

# JEFFERSON COUNTY MARIJUANA TASK FORCE

Amicus Report

The effects and remediation of  
systemic institutional bias  
regarding regulated marijuana in  
Jefferson County Colorado

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## Executive Summary

Marijuana has been used for millennia for a variety of industrial, recreational and medical purposes with very little fanfare, attention or a single recorded incident of overdose death. Onset of the fear of marijuana didn't begin until the early 1900s and is still prevalent in government and society today. In order to understand the systemic institutional bias as it relates to marijuana and its' effects on re-legalization, one must understand the history of prohibition of marijuana and the influences leading to the institutional bias against it.

The context of historical marijuana messaging and related social prejudice echoes throughout the decades and is relevant today. Despite objective reports and testimony refuting bias, marijuana and marijuana users continue to be intimidated, marginalized and demonized by societal and governmental prejudice.

The political rhetoric surrounding marijuana has inflamed cultural and social bias throughout the last century and has been handed down through generations of organizations and citizens. This prejudice against cannabis has been institutionalized within many departments of the federal government which then incentivize the continuance of the bias throughout state and local authorities.

Many of these prejudices have been perpetuated within Jefferson County and its government. This report attempts to contextualize and raise awareness of this bias in order to form more effective public policy relating to regulated marijuana in Colorado.

The effects of bias in Jefferson County government can be traced from the formation of this task force through its implementation and duration. Members of the task force perpetuated their personal prejudices within the group as well as government bodies, thereby perpetuating the institutional bias in other jurisdictions throughout the county as well. The institutional bias within Jefferson County government is also externalized to the public throughout messaging and communications from a variety of departments represented on the task force.

The effects of institutional bias to public health and safety as well as business and government are numerous regardless of the course that the BCC chooses. It is imperative that the issue is identified, addressed and remediated in either environment.

This report makes no opinion as to whether or not Jefferson County chooses to move forward with the retail marijuana within their jurisdiction, but rather identifies specific biases and their effects in either environment. Additionally, it suggests appropriate remedies and meaningful solutions derived from the experience of effective implementation of Amendment 64 in order to maintain the integrity of an objective and unbiased public policy making process.

## Institutional Bias

Systemic, or institutional, bias is a real-world phenomenon in which processes within organizations are inherently inclined and unfairly weighted to produce a particular outcome. <sup>1</sup>

Cognitive bias plays a major role in the development of institutional bias. Cognitive bias is defined in psychology as a subjective social reality based in perception that creates a pattern of deviation in judgment wherein illogical inferences tend to ignore objective input and lead to irrationality.<sup>2</sup> This is often exemplified by perceptual distortion, inaccurate judgment, and illogical interpretation about people, situations, and topics.

When cognitive biases are collective beliefs shared within organizations, the irrationality and its associated distortions, inaccurate judgments, and illogical interpretations become social truths based in a perceptive reality shared by many; irrespective of objective facts, truths, and input.

Examples of cognitive bias and its effect on institutional bias may be seen historically in women's suffrage and segregation laws. In each of these examples, cognitive bias is inherent in the daily life experiences, loyalties, and relationships of people leading to social constructs that then become systemic and institutional biases.

For women's rights, the social hierarchy of a historically predominate masculine society naturally created the illogical and irrational belief that women could also not be educated, trusted to vote, or to work alongside men.<sup>3</sup> These systemic biases took years to overcome, and could arguably, still be at play as exemplified in less-than-equal pay women still receive compared to male counterparts. Outside of objective measures to justify these subjective realities, cognitive bias still plays a role on institutional outcomes and processes affecting women.

In the case of segregation against minorities and blacks, a system of slavery and subjugation acted as a precursor and reason for cognitive bias. So much so, that even scientific fields of study historically claimed African Americans had anatomically smaller brains to propagate and support the general social belief that Black People could not be educated, trusted to vote, or allowed equal rights and protections. This systemic bias is unfounded in modern anatomy and science, and would be considered racist by today's standards.

Correctional mechanisms within these intuitions (government, businesses, society) are the most effective means for reversing institutional bias. In the examples above, the awareness of the existence of sexism led to the 19<sup>th</sup> Amendment to the US Constitution allowing women the right to vote. Similarly, the awareness of racial inequality led to the 13<sup>th</sup> Amendment abolishing slavery.<sup>4</sup> Despite the end of slavery, the correction of systemic bias would take many more years to eventually lead to ending

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<sup>1</sup> Oxford Reference, 2014 <http://www.oxfordreference.com/view/10.1093/oi/authority.20110803100005347>

<sup>2</sup> Psychology Today, Jim Taylor Ph.D, 2011 <http://www.psychologytoday.com/blog/the-power-prime/201107/cognitive-biases-vs-common-sense>

<sup>3</sup> Library of Congress, Teacher Guide

[http://www.loc.gov/teachers/classroommaterials/primarysourcesets/womens-suffrage/pdf/teacher\\_guide.pdf](http://www.loc.gov/teachers/classroommaterials/primarysourcesets/womens-suffrage/pdf/teacher_guide.pdf)

<sup>4</sup> The Social Welfare History Project, Jim Crow Laws and Racial Segregation

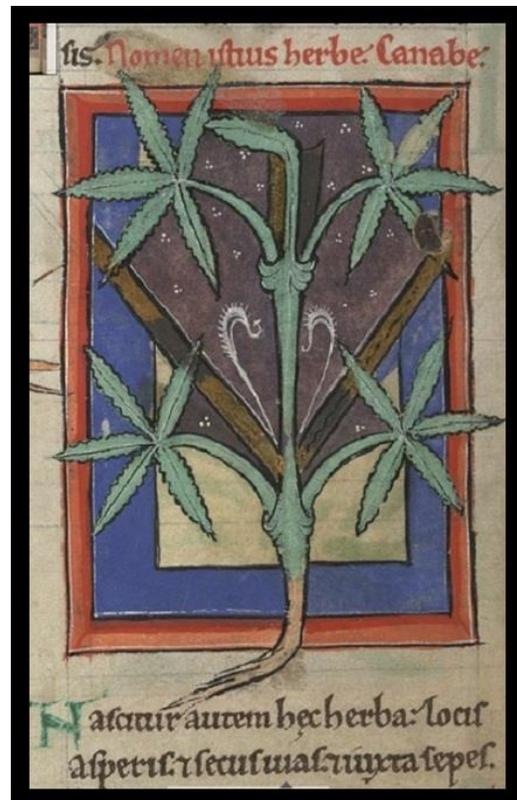
<http://www.socialwelfarehistory.com/eras/jim-crow-laws-andracial-segregation/>

Jim Crow Laws through the Voting Rights Act and Civil Rights Act of 1964 achieved by Rosa Parks, Clarence Mitchell, and Dr. Martin Luther King during the Civil Rights Movement.

In the case of Marijuana Policy and its Legal History, a similar institutional bias exists - historically propagated by the Federal Government – within our collective law enforcement and political system, which is irrespective of objective data and scientific input about marijuana that continues to impact public process and policy by creating foregone, irrational, outcomes in managing the legalization of marijuana.

