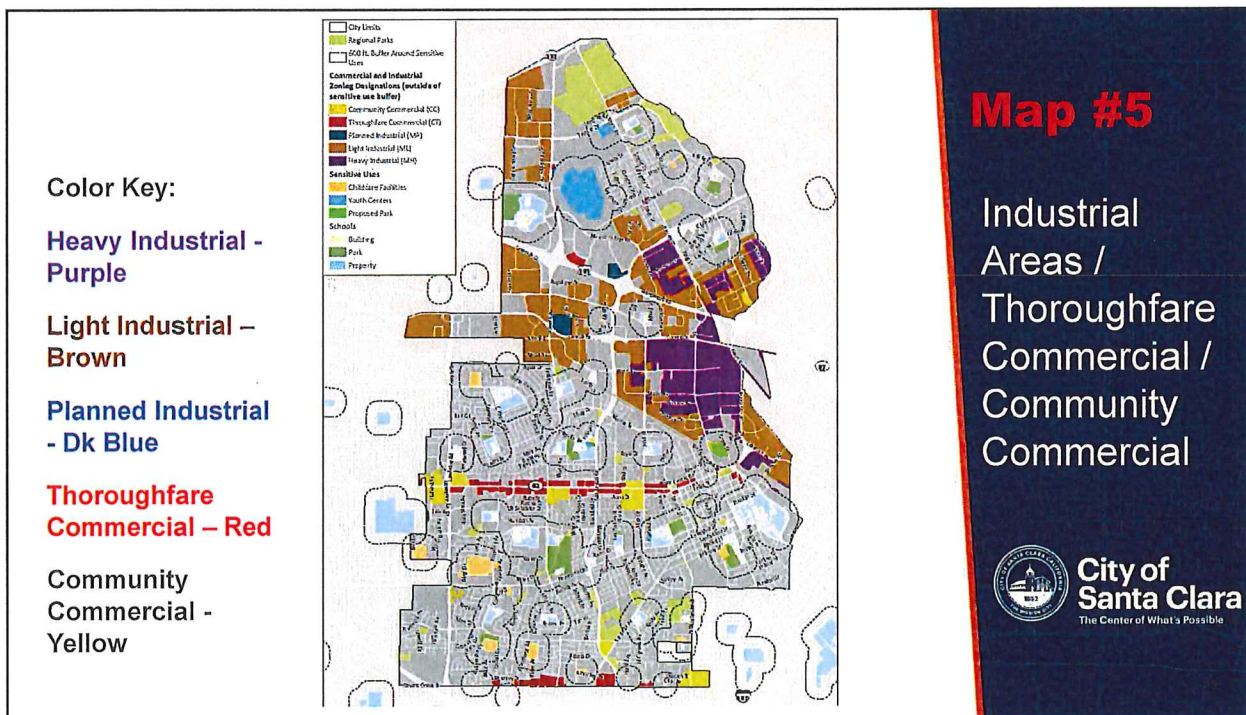
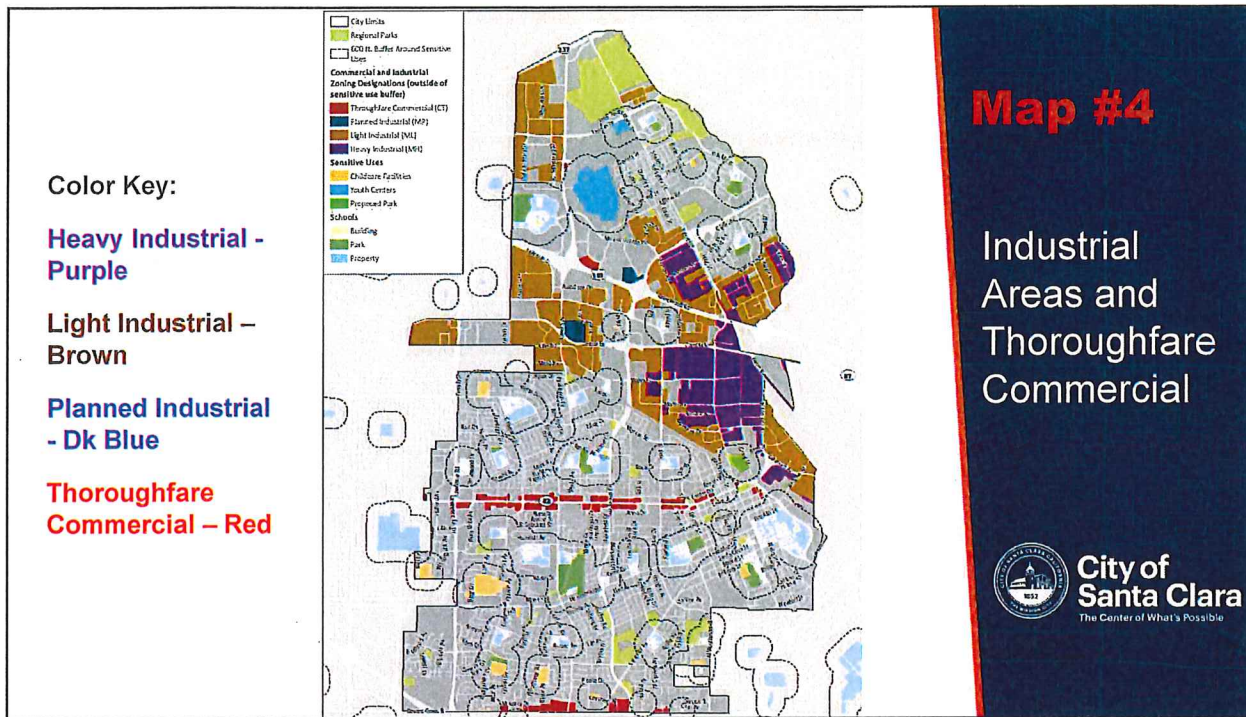


