

COLUMBIA LAW SCHOOL
Law Enforcement in Colorado:
The Marijuana Experiment
by John Suthers, Colorado Attorney General
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- Thanks to Jim Tierney for the invitation
- For those of you who think that legalization of marijuana is just an issue for Colorado or Washington – don't be smug – well funded, well organized and very strategic, it's coming to every state in America
- I watched the legalization movement unfold in Colorado over a 14-year period and identified a clearly recognizable game plan. It starts with recognition of limited medical marijuana, moves to expanded medical marijuana and once that is exposed as a joke, you move to legalization. It's my view that virtually every state is somewhere on the spectrum of this progression.

- While I have been largely supportive of decriminalization of marijuana efforts – lessening consequences – I have and continue to oppose legalization. I believe legalization will adversely impact youth marijuana use rates over the coming years and exacerbate overall drug use rates in the future. (*explain* – use function of perception of risk) – Historically 1 in 6 kids under 18 who smoke marijuana become addicted – Likely go considerably higher now that most strains of marijuana for sale recreationally in Colorado have THC levels exceeding 15 percent. In the Woodstock days it was about 3 percent. Of the 2.4 million people in U.S. who try marijuana for the first time each year, 58% are under 18.
- Colorado History
 - Amendment 20 passed in 2000 – called for limited medical marijuana – available to people who

registered with the health department and had a physician's letter indicating marijuana may help with a debilitating medical condition including cancer, HIV, and chronic pain – Could grow your own or have a caregiver grow it for you – caregiver had to have significant responsibility for your care – health department established a guideline indicating that each caregiver could only have a limit of 5 patients – By 2007 there were only about 1700 patients on the health department registry and a legalization campaign failed at the ballot by a 60-40 margin in 2006 but in 2008 and early 2009 things changed dramatically – In a lawsuit a court held the state Board of Health could not limit the number of patients per caregiver by guideline, they had to enact a rule. At a hearing attended by 1,000

marijuana proponents and lasting twelve hours, the Board of Health voted 4-3 not to impose the limitation; this caused marijuana proponents to decide to become a caregiver for hundreds if not thousands of patients and to advertise for the patients. At the same time in early 2009 President Obama's justice department issued the Ogden letter indicating that if people complied with state medical marijuana laws, federal law enforcement would not interfere – these two things caused the medical marijuana roles in Colorado to swell to over 60,000

- In the 2010 legislative session the debate was to legislatively recognize medical dispensaries or limit caregivers to five patients – The legislature decided to recognize dispensaries and over the next year the roles swelled to 130,000 – The demographics

were frankly, not surprising – The median age was 39, 70 percent male, 30 percent female, 97 percent cited chronic pain – The average age of people with debilitating medical conditions is approximately 70 and only a few more males than females are impacted – It was largely viewed as a joke and people recognized it as such and the stage was set for legalization campaign in 2012 – The campaign had two major points – spending way too much on enforcement (5,000 arrests – not really) – we can support public schools with the tax money we would generate – passed 55-45 percent – cities can opt out – the vast majority have – big part of Amendment 64 is that you can grow your own in your house – up to six plants. I think this is proving problematic for the industry.

- We've spent the time after passage developing a regulatory scheme – done the best we could while still trying to comply with the constitutional language which was very deliberately drafted – As I'll indicate later, a big problem has been edibles – there's no ownership connection required between grow operations and retail and I believe this will cause there to be much more diversion out of the state.
- So where are we today? Industry says things are going great – minority marijuana group led by an activist lawyer is suing to have the 25% tax declared illegal under the 5th Amendment right against incrimination – Others are beginning to assess impact of legalization – While it's still early, the information I'm about to give you comes from a recently released report by the Rocky Mountain

High Intensity Drug Trafficking Area group and a Centennial Institute Policy Brief.