## Historical Prejudice

The history of marijuana and human use dates back over 10,000 years. The earliest uses of the plant for fiber dates back to early civilizations around 8,000 B.C.<sup>5</sup> The earliest evidence of medicinal and spiritual use of the plant dates back to at least 2,700 B.C. wherein historical evidence was unearthed of nearly two pounds of marijuana preserved in the tomb of a Gushi Shaman. The Marijuana was evidenced as cultivated for the female plant only, without seeds, to be high in psychoactive properties.<sup>6</sup>



<sup>5</sup> Drug Library, Schaffer, Marijuana – The First Twelve Thousand Years, <http://druglibrary.org/schaffer/hemp/history/first12000/1.htm>

<sup>6</sup> CNN, Ancient Cannabis Stash Unearthed in China, 2008 [http://www.cnn.com/2008/WORLD/asiapcf/12/11/ancient.cannabis/index.html?\\_s=PM:WORLD](http://www.cnn.com/2008/WORLD/asiapcf/12/11/ancient.cannabis/index.html?_s=PM:WORLD)

In the US, marijuana was a major economy - traded among the forefathers and grown for over 200 years as a staple crop for hemp and medicinal purposes. George Washington and Thomas Jefferson were both hemp farmers who grew marijuana and considered the farming of which vital to early America.

“Make the Most you can of the Indian Hemp Seed, and Sow it Everywhere”

— George Washington 1794

“Hemp is of first necessity to the wealth & protection of the country.”

— Thomas Jefferson

Despite a long standing history of legal marijuana trade, cultivation, use (industrially, medically, recreationally), breeding, and distribution, for over 10,000 years of human history, with relatively unmentionable social or health impacts, the objective data implies that for over 99% of human history, marijuana was legal and used with relative safety, without a single incident of overdose death on record.

Marijuana was included in the United States Pharmacopoeia from 1851 until its prohibition in 1937 for use by doctors and over 100 articles on the therapeutic effects of Marijuana appeared in American and European medical journals between 1840 and 1900.<sup>7</sup>

Despite early medical advances at the turn of the century, systemic bias would ignore the empirical data that physicians and patients already knew about the therapeutic benefits of marijuana. At the turn of the Century, the Federal Government became more involved in the control of all substances including opiates, cocaine, marijuana, and alcohol.

The Temperance Movement against alcohol, would be one of the most famous and pervasive examples of institutional bias. Organizations such as the Women’s Christian Temperance Union and the Anti-Saloon league would eventually lobby political and social leaders to lend support to the ban of manufacture, sale, and transportation of alcohol.

The Anti-Saloon League was especially influential in uniting with Democrats, Republicans, Progressives, Populists, suffragists, the Ku Klux Klan, the NAACP, the International Workers of the World, and Powerful industrialists like Henry Ford, John D. Rockefeller Jr. and Andrew Carnegie to support and enact 13 years of Constitutional Alcohol Prohibition. This Bias against alcohol at the Federal government and within social institutions would quickly lead to the rise of violent gangsters, bootleggers, and mobsters like Al Capone.

Additionally, the nation experienced unintended consequences resulting from the systemic bias of temperance and prohibition which led to objectively worse outcomes:<sup>8</sup>

1. An overall decline in amusement and entertainment industries, restaurant sales, theatres, and the loss of thousands of jobs in the alcohol industry and its related trades.
2. The Loss of government tax revenues that states depended on (75% of NY Tax Revenues) and \$11 Billion in lost Federal Tax Revenue - with a cost of \$300m + in Law Enforcement
3. Medical Liquor was dispensed by pharmacists becoming a cover for bootleggers (untaxed).

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<sup>7</sup> Psychiatric Times, Past, Present and Future of Medical Marijuana in the United States, John Thomas JD, 2010 <http://www.psychiatrictimes.com/articles/past-present-and-future-medical-marijuana-united-states>

<sup>8</sup> PBS: Prohibition, Ken Burns, <http://www.pbs.org/kenburns/prohibition/unintended-consequences/>

4. Increased home production of wine, beer, and spirits turned average Americans into unregulated alcohol production experts
5. Alcohol was unsafe, unlabeled, wildly potent, and uncontrollable production and distribution at cheaper prices and poorer quality. 1,000 Americans died per year from tainted alcohol.
6. Illicit Money had corrupting influence on law enforcement at the Federal Bureau of Prohibition and the local level – tempted by bribes or bootlegging. Undermined public trust.
7. Made criminals of millions and packed court rooms, jails, and time to trial. Led to hundreds of “plea bargains” which became common place in US judicial system for the first time.
8. Instead of tempering alcohol consumption, the opposite effect occurred: more alcohol abuse

“The temperance movement, rooted in America's Protestant churches, first urged moderation, then encouraged drinkers to help each other to resist temptation, and ultimately demanded that local, state, and national governments prohibit alcohol outright.” – PBS: Prohibition

Alcohol prohibition went down in history as a dismal failure and could never conceivably be considered again today by most reasonable standards. For over 80 years, it has been regulated safely since the end of the prohibition experiment. The industry and society encourage responsibility by keeping it away from kids and talking to children about alcohol honestly, refraining from drinking and driving, not exceeding ones’ tolerance, and seeking professional help if someone has a problem with alcohol.

Systemic Bias clearly impacted the rational decision making process of Alcohol Prohibition eventually leading to the corrective actions exemplified in the Repeal of the 21<sup>st</sup> Amendment of prohibition. The bias eventually changed through the awareness raised in the consequences of alcohol prohibition over time causing the Federal Government to back off of temperance and allow states to govern and regulate the production, manufacture, and distribution of alcohol.

Despite the Systemic Bias driving the Temperance of alcohol and the eventual repeal of prohibition, society’s expanded level of awareness around alcohol now allows us to understand and manage alcohol appropriately and responsibly. This is so while also understanding that alcohol is an addictive substance which may be abused and misused and which still contributes to the delinquency of minors, as well as a substantial number of deaths and accidents, increased health costs, and significant rates of violent and sexual crimes.

When it comes to “Regulating Marijuana like Alcohol” as approved by Colorado Voters on Amendment 64, it is important for policy makers and the public to understand the systemic bias already at play around marijuana and how history has played a role at the federal level which, in turn, has translated to sand Local government policies and societal norms.

The cognitive pattern of foregone conclusions, unfavorable opinions, and subjective misperceptions about marijuana are rampant and systemically institutionalized in every level of society and government. It is only by raising awareness around the institutional bias that policy makers may take corrective action to overcome the irrationality around marijuana in order to avoid poor public policy choices and similar unintended consequences learned from the history of Alcohol Prohibition.

To comprehend the Bias around the prohibition of marijuana and its institutionalization, one must understand its historic context. PBS compiled the following timeline based on key historical events in the Prohibition of marijuana important to this comprehension:

### **1906 Pure Food and Drug Act**

Required labeling of any cannabis contained in over-the-counter remedies.

While initially, more transparent labeling of medical, over-the-counter, marijuana was conceived for public safety, marijuana was not considered a threat by law makers or physicians who were still using it to treat a variety of conditions in the Pharmacopeia.

### **1900 - 20s Mexican immigrants introduce recreational use of marijuana leaf**

After the Mexican Revolution of 1910, Mexican immigrants flooded into the U.S., introducing to American culture the recreational use of marijuana. The drug became associated with the immigrants, and the fear and prejudice about the Spanish-speaking newcomers became associated with marijuana. Anti-drug campaigners warned against the encroaching "Marijuana Menace," and terrible crimes were attributed to marijuana and the Mexicans who used it.