Map #1

Heavy
Industrial
Only









CEQA

- Staff Recommendation – Map #3
- Initial Study prepared and ready for release
- Initial Study uses Map #5 as project description

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Next Steps

- Council Direction
- Preparation of Ordinances, Resolutions and Policies
- Outreach
- Additional time on moratorium will be required
- Return to Council for consideration of Commercial Cannabis Regulations

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Requested Council Direction

- Allow all license types (with exception of outdoor cultivation and manufacturing with volatile solvents)
- Cap initial number of retail licenses at 3 storefront locations. No cap on other license types
- Collect taxes quarterly
- Allowable zones
- Any other policy direction of the Council



TEACHING KIDS TO RESIST DRUGS & VIOLENCE

P.O. Box 512090 • Los Angeles, California 90051-0090 • (800) 223-DARE • Fax (310) 215-0180

Rob Jerdonek

[REDACTED]
Santa Clara, CA 95054

Dear Mr. Jerdonek,

Good day and thank you for your inquiry to D.A.R.E.

D.A.R.E. America is a non-profit organization dedicated to our mission of "Teaching students good decision-making skills to help them lead safe and healthy lives." As taught in our curricula, we believe it is neither safe nor healthy for students and all children under the age of 18 to use marijuana; therefore we oppose legalization of marijuana.

The science on this subject is clear...the use of marijuana by youth has dangerous and unhealthy consequences on many levels. Additionally, several studies have documented the significant negative consequences of legalization including:

- Increased illegal use of marijuana by minors,
- Increased traffic accidents and traffic deaths as a result of driving under the influence of marijuana,
- Increased emergency room visits with marijuana overdoses,
- Increased number of hospitalizations from the use of marijuana,
- Increased risk of addiction and use of other more lethal drugs. The National Institutes of Health reports that 1 out of every 6 adolescents who try the drug will develop an addiction.

Further, while the use of marijuana may be legal in a few states, it is still not legal in many states and nowhere in the United States under Federal law. For these reasons and those articulated below, we are opposed to the legalization of marijuana.