- Adult Marijuana Use

- As of 2012 – 26.81% of 18-25 year olds in Colorado had smoked in the last month – That’s 20% higher than the national average of 22.37% and is a 36% increase in the three years since 2009 - Frankly, this number takes into account the liberalized medical marijuana laws as opposed to legalization of recreational use.
- In a recently released report indicates 9% of all adults in Colorado smoked marijuana in the last month – That’s compared to 6% nationally – But most notably a full quarter of that 9% of adults used marijuana daily or more often – that’s opposed to

16% nationally – In other words, Colorado has a significantly higher rate of heavy users

- Percentage of all adult male arrestees testing positive for marijuana has risen from 41.6 percent in 2008 to 48.4 percent in 2013.

- Adolescent Marijuana Use

- Past month use of marijuana by 12-17 year olds in Colorado climbed from 8.3% in 2008 to 10.5% in 2012, a 25 percent increase – The national rate is 7.5% so Colorado is over 30 percent higher – Once again this number reflects the liberalization of medical marijuana laws because legalization did not come in until 2012 – Interestingly, past month use of marijuana by 12-17 year olds is much higher in states with medical marijuana than in those states without – 9.4 percent versus 6.7 percent.

6.5 percent of high school seniors nationwide smoke marijuana daily.

- Drug related suspensions and expulsions in Colorado public schools have risen dramatically from 3,736 in 2009 to 4,933 in 2013 – Marijuana related suspensions and expulsions have risen from 25 percent of all suspensions and expulsions to 41 percent in 2013 – That does reflect the first year of legalization
- Where do 12-17 year old adolescents get their marijuana? 38 percent from friends who obtain it legally – 23 percent from parents – 22 percent from drug dealers – and 9 percent from medical marijuana card holders

- Impaired Driving

- From 2007 to 2012, traffic fatalities in Colorado decreased 14.8 percent – However during the same time fatalities involving operators testing positive for marijuana increased 100 percent from 39 to 78 – In 2007 marijuana impaired operator traffic fatalities were 6.92% of the total – that’s risen to 16.53% of the total by 2012 – Once again this reflects the liberalization of medical marijuana laws
- Marijuana related emergency room visits have skyrocketed from 8, 198 in 2011 to 12,888 in 2013 – Hospitalizations related to marijuana have risen from 3,900 in 2007 to 8, 078 in 2013 – In 2009 two children were hospitalized for marijuana ingestion – In the first six months of 2014 we’ve had 12 children

hospitalized for marijuana ingestion – The problem there is edibles which I'll talk about later

- Rocky Mountain Poison Center calls for marijuana exposure in children have tripled from 3.9 per million in 2005 to 14.8 per million people in 2012 – once again a pre-recreational marijuana number.

- Diversion Out of Colorado

- Colorado grown marijuana interdiction seizures increased from 58 in 2008 to 288 in 2013 – The average pounds per seizure of Colorado marijuana increased from 2,763 in 2008 to 3,690 in 2013 – Mail and FedEx and UPS seizures have more than doubled - In 2013, 40 states reported seizing marijuana packaged in Colorado

- Edibles

- Regulation of edibles has been particularly problematic in Colorado – two horror stories – trying to deal with through regulation without violating constitution – similar problem with the THC content – as you know, many times what it used to be

- Hash Oil

- A house explosion virtually every week – clearly needs regulation – benefit to kids with severe seizure disorders.

- Conclusion

- I'm encouraging Coloradans to think about how to assess the success or failure of this experiment – I would suggest that over the next several years we evaluate the following:

1. The impact on youth drug rates – probably need minimum 5 years
 2. The impact on school performance
 3. Cost vs. revenue (so far only 1/3 of projected revenues)
 4. Reduction in organized crime/influence of cartels – very little impact so far
 5. Amount of diversion out of state
- As for other states, I suggest you let Colorado and Washington be guinea pigs – We should have a much clearer picture of the overall impact of legalization in the next few years.