Fear of the former enemy in the Mexican Revolution is a key historical context to understand in what drove American sentiment to fear Mexican immigration. Marijuana was another differentiator of that which was different in the Spanish speaking Mexicans and it became the scapegoat for rallying anti-Mexican sentiment among Americans. Objectively, there is no justification for the crimes allegedly committed because of the "loco-weed" as journalists and law makers would allude to at the time:

"When some beet field peon takes a few rares of this stuff," explained Dr. Fred Fulsher of Mineral County, "He thinks he has just been elected president of Mexico so he starts out to execute all his political enemies. I understand that over in Butte where the Mexicans often go for the winter they stage imaginary bullfights in the 'Bower of Roses' or put on tournaments for the favor of 'Spanish Rose' after a couple of whiffs of Marijuana. The Silver Bow and Yellowstone delegations both deplore these international complications"

Everybody laughed and the bill was recommended for passage. <sup>23</sup>

—The Montana Standard, January 27, 1929

### **1930s Fear of marijuana**

During the Great Depression, massive unemployment increased public resentment and fear of Mexican immigrants, escalating public and governmental concern about the problem of marijuana. This instigated a flurry of research which linked the use of marijuana with violence, crime and other socially deviant behaviors, primarily committed by "racially inferior" or underclass communities. By 1931, 29 states had outlawed marijuana.

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<sup>9</sup> PBS Frontline, <http://www.pbs.org/wgbh/pages/frontline/shows/dope/etc/cron.html>

Capitalizing on the successful campaigns against marijuana and Mexican migration, politicians during the Great Depression reacted out of fear of increasing unemployment and cheap Mexican labor taking American jobs. Unable to stop legal migration, states instead prohibited the plant commonly associated to Mexicans – this begins the escalation of systemically targeting a minority group. This is the beginning of a bias that creates a pattern of outcomes that still exists today in racial profiling and disproportionate marijuana arrests and convictions.

## 1930 Creation of the Federal Bureau of Narcotics (FBN)

Harry J. Anslinger was the first Commissioner of the FBN and remained in that post until 1962.

Harry J. Anslinger is the single most important historical figure in the prohibition of Marijuana. He held office for 32 years, serving under 5 presidencies, and set, in large part, the Federal Bias against Marijuana. Anslinger would then go on to represent the United States as the representative to the United Nations Commission on Narcotic Drugs; thereby influencing and creating international conventions on drug policy, including Marijuana, which are still led and influenced largely by the United States around the Globe.

He is infamous for his racially driven, often unsubstantiated and gory comments used to justify the prohibition of marijuana through the instillation of fear without objective input, reasonable measure, or scientific fact.

“By the tons it is coming into this country — the deadly, dreadful poison that racks and tears not only the body, but the very heart and soul of every human being who once becomes a slave to it in any of its cruel and devastating forms.... Marihuana is a short cut to the insane asylum.”

“Smoke marihuana cigarettes for a month and what was once your brain will be nothing but a storehouse of horrid specters. Hasheesh makes a murderer who kills for the love of killing out of the mildest mannered man who ever laughed at the idea that any habit could ever get him....”

"Colored students at the Univ. of Minn. partying with (white) female students, smoking [marijuana] and getting their sympathy with stories of racial persecution. Result: pregnancy"

"Two Negroes took a girl fourteen years old and kept her for two days under the influence of hemp. Upon recovery she was found to be suffering from syphilis."

“You smoke a joint and you're likely to kill your brother.”

“Marijuana is the most violence-causing drug in the history of mankind.”

“...the primary reason to outlaw marijuana is its effect on the degenerate races.”

“Reefer makes darkies think they're as good as white men.”

- Harry J. Anslinger, Director of the Bureau of Narcotics

His opinion of marijuana became the law enforcement standard and precipitated the Office of National Drug Control Policy which now holds many of the responsibilities once held by Anslinger during his long tenure as Director for the Bureau of Narcotics.

### **1932** **Uniform State Narcotic Act**

Concern about the rising use of marijuana and research linking its use with crime and other social problems created pressure on the federal government to take action. Rather than promoting federal legislation, the Federal Bureau of Narcotics strongly encouraged state governments to accept responsibility for control of the problem by adopting the Uniform State Narcotic Act.

### **1936** **"Reefer Madness"**

Propaganda film "Reefer Madness" was produced by the French director, Louis Gasnier.

The Motion Pictures Association of America, composed of the major Hollywood studios, banned the showing of any narcotics in films.

The beginning of the first propaganda film created by Anslinger with the intent to outlaw marijuana by exaggeration, misstatement, and false conclusions about the effects of marijuana. The film grossly over-depicted marijuana and its users as violent, sexually-crazed, out of control, and suicidal lunatics.

This scare-tactic propaganda would "educate" an entire generation of pre-internet and pre-modern television Americans to believing Marijuana was equivalent to "Dope" as defined on the streets as heroin. The film would have an entire generation believe Marijuana users to be violent, crazy, and out of control – the idea that marijuana would always ruin someone's life.

Indeed, in the uniform Schedule of Narcotics, marijuana is still listed to be as dangerous as heroin, LSD, and PCP despite scientific fact to the contrary.

Additionally, the institutional bias from this film being shown generation after generation as the "reality of marijuana" may be seen in consistent polls on medical and retail legalization today. In these polls, demographic groups 60 years and older are less likely to be supportive of marijuana legalization, due in large part, to cognitive biases created by institutionalism by Harry Anslinger, his bureau of Narcotics, and the Office National Drug Control Policy.

### **1937** **Marijuana Tax Act**

After a lurid national propaganda campaign against the "evil weed," Congress passed the Marijuana Tax Act. The statute effectively criminalized marijuana, restricting possession of the drug to individuals who paid an excise tax for certain authorized medical and industrial uses.

This bill was passed despite protest from Dr. Woodward, the chief legislative counsel for the American Medical Association representing 100,000 physicians at the time. Dr. Woodward opposed Anslinger and clarified misstatements in congressional testimony. The record of which highlights Dr. Woodward's testimony of cannabis as a medicine and advocacy efforts to prevent the prohibition of marijuana. He testifies to contacting other Federal agencies and to affirming with them that marijuana use has negligible impact on their agencies despite the counter-story from Anslinger and the Bureau of Narcotics.<sup>10</sup>

Conversely, Harry J. Anslinger Testifies to the Following and the Bill is Passed:

**"There are 100,000 total marijuana smokers in the US, and most are Negroes, Hispanics, Filipinos and entertainers. Their Satanic music, jazz and swing, result from marijuana usage. This marijuana causes white women to seek sexual relations with Negroes, entertainers and any others."**

- Anslinger Testimony to US Congress supporting Marihuana Tax Act, 1937

The bias generated by Anslinger in a relatively short period of time short-cuts objective reasoning and leads Congress to prohibit marijuana and begin criminalization.

## 1944 La Guardia Report finds marijuana less dangerous

New York Academy of Medicine issued an extensively researched report declaring that, contrary to earlier research and popular belief, use of marijuana did not induce violence, insanity or sex crimes, or lead to addiction or other drug use.