The following are among other reasons for opposition to legalization efforts;

- Increase youth marijuana use in states having enacted legalization

Past Month Use 12-17 Year Olds (NSDUH State Estimates 2015-16 vs 2016-17)

| | |
|---------------------------------------|-----|
| National | -4% |
| States without marijuana legalization | -3% |
| States with marijuana legalization | +2% |

DRUG ABUSE RESISTANCE EDUCATION

Visit our website: www.dare.org

Past Year Use 12-17 Year Olds (NSDUH State Estimates 2015-16 vs 2016-17)

| | |
|---------------------------------------|-----|
| National | -1% |
| States without marijuana legalization | -3% |
| States with marijuana legalization | +3% |

- Frustrates educational enhancement efforts, negative impact upon developing youth brain. The NIH reports regular marijuana use can reduce IQ by 8 points and may be irreversible; it also impairs memory and learning.

(NIDA 2018, June 25. Marijuana.

<https://www.drugabuse.gov/publications/researchreports/marijuana-on-2018>, July 2.)

- Marijuana-related ER visits by Colorado teens on the rise since marijuana legalization

Between 2009 and 2015, rates for these types of visits increased significantly.

Nationally, marijuana-related emergency department (ED) visits among 15- to 17-year-olds increased between 2005 and 2011

(https://www.cdc.gov/nchs/data/nhcs/ED_Substance_Abuse_Factsheet.PDF).

To determine if this trend was apparent in Colorado, which commercialized medical and recreational marijuana use in 2009 and 2014, respectively, investigators reviewed all marijuana-associated ED and urgent care (UC) visits to a Colorado children's hospital by patients aged 13 to 21. Marijuana-related visits were defined as those with an International Classification of Diseases 9/10 code for marijuana/cannabis use or a positive urine toxicology screen for tetrahydrocannabinol.

From 2005 to 2015, 4202 marijuana-related visits occurred (median patient age, 16; 54% male). The annual number of such visits increased from 161 in 2005 to 777 in 2015; from 2009 to 2015, the rate of such visits increased significantly from 1.8 to 4.9 per 1000 ED/UC visits. Marijuana-related behavioral health evaluations were obtained in 67% of visits overall; rates of these evaluations more than doubled from 2009 to 2015; from 1.2 to 3.2 per 1000 ED visits.

(NEJM Journal Watch, *Rise in Marijuana-Associated Emergency Care Visits for Adolescents in Colorado*, Alain Joffe, MD, MPH, FAAP reviewing Wang GS et al. *J Adolescent Health* 2018 Mar 30,

<https://www.jwatch.org/na46482/2018/04/12/rise-marijuana-associated-emergency-care-visits>)

- The Rocky Mountain HIDTA 2015 report reports, “Drug-related suspensions/expulsions increased 40 percent from school years 2008/2009 to 2013/2014. The vast majority were for marijuana violations.”
- AAA has reported fatal crashes involving drivers who recently used marijuana doubled in Washington after the state legalized the drug.

(See Johnson, T. 2016, May 10). Fatal Road Crashes Involving Marijuana Double After Sate Legalizes Drug <https://newsroom.aaa.com/2016/05/fatal-road-crashes-involving-marijuana-double-state-legalizes-drug>).