New York issues a commission to find out the effects of marijuana and an objective report comes back refuting all previous propoganda. The La Guardia Report tested clinical trials on people who smoked marijuana and concluded that:<sup>11</sup>

1. Marijuana does not change the personality structure of individuals outside of superficial behavior alteration
2. Users experience relaxation, disinhibition, and self-confidence
3. Some physical diminution and confidence is expressed verbally more than physically
4. Disinhibition is latent on thoughts and emptions but doesn't evoke extreme responses
5. Marijuana may cause feelings of anxiety and pleasure
6. Individuals with introversion or limited social skills may use marijuana more than extroverts

Although condemned "unscientific" by Anslinger and the Bureau, the conclusions were disputed using the AMA to assert racism as the justification for maintaining the Prohibition of Marijuana

Anslinger asserted that "of the experimental group, thirty-four men were black, and only one was white", and "those who smoked marijuana, became disrespectful of white soldiers and officers during military segregation".

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<sup>10</sup> Taxation of Marijuana, House of Representatives, 1937,  
<http://www.druglibrary.org/schaffer/hemp/taxact/woodward.htm>

<sup>11</sup> Medical Marijuana, LaGuardia Committee Report on Marijuana,  
<http://medicalmarijuana.procon.org/sourcefiles/laguardia.pdf>

– Anslinger effectively buried the medical report that refuted his claims by counter-assertion using age-old racism and misinformation. It was 28 years later, after he was out of office, that the extent of his deception and fraud would be revealed:

In 1972, the same institutional source that spread the series of scientifically unfounded rumors about the dangers of cannabis admitted that "these stories were largely false" and that "with careful consideration of the documentation there is no confirmation of the existence of a causal relationship between marijuana use and the possible use of heroin" Thus, it was declared that the ban on cannabis was imposed and still subsisted "without any serious and comprehensive research had been conducted on the effects of marijuana".<sup>12</sup>

Only when the truth came out much later, and Anslinger was already out of office, did the public discover and become aware of the falsehoods that propagated the war on marijuana during the counter culture movement and during the racially charged early years of Anslingers' tenure. The same institution used to bury the LaGuardia Committee Report would later refute its own claims as false stories and confirm no "gateway effect" of marijuana use existed as a causal effect leading to heroin use.

This conclusion, however, would not stop this "gateway drug" rhetoric from being used for another 30 years in the systemic and institutional war on marijuana and its users. In fact, this irrational and unfounded "theory" would prevail in US Drug Policy, law enforcement, judicial systems, medicine, public health, and social norms.

### **1940s "Hemp for Victory"**

During World War II, imports of hemp and other materials crucial for producing marine cordage, parachutes, and other military necessities became scarce. In response the U.S. Department of Agriculture launched its "Hemp for Victory" program, encouraging farmers to plant hemp by giving out seeds and granting draft deferments to those who would stay home and grow hemp. By 1943 American farmers registered in the program harvested 375,000 acres of hemp.

### **1951-56 Stricter Sentencing Laws**

Enactment of federal laws (Boggs Act, 1952; Narcotics Control Act, 1956) which set mandatory sentences for drug-related offenses, including marijuana.

A first-offense marijuana possession carried a minimum sentence of 2-10 years with a fine of up to \$20,000.

These sentencing changes mark the beginning of the mandatory minimum sentencing laws which mandate judges to administer strict penalties against marijuana users and offenders. In many ways,

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<sup>12</sup> The La Guardia Committee Report, New York Academy of Medicine, 1944  
<http://www.druglibrary.org/schaffer/library/studies/lag/lagmenu.htm>

these policies drove more bias into the judicial system and subsequent political efforts to crack down on marijuana use in the upcoming counter-culture movement.

### **1960s** **Marijuana use popular in counterculture**

A changing political and cultural climate was reflected in more lenient attitudes towards marijuana. Use of the drug became widespread in the white upper middle class. Reports commissioned by Presidents Kennedy and Johnson found that marijuana use did not induce violence nor lead to use of heavier drugs. Policy towards marijuana began to involve considerations of treatment as well as criminal penalties.

As soon as the counter culture, as a new generation, was able to raise awareness amid the majority, cannabis began to gain acceptance again and to be viewed realistically – institutional bias steeped in racism against African Americans and Mexicans thought to be violent and be a “gateway” to harder drugs, began to change with the broadcast of peaceful white users and counter-cultural change. Understandably, there is still much resistance among older generations educated in Reefer Madness, but there is also sufficient awareness raised to begin correcting the patterns caused by institutional bias.

### **1968** **Creation of the Bureau of Narcotics and Dangerous Drugs**

This was a merger of FBN and the Bureau of Dangerous Drugs of the Food and Drug Administration.

The FDA ties into drug policy and control by regulating narcotics that approvable while the Bureau of Narcotics continues to enforce strict criminal penalties.

### **1970** **Repeal of most mandatory minimum sentences**

Congress repealed most of the mandatory penalties for drug-related offenses. It was widely acknowledged that the mandatory minimum sentences of the 1950s had done nothing to eliminate the drug culture that embraced marijuana use throughout the 60s, and that the minimum sentences imposed were often unduly harsh.

#### **Marijuana differentiated from other drugs**

The Comprehensive Drug Abuse Prevention and Control Act categorized marijuana separately from other narcotics and eliminated mandatory federal sentences for possession of small amounts.

#### **National Organization for the Reform of Marijuana Laws (NORML) founded**

### **1972** **Shafer Commission**

The bipartisan Shafer Commission, appointed by President Nixon at the direction of Congress, considered laws regarding marijuana and determined that personal use of marijuana should be decriminalized. Nixon rejected the recommendation, but over the course of the 1970s, eleven states decriminalized marijuana and most others reduced their penalties.

### **1973** **Creation of the US Drug Enforcement Agency (DEA)**

Merger of the Bureau of Narcotics and Dangerous Drugs (BNND) and the Office of Drug Abuse Law Enforcement (ODALE).

### **1976** **Beginning of parents' movement against marijuana**

A nationwide movement emerged of conservative parents' groups lobbying for stricter regulation of marijuana and the prevention of drug use by teenagers. Some of these groups became quite powerful and, with the support of the DEA and the National Institute on Drug Abuse (NIDA), were instrumental in affecting public attitudes which led to the 1980s War on Drugs.

### **1986** **Anti-Drug Abuse Act - Mandatory Sentences**

President Reagan signed the Anti-Drug Abuse Act, instituting mandatory sentences for drug-related crimes. In conjunction with the Comprehensive Crime Control Act of 1984, the new law raised federal penalties for marijuana possession and dealing, basing the penalties on the amount of the drug involved. Possession of 100 marijuana plants received the same penalty as possession of 100 grams of heroin. A later amendment to the Anti-Drug Abuse Act established a "three strikes and you're out" policy, requiring life sentences for repeat drug offenders, and providing for the death penalty for "drug kingpins."

Despite steps forward to undo the damage of the past after Anslinger left office, conservative parent groups concerned about regulating marijuana are bolstered by the DEA and, instead of urging moderation, now amp up efforts to "crack down" on Marijuana by re-establishing mandatory minimum sentencing again. Nancy Regan starts "just say no" campaign to keep kids off drugs.

"The first Federal law-enforcement administrator to recognize the signs of a national criminal syndication and sound the alarm was Harry J. Anslinger, Commissioner of the Bureau of Narcotics in the Treasury"

- Ronald Reagan, 1986

A new systemic bias in "protecting children" is formed as a justification for increasing marijuana enforcement to continue the previous Institutional prejudice set forth by Anslinger since 1937. This is in stark contrast to decades of failed prohibition policy on Marijuana and is, in many ways, eerily reminiscent of the Protestant-Driven Temperance movement that lobbied and successful Prohibited alcohol.

1989

### **Bush's War on Drugs**

President George Bush declares a new War on Drugs in a nationally televised speech.

1996

### **Medical Use Legalized in California**

California voters passed Proposition 215 allowing for the sale and medical use of marijuana for patients with AIDS, cancer, and other serious and painful diseases. This law stands in tension with federal laws prohibiting possession of marijuana.

In the less-than 1% of human history in which marijuana prohibition has prevailed, the reality of its historical enactment, is steeped in Cognitive Bias leading to Institutional Prejudice of Marijuana. Harry J. Anslinger alone set the tone for the country's marijuana policy for over 30 years by leveraging fears of race and imaginary violence which created generations of misperceptions about Marijuana.

These unsubstantiated and inaccurate claims would exemplify "Reefer Madness" hysteria and propaganda which eventually led to Marijuana's prohibition. Rooted in racism and mistruths, these Biases would eventually influence international prohibition of this plant and lead to millions of arrests and prosecutions and billions of dollars to enforce prohibition.

Along the way, objective input and data from the American Medical Association, the LaGuardia Report, and international research would be systemically and institutionally ignored, devalued, and manipulated to fit the narrative of institutions continuing to justify the prohibition of marijuana. The substance would be considered "dangerous" without objective context or data at every level of society and government.

At the federal level, this bias prevails until today with the Schedule I status of marijuana legally defining it as have "no medical value" and being so dangerous that it "cannot be used safely, even under the supervision of a physician". Without a single overdose death on record, marijuana is objectively safer than alcohol in terms of addictiveness, potency, duration, and withdraw according to a majority consensus of scientists, empirical data, and research papers.

#### **Schedule I<sup>13</sup>**

Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse. Schedule I drugs are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence. Some examples of Schedule I drugs are:

heroin, lysergic acid diethylamide (LSD), marijuana (cannabis), 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote

This bias and inaccurate legal definition on marijuana has not changed, despite objective consensus to the contrary, in any level of the Federal Government. More often, the institutional bias is vehemently

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<sup>13</sup> DEA, Drug Scheduling <http://www.justice.gov/dea/druginfo/ds.shtml>

defended and rationalized by the DEA, NIDA, and FDA which directly influence state and local government organizations.

## Evidence of Federal Bias against Marijuana

With more and more states looking to legalize medical marijuana, this bias is shifting away from its systemically irrational roots and demand for medical research is more prevalent than ever before; demand for outright legalization of marijuana like alcohol is at a record high Nationwide.

However, the National Institute on Drug Abuse (NIDA), the US Food and Drug Administration, and the Drug Enforcement Agency continue to control research approval of marijuana and have historically and consistently denied scientific inquiry into the medical benefits of marijuana. They also control, along with congress, the key to rescheduling or descheduling marijuana.

For all other Schedule I substances, the FDA maintains research approval on drug efficacy. It is only with marijuana that a research proposal is also required to be approved by NIDA.<sup>14</sup> However, NIDA has readily admitted that it does “not fund research focused on the potential medical benefits of marijuana”<sup>15</sup> As the institution on Drug Abuse, their focus “is primarily on the negative consequences of marijuana use.” – It is no wonder that negative perceptions, therefore, exist around marijuana as limiting the scope of study to only negative effects supports the bias already in play.

NIDA sets drug policy among legislatures and state political arenas by exemplifying the dangers of marijuana meant to justify its Schedule I status. While alcohol is accepted in government and society, marijuana is more taboo and controversial because of its history and sensationalized dangers.

This can most clearly be seen in the comparison of webpages between alcohol and marijuana. For Alcohol, NIDA simply refers readers to other organizations and provides brief data points on trends in the prevalence of alcohol among youth – instead of perpetuating concerns over the legality of alcohol for adults and whether that contributed to youth use, NIDA provides resources and articles about prevention measures to prevent alcohol misuse and abuse.<sup>16</sup>

Controversially, the webpages are lengthy and numerous and are full of reports on the abuse, danger, addictiveness, and negative effects of marijuana. Nowhere is there educational information similar to alcohol intended to use facts to prevent the abuse, misuse, or responsible parenting about marijuana. Instead, NIDA sensationalizes marijuana’s dangers to match the negative research they allow.<sup>17</sup>

Evidencing this bias is the fact that NIDA claims that “clinical evidence has not shown that the therapeutic benefits of the marijuana plant outweigh its health risks”.<sup>18</sup> This claim is anecdotally refuted

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<sup>14</sup> <http://www.leafscience.com/2014/03/01/medical-marijuana-research-blocked-nida-scientists-say/>

<sup>15</sup> NORML, Paul Amrentano, 2010 <http://blog.norml.org/2010/01/27/why-isn%E2%80%99t-there-more-medical-marijuana-research-because-the-feds-won%E2%80%99t-allow-it-that%E2%80%99s-why/>

<sup>16</sup> NIDA, Drug Abuse Alcohol, <http://www.drugabuse.gov/drugs-abuse/alcohol>

<sup>17</sup> NIDA, Drug Facts, Marijuana <http://www.drugabuse.gov/publications/drugfacts/marijuana>

<sup>18</sup> NIDA, Drug Facts Marijuana, <http://www.drugabuse.gov/publications/drugfacts/marijuana>

by thousands of patients, objectively by hundreds of international research papers, and historically by safe use of marijuana for thousands of year prior to the institutionalization of prohibition.

Despite the objective truth of marijuana as a substance and its use in society as a legal substance and medicine, the institutional bias present in NIDA overrides policy making and the ability to research marijuana at all levels despite objective input to the contrary warranting further research and examination of rescheduling and in stark contrast of public policies managing a more dangerous substance in alcohol.

For law enforcement, the DEA sets the drug policy tone for eradication of marijuana and the seizure of personal property, money, and marijuana from traffickers, distributors, cultivators, and users. According to the DEA, these efforts started nation-wide in 1979 and, by 1985, included the participation of all 50 states. Today, the DEA and over 127 state and local law enforcement agencies are responsible for marijuana eradication and enforcement efforts.

To exemplify the institutional bias that the Bureau of Narcotics evolved into and the levels of marijuana enforcement, DEA Chief Michelle Leonhart vehemently denies the safety of marijuana compared to other substances. When Congressman Jared Polis asked whether crack, heroin, or methamphetamines were more damaging to one's health (more dangerous) than marijuana, she repeatedly dodges the question leading Polis to ask:<sup>19</sup>

"Again, all drugs, they're illegal drugs," Leonhart started, before being cut off by Polis.

"Yes, no, or I don't know?" Polis said. "If you don't know, you can look this up. You should know this as the chief administrator for the Drug Enforcement Agency. I'm asking a very straightforward question: Is heroin worse for someone's health than marijuana?"

Leonhart ducked again, repeating, "All illegal drugs are bad."

This response is a key evidential example of institutional bias in the DEA wherein logical and seemingly obvious facts (like the dangerous of heroin compared to marijuana) are ignored, devalued, and dodged to substantiate the inaccurate definition, as Bias, of marijuana as a Schedule I substance.