- A substantial concern about legalization of adult marijuana use is that it will result in an increase in adolescent use, a group that appears to be most vulnerable to its harmful effects. A recent review summarized much of the current knowledge regarding the harmful medical and behavioral effects of marijuana consumption (Adverse health effects of marijuana use. Volkow ND, Baler RD, Compton WM, Weiss SRN *Engl J Med*. 2014 Jun 5; 370(23):2219-27). Adolescent marijuana use has been associated with impairment in a number of areas: impaired cognitive functioning (The influence of marijuana use on neurocognitive functioning in adolescents. Schweinsburg AD, Brown SA, Tapert SF *Curr Drug Abuse Rev*. 2008 Jan; 1(1):99-111.), increased risk of developing marijuana dependence (Early-onset drug use and risk for drug dependence problems. Chen CY, Storr CL, Anthony JC *Addict Behav*. 2009 Mar; 34(3):319-22.), elevated rates of school dropout (A longitudinal study of the effects of adolescent cannabis use on high school completion. Lynskey MT, Coffey C, Degenhardt L, Carlin JB, Patton G *Addiction*. 2003 May; 98(5):685-92.), an elevated risk of developing psychotic illnesses (Cannabis use and risk of psychotic or affective mental health outcomes: a systematic review. Moore TH, Zammit S, Lingford-Hughes A, Barnes TR, Jones PB, Burke M, Lewis G *Lancet*. 2007 Jul 28; 370(9584):319-28.) and (Effects of cannabis use on outcomes of psychotic disorders: systematic review. Zammit S, Moore TH, Lingford-Hughes A, Barnes TR, Jones PB, Burke M, Lewis G *Br J Psychiatry*. 2008 Nov; 193(5):357-63.), and an increased rate of engaging in risky behaviors (Developmental relationships between adolescent substance use and risky sexual behavior in

young adulthood. Guo J, Chung IJ, Hill KG, Hawkins JD, Catalano RF, Abbott RD J
Adolesc Health. 2002 Oct; 31(4):354-62.

I hope this correspondence affords assistance. Should I be of further assistance in this or
any other matter, please feel free to contact me.

Respectfully,

A handwritten signature in black ink, reading "Francisco X. Pegueros". The signature is fluid and cursive, with a large, stylized 'F' and 'P'.

Francisco X. Pegueros

President & CEO

D.A.R.E. America/International

MARIJUANA: MAN-MADE DISASTER

Gateway to Other Drugs

- Marijuana – a powerful neurotransmitter – works on the same receptor system in the brain as heroin.²
- Marijuana primes the brain to seek stronger drugs.²
- Marijuana users are more likely than non-users to use heroin and abuse pharmaceutical opioids.¹⁴



Think Marijuana is harmless? You don't know POT!

Marijuana and the Brain¹³

- Causes and exacerbates: **Addiction, Depression, Psychosis, Schizophrenia, Hallucinations**
- Psychotic breaks / Violent acts / Anxiety
- Loss of memory, perception, motor skills
- Mental degeneration



Drugged Driving

- Driving tests show marijuana impairs reaction times, divided-attention tasks, lane-position variability (weaving), peripheral vision, cognitive function & coordination.¹
- **1 of every 8 traffic fatalities** in Colorado are marijuana related (+32% increase).¹⁰
- Marijuana driving deaths doubled in one year after legalization in Washington.¹¹
- For every 1 marijuana-user death, .7 innocents die (pedestrians, bicyclists, passengers, etc.)⁵
- Combining marijuana with alcohol increases impairment up to 8 times.¹



Teen Use/Users

- Increases dramatically wherever marijuana is legalized.¹²
- Causes irreversible IQ loss up to 8 points and higher likelihood of Amotivational Syndrome.⁸
- **1 in 6 teens who try marijuana will become addicted.**⁷
- Heavy Users are less likely to graduate.⁹
- **7x increase in suicide attempts.**⁹
- Big Marijuana's goal – teen users today become lifetime consumers tomorrow.

Fetal Risk

Marijuana use during pregnancy crosses the placental and blood/brain barrier and increases the baby's susceptibility to:⁴

- Lower birth weight
 - Addiction later in life
 - Birth defects & cancers
 - Problem solving, attention and learning difficulties later in life
- Studies show genetic changes in offspring of heavy users.⁶



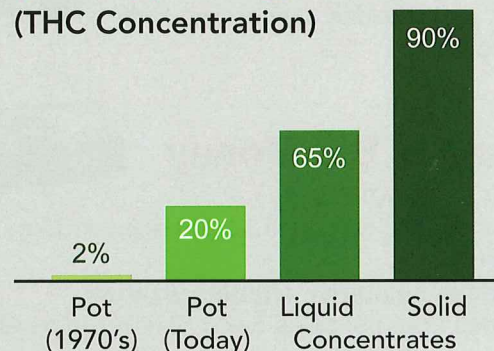
POTENCY:

Marijuana (a.k.a. Cannabis) today is

10-40x stronger than 40 years ago

THC (the mind-altering chemical in marijuana that gets a user high) is a hallucinogenic drug. It is stored in fat tissue and is slowly released back into the blood stream keeping that THC in the body for many days, even weeks after the pot is used. This THC continues to negatively affect memory and emotional processing, organs and bodily systems.³

TETRAHYDROCANNABINOL (THC Concentration)



www.AALM.info

916-708-4111 • 619-990-7480

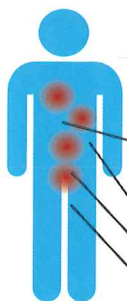
Americans Against Legalizing Marijuana

Email CarlaDLowe@aol.com for Print-Ready PDF



Heavy marijuana use is linked to downward social class mobility, anti-social behaviors, and relationship conflict.⁷

Less than 1% of all state prisoners are in jail for simple possession.¹⁷



Physical Health Impacts

LUNGS: Smoke from marijuana contains 4-5x the toxins, irritants & carcinogens as tobacco smoke; 20 times more ammonia.⁹
Increases likelihood of **HEART ATTACK**
IMMUNE SYSTEM is weakened
Negatively impacts **REPRODUCTIVE SYSTEM**⁶
DEATH RATE 4x higher than non-users.¹³



Crime

- **50%** of men and **30%** of women arrested for any crime test positive for marijuana.⁴
- **70%** of inmates are addicted to drugs and/or alcohol.¹
- **Guns** and other weapons are common at both large and home cultivation sites.

Butane Hash Oil (BHO)

- Increases THC potency to 90+%¹¹
- Causes severe "high."
- As dangerous to make and consume as meth.
- Easily causes **explosions and fires** in neighborhoods where it is cooked.
- AKA *dabs, wax, budder, shatter, and solid THC concentrate*.



Marijuana is Big Money (but not for the community)

- One plant can bring \$2,000 to \$4,000 annually to a grower/distributor.
- **Black Markets still thrive after legalization.**⁸
- Tax revenues from pot sales do NOT cover **increased** crime, health care or addiction services. Revenues are projected to be less than .003% of total CA state tax revenue.²
- Cost of law enforcement increases, not decreases with legalization.¹⁶
- CA already has 50,000 illegal cultivation sites that supply 60% of marijuana to the US.³



Edibles / Vaping

- THC liquid concentrate is used in "Vaping" devices (aka *e-cigarettes*); creates a cancer-causing aerosol with no smell.
- Candy, brownies, soda, gummies, etc. containing THC can be very potent; cookies with 1000mg of THC each are available.
- Vaping and Edibles are **favorite ways for youth to ingest marijuana** (THC).
- Neither THC liquid nor solid concentrates (BHO) are overseen by any regulatory body – no quality controls, no limits on potency, or limits on contaminants (pesticides, herbicides).



Marijuana is NOT Earth-Friendly¹⁰

- 1 plant uses 6 gallons of water per day.
- Streams diverted to grow sites kill plants & animals downstream.
- Poisons and illegal fertilizers contaminate streams and forests.¹⁵
- Carbofuron is illegal but commonly used at grow sites - 1/8 t can kill a 300 lb. bear.¹⁵



Is Marijuana really Medicine?

The Federal Food and Drug Administration confirms that whole plant marijuana and THC oils are NOT medicine.

- Components may have medicinal value, i.e. CBD (Cannabidiol)⁵
- To protect the public, the FDA testing and approval process determines drug safety, dosing efficacy, side effects, potency, duration, interactions, etc.
- Pot shop "baristas" who recommend this psychoactive drug make medical conditions worse (e.g. PTSD, pediatric seizures, glaucoma and even pain).¹⁴

"First, Do No Harm"
Marijuana is harmful



¹⁴ **OPPOSE MARIJUANA USE**

American Medical Association
American Cancer Society
American Epilepsy Society
American Academy of Pediatrics
American M.S. Society
National Eye Institute
American Lung Association
and others