Marijuana's institutional bias not only extends from federal law enforcement and drug policy, but also among Public Health officials. This influence is less obvious than the evolution of the Bureau of Narcotics into the modern DEA and NIDA, but extends from these two agencies. In the approval process for research, marijuana is the only Schedule I substance that the US Health and Human Services (HHS) must conduct a second, redundant review. The DEA must also sign off on marijuana research which creates additional obstructionism in the research approval process.<sup>20</sup>

HHS' influence on the medical community and on public health officials at the state and local level is also undeniable. When coupled with the FDA, NIDA, and the DEA on conducting research which is likely to be skewed in the direction of showing marijuana's dangers and harms, it is no wonder marijuana is sensationalized, and systemic bias continues to stand in the way of objective input and data.

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<sup>19</sup> Huffington Post Politics, 2012 [http://www.huffingtonpost.com/2012/06/21/michele-leonhart-dea-crack-heroin-marijuana\\_n\\_1615270.html](http://www.huffingtonpost.com/2012/06/21/michele-leonhart-dea-crack-heroin-marijuana_n_1615270.html)

<sup>20</sup> Vice News, DEA Accused of Obstructing Research on Marijuana, <https://news.vice.com/article/dea-accused-of-obstructing-research-on-marijuana-benefits>

It is only now, with the movement to regulate, rather than prohibit marijuana, that institutions are increasingly more aware of the objective data counteracting the Bias prevalent in our workplaces, social circles, and government institutions.

Unfortunately, for public health officials, drug policy makers, and law enforcement, these biases are often the most difficult to recognize as the irrationality is so deeply ingrained within the institutions and the pattern of intended outcomes so subversive and subconscious, that they are perpetuated and substantiated as credible, sometimes “objective” truth about marijuana to justify continued prohibition.

This is despite the fact that all US based research is systemically bias by nature as only research programs intended to show the negative effects of marijuana, and thereby support the institutional bias, are allowed by these institutions. It is then this research, amid sensational claims of danger, steeped in the history of fear mongering marijuana prohibition that gets passed along to all social institutions, including industries, governments, and medical professionals “as credible data” that becomes the substantiation to continue perpetuating biases already in play.<sup>21</sup>

Indeed, if one were a man during women’s suffrage or a white business owner during Jim Crow laws, the ability to see one’s own institutional bias ingrained in sexism and racism, respectively, would be challenging from the populist point of view. It is important to understand the history Marijuana prohibition and how historical institutions influence the public health, law enforcement, and political institutions of today and how this creates a prevailing system that continues a narrative of marijuana prohibition, stigmatization, mythology, and prejudice.

These misperceptions include but are not limited to:

1. The perception that marijuana is HIGHLY addictive
  - The reality is that alcohol is more addictive (15% of users), tobacco much more so (20-30%) and marijuana being about as addicting as coffee (10%)<sup>22</sup>
2. There is NO medical use for marijuana
  - There is substantial patient testimony, physician documentation, international research, and public opinion to the contrary.
3. Marijuana is a Gateway Drug to harder drugs
  - Not only was this disproven in 1972 following the admission of fraud in the LaGuardia report, but many studies today also show this to be true
  - If anything, it is the black market access to marijuana that drives black market access to harder drugs through drug dealers on the streets.
  - The conclusion should be to provide safe, regulated access to marijuana and limit the availability of harder drugs as marijuana itself does not drive users to harder substances.
4. It is associated with negative stereotypes

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<sup>21</sup> MPP, Federal Obstruction of Medical Marijuana Research <http://www.mpp.org/assets/pdfs/library/Federal-Obstruction-of-MMJ-Research-1.pdf>

<sup>22</sup> Time Magazine, Is Marijuana Addictive? 2010 <http://healthland.time.com/2010/10/19/is-marijuana-addictive-it-depends-how-you-define-addiction/>

- Hippies and “losers” may be the prevailing stereotype associated with marijuana users, but empirical data shows consistent use in relatively the same percentages across races and socioeconomic backgrounds<sup>23</sup>
- A Gallup poll tracking trends since 1969 showed approximately 38% of people have tried marijuana including the current President, Steve Jobs, and other successful professionals<sup>24</sup>
- 5. It is associated with oppressed ethnic groups
  - This bias is steeped in the roots of marijuana prohibition and is perpetuated in billions of dollars in racially bias arrests for drugs, most in marijuana leading to black people being 3.73 times more likely than a white person to be arrested.<sup>25</sup>
- 6. Prohibition has been the status quo for a long time
  - The bias that if the prohibition policy has been in place for a long time, it should stay - the assumption is that it prohibition works. However, the reality is one of a failed trillion dollar war on marijuana which has resulted in similar outcomes as those of alcohol prohibition<sup>26</sup>

The pitfall policy makers and the public need to be aware of rests in the context of these biases when it comes to crafting and enacting policies to manage marijuana in the wake of its legalization by majority vote. To fail to recognize the bias already in play within the institutions undermines the objective data necessary to enact appropriate policies in the interest of public welfare and health.

## Evidence of Bias in Jefferson County

In the fall of 2013 the Jefferson County Board of County Commissioners decided that a task force to discuss retail sales of marijuana should be formed. During January of 2014 Jefferson County staff with unspecified interest in the subject of retail marijuana consisting of representatives from the Sheriff’s Office, District Attorney’s Office, County Administrator’s Office, County Attorney’s Office, Public Health and the Planning and Zoning Division held organizational meetings to discuss the structure of the task force. On February 4, 2014 this group issued and presented a draft for Marijuana Task Force Structure Concept with recommendations for the County Commissioners. This plan recommended the formation of an internal task force to make a recommendation to the Commissioners as to whether or not retail sales should be allowed. This internal task force would be charged to collect and analyze data regarding impacts to public safety, public health, government and business prior to holding a public meeting with external stakeholders to share and/or refute data prior to holding a public meeting to share the

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<sup>23</sup> University of Michigan, Socioeconomic Status and Substance use  
[http://www.researchgate.net/publication/230587966\\_Socioeconomic\\_status\\_and\\_substance\\_use\\_among\\_young\\_adults\\_a\\_comparison\\_across\\_constructs\\_and\\_drugs](http://www.researchgate.net/publication/230587966_Socioeconomic_status_and_substance_use_among_young_adults_a_comparison_across_constructs_and_drugs)

<sup>24</sup> Gallup Politics, Poll Marijuana Usa 2013 <http://www.gallup.com/poll/163835/tried-marijuana-little-changed-80s.aspx>

<sup>25</sup> ACLU, The War on Marijuana in Black and White, <https://www.aclu.org/billions-dollars-wasted-racially-biased-arrests>

<sup>26</sup> Alternet.org, 5 Nobel Prize Economists call for End of Failed War on Drugs, <http://www.alternet.org/drugs/5-nobel-prize-economists-call-end-failed-war-drugs>

recommendation as well as brief the Board of County Commissioners. Additionally, this plan included a separate task subsequent to the task force reports to allow staff to draft a permanent ban or expand the task force to draft regulations depending upon the decision made by the Commissioners. The internal staff indicated that they could provide whatever information the Commissioners needed in order to make the decision on whether or not to allow retail sales.

The Board approved the concept of the tasks while expanding the task force to include external stakeholders. It is important to note that the concept of “asking stakeholders to share and/or refute data” remained intact. Staff also made the recommendation for the size of the task force which included ten outside stakeholders along with four internal staff members not including staff serving in advisory capacities.

Following standard procedures staff prepared and issued a press release along with an online application seeking volunteers to identify and report impacts of marijuana establishments. Staff then reviewed the applications and made recommendations for appointments during a briefing on April 8, 2014. The Board appointed the task force members recommended by staff at their meeting on April 15, 2014. No standard or recommended procedures, processes or rules were specified or provided for the task force as is customary for boards, commissions and task forces in Jefferson County. Staff members that participated in formation of the committee, its members and tasks were also included as members of the task force.

During the first meeting of the task force a member asked the group to consider what data it would take from members to change positions on allowing retail sales. Nine of ten responses from the members indicated positions against allowing regulated marijuana establishments including data indicating that “licensing and regulating of the industry would not be a violation of federal law.” A poll of the members revealed that nearly every internal staff member and their alternates in addition to five of the ten external stakeholders held strong personal bias against marijuana with at least one member indicating they would not be able to vote outside their prejudice.

While the external stakeholders’ opinions were split evenly on the issue, internal staff with voting rights created a significant majority opposed to legal marijuana in Jefferson County. Further the attendance of staff along with their alternates at the meetings permitted increased participation of those opposed and demonstrated an overwhelming majority in opposition. The lack of alternates for external stakeholders restricted the participation and voting rights of those who support regulated marijuana and were unable to attend.

Further evidence indicating bias of committee members was revealed throughout the task force meetings. A few examples include: a refusal to take a tour of regulated cannabis facilities for fear that it might sway the opinions of those opposed; the insistence that the volunteer chairman Brian Richardson be replaced with another member who wasn’t biased by selling products or services to members in the industry; objections to the concept that marijuana revenues would be used to fund schools; objections that increased availability of a substance causes the stigma associated with that substance to disappear; insistence by members for both “majority and minority” reports ; challenges by the chairperson to members of the public who gave testimony in support of marijuana; unchecked references by a member to those working in the marijuana industry as “joining the dark side”; as well as unsubstantiated claims that heroin and cocaine were being distributed from Denver marijuana establishments.

The lack of established processes, procedures and rules also benefitted the opposition majority members inasmuch as it allowed arbitrary procedural decisions to be made throughout the process without a vote of the members. The standard measure of a majority vote used throughout the task force was arbitrarily abandoned and replaced by a unanimous vote to determine the acceptance of guiding principles and areas of agreement meant to facilitate meaningful and substantive for the committee as a whole. Requiring a unanimous vote excluded the following principles: be responsive to consumer needs and issues; identify sufficient and predictable funding mechanisms to support the recommendations; identify tools that are clear and practical, so that interactions between law enforcement, consumers, citizens and possibly licensees are predictable and understandable; take action that is faithful to the text of Amendment 64; identify necessary infrastructure and resources that are both sufficient and appropriate to support the recommendations; and a significant number of users consume marijuana responsibly and safely. These exclusions suggest that adoption of the majority opinion of the task force was a foregone conclusion with no regard for Colorado's Constitutional Amendments.

On July 30, 2014 Chairperson Johnson issued a message from the chair to all task force members indicating "An executive decision has been made that we will not be voting on the narratives. This is non-negotiable. The narratives will be the ownership of the authors and designed to supplement the spread sheet showing supportive data both pro and con." This intention of this directive appeared to guide each report subcommittee to take "a position on each of options: ban, continue moratorium, allow regulated retail, or take to November ballot." During the August 4, 2014 meeting members of the majority opt-out report subcommittee moved, seconded and carried a vote forcing a vote on the recommendations at the next full task force meeting after report subcommittees were designated and report writing had commenced. The explanation by our Chairperson was that her intention was not to vote to alter the content of a subcommittee report. Additionally a staff member was allowed to participate in the final meeting and vote by telephone at the final meeting whereas that option was not offered to stakeholders.

The opt-out subcommittee report was written and submitted to the task force titled "Jefferson County Marijuana Task Force – Report to the Board of County Commissioners, Jefferson County" rather than a subcommittee report thereby implying that the subsequent majority vote to adopt the opt-out recommendation and report was once again a foregone conclusion. The opt-in subcommittee report now appears on the Jefferson County website as "Attachment 6: The Task Force Minority 'Opt-in' Report" as part of the majority report following five other majority report attachments rather than a separate document, further prejudicing as well as marginalizing the opt-in report. This also further demonstrates implementation of the original concept of "asking stakeholders to share and/or refute data" initiated by staff that both designed and participated in the task force. The majority report also includes a draft ordinance to ban marijuana establishments in unincorporated Jefferson County. The drafting of this ordinance by staff was to commence after the BCC makes their decision, again indicating that this decision is a foregone conclusion.

The lack of sufficient procedures, guidelines and structure to effectively manage the task force created, fostered and perpetuated a permissive climate of discrimination and hostility that engendered intimidation and physical threats made by an opt out external stakeholder task force member upon a minority external stakeholder member. This incident was exacerbated by the fact that no internal procedure existed to handle threats to members of boards, commissions and task forces and that the

only option available, filing a report with the Jefferson County Sheriff's Department, represented a conflict of interest given their representation on the task force as well as their staff's admitted bias against cannabis.

Staff and external stakeholders in opposition to marijuana also participated in and leveraged their public comments as members of the Jefferson County Task Force while demonstrating their personal bias against marijuana in other local jurisdictions within Jefferson County including Golden and Lakewood City Councils. Such public comments by task force members included: "the gates of hell are gonna open up regarding the amount of money that is gonna pour in. It is unconscionable to subject our city to this barrage of money"; "Do we want our candidates propped up and our city to be propped up by marijuana?"; "How do we are actually even honestly getting our true revenues? We are relying on store owner's integrity to give an honest revenue in a cash only business?"

There are also external examples of Jefferson County's institutional bias as demonstrated throughout Jefferson County Government's departmental websites. Prejudicial policies such as "The Jefferson County Sheriff's Office abides by federal law concerning the use and possession of marijuana. It is a controlled substance" are commonplace. Marijuana users are prohibited from possessing firearms or ammunition by echoing federal statutes. Drug Take Back Initiative efforts in concert with the Drug Enforcement Administration indicate "Illicit substances such as marijuana or methamphetamine are not part of the initiative" further demonizes marijuana and perpetuates bias.

Misdemeanor Domestic Violence Program Requirements prohibit use of medical marijuana. District Attorney Peter Weir indicates concern "for the prevalence of use in our community" whereas use a constitutional right granted by Amendment 64. Applications for Volunteer Assignment for the District Attorney's office also require an answer to the question "Do you currently use marijuana in any form" while making no inquiries as to use of illicit drugs.

Jefferson County Public Health reiterates the position of NIDA funded studies regarding marijuana. In addition, their website reiterates the federal position from that marijuana is an illegal substance.

## Effects of Institutional Bias in Jefferson County

The outcomes of the institutional bias experienced within the Jefferson County Marijuana Task Force resulted in unintended consequences which disparaged an independent review of subject matter and substantive discussions about marijuana policy. This created practices within the task force which systemically produced and reflected group-based inequality in task force representation, voting rights, and safe work environment.

Furthermore, the formation of the task force by staff that then participated as voting members within the group inequitably stacked the task force against the "opt-in" position represented is a clear conflict of interest by the staff members. Staff members who were tasked with representation of their department then systematically precluded any meaningful discussion that would determine the best public policy for Jefferson County.

The staff and “opt-out” stakeholders administered an agenda in the beginning to oppose educational tours, task force process, inclusiveness, and proposed guiding principles. Instead, the majority “opt-out” members leveraged objections, conjecture about marijuana, and stigmatization of minority task force members.

The effect of the bias present on the task force was to essentially ignore important common ground necessary to formulate a complete picture of the requirements requested by the County Commissioners. This common ground is a necessary element in order to effectively examine impacts of policies on public health, public safety, government and business an.

## Public Health and Safety

Should the BCC choose to opt into retail sales without addressing the existing systemic bias, the effects on public policy could be challenging and implementation will likely fail. If staff members refuse or resist assisting the county in implementation, public health and safety could be grossly affected by delays and obstruction in every phase of the process including planning, regulation, implementation as well as administration of retail marijuana establishments.

If, for example, delays cause adults to continue purchasing marijuana outside the regulated market or in other jurisdictions, the health of the public may be affected by unregulated products and uncaptured sales tax revenue intended to offset social costs. Unregulated marijuana and edibles are not required to be delivered in child-resistant packaging and the risk of accidental ingestion by children and other adults increase with their proliferation. Additionally, unregulated marijuana may be laced with adulterants or contaminated with pesticides and other dangerous grow chemicals prohibited in a legal market which pose a public health risk similar to tainted alcohol during prohibition.

The general effect on public health is similar if the county chooses to opt out as unlicensed and unregulated products are not required to be tested or labeled for potency or contaminants – nor are they packaged appropriately to prevent child ingestion. Additionally, the unregulated market is not required to check identification for age verification and underage use of marijuana is likely to proliferate without legal access points to supply the majority of adult demand.

With a continued ban on commercial operations, the county will likely spend more in public safety and health resources without being able to capture tax revenue for drug prevention education, regulatory enforcement, law enforcement training, or addiction treatment or other social costs.

Additionally, crime is associated with illicit marijuana sales. By banning businesses in Jefferson County, the black market is bolstered to protect their assets outside of the legal system by using firearms and violence to enforce contracts and agreements. This problem is increased exponentially for law enforcement who must spend considerable resources to identify, investigate, and prosecute actual criminals amid a proliferation of unlicensed and unregulated cultivations which must invariably exist to satisfy demand.

The supply and demand equation creates, by default, many more unregulated cultivators and manufacturers which leads to additional public health and safety risks. Large scale illegal cultivation

operations being run by bad actors in unsafe and unregulated facilities pose risks of fire and contamination. Inadequate and uninspected electrical systems pose substantial threats of fire. Unregulated production of butane extracted hash oil pose risks of explosion.

If these legal marijuana products cannot be acquired from a local store, the natural result is non-commercial and unregulated increases in production, manufacturing, and distribution to satisfy market demand regardless of substantial threats posed to public health and safety.

## Government and Business

In terms of opting out of marijuana sales, the largest impact is on government trust and accountability. The voters of Jefferson County passed Amendment 64 by a clear majority with the expectation of regulating marijuana like alcohol. As such, the burden to represent constituents in the majority vote should, in principle, override systemic and institutional biases overriding the public policy process.

The rights guaranteed to all 21+ adults include: possessing, using, displaying, purchasing, and transporting marijuana are compromised by policies generated by prejudice. Additionally, adults may grow up to 6 plants and transfer marijuana to other adults 21+ without remuneration are diminished. The limitation of remuneration in the personal cultivation market mirrors laws on home brewing and winemaking in which hobbyists may transfer, but not sell, alcohol without a license to other 21+ adults.

If liquor stores were to be banned from Jefferson County due to institutional bias of temperance advocacy, many more unregulated winemakers and brewers would exist to supply the demand of 21+ adults over the number of existing liquor stores. However, during alcohol prohibition, historians found a detrimental effect on surrounding businesses and direct/indirect industries such as entertainment, restaurants, hotels, and others.

In Denver and other areas, once abandoned commercial space now occupies businesses which produce economic benefits in terms of tax contributions, investment, and job creation. In fact, property and business values of marijuana companies have actually increased the values of surrounding businesses<sup>27</sup> and properties in Denver, which may be an added benefit on business and economy in Jefferson County.

The bias of marijuana should not intentionally preclude a process in which regulated production, manufacturing, and sales intended to protect the public, are dismissed without objective input or discussion.

If the county chooses to opt into the licensed and regulated market without identifying and addressing institutional bias in the process, a natural resistance to leveraging the beneficial aspects of industry development may be ignored and result in economic opportunity costs to the county. Additionally, the impact on businesses starting and attempting to compete with surrounding areas, including the black unregulated market, may be detrimental in terms of public imaging, over-regulation, over-taxation, and an unfriendly business environment.

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<sup>27</sup> Paradigm Tax Group, Rebecca Helm  
[http://www.paradigmtax.com/pdf/Marijuana\\_Industry\\_Driving\\_Up\\_Property\\_Values\\_in\\_Colorado.pdf](http://www.paradigmtax.com/pdf/Marijuana_Industry_Driving_Up_Property_Values_in_Colorado.pdf)

For the Jefferson County government, a continued misunderstanding of these businesses will be perpetuated resulting in poor and inefficient administration and enforcement as well as the potential to misallocate and misappropriate revenues from the industry into unnecessary initiatives and programs justified by prejudicial bias that squanders public resources.

This efforts may also manifest in institutionalization of the bias that permeates hiring practices amid personnel, internal policies and procedures in governance, user profiling by agencies and law enforcement, as well as prejudice in the administration and enforcement of local ordinances.

The overall result is likely an obstructionist, inefficient, and self-sabotaging government with more chances and increased risk to fail in permitting, licensing, law enforcement, judicial systems, and protecting constitutional/civil rights of marijuana consumers and businesses with objectivity and equality.

## Remediation Recommendations

To avoid potentially negative outcomes from systemic institutional bias and irrespective of the inevitable choice to regulate marijuana or to opt out, Jefferson County Commissioners should consider the evidence and findings of this report to determine the specific, key areas of institutional bias and the relative levels of influence within its various government departments.

According to the Brookings Institute's Center for Effective Public Management, the roll out of marijuana legalization and policy making was dependent on a variety of successful factors implemented by the Marijuana Enforcement Division and Governor's Office. These essential elements contributing to successful implementation include:

“Leadership by state officials; a cooperative, inclusive approach center on task forces and working groups; substantial efforts to improve administrative communication; adaptive regulation that embraces regulatory lookback and process-oriented learning; reorganizing, rebuilding, and restaffing critical state regulatory institutions; and changes in culture in state and local government, among interest groups and among the public.”

- John Hudak: Colorado's Rollout of Legal Marijuana is Succeeding, A Report on the State's Implementation of Legalization, July 2014<sup>28</sup>

Adopting these elements of success would likely allow Jefferson County to begin correcting the systemic institutional bias that corrupted the task force and public policy process. The task force was not inclusive in its approach and processes went undefined causing inequality and confusion.

Communication with administrative functions should be improved to define their roles and responsibilities in the process and to prevent them from skewing the process through institutional bias

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<sup>28</sup> Brookings Institute, Effective Public Management, John Hudak , 2014  
<http://www.brookings.edu/~media/research/files/papers/2014/07/colorado%20marijuana%20legalization%20succeeding/cepmmjcov2.pdf>

and personal, prejudicial participation. Staff assisting the task force should remain neutral and supportive of the public policy making process.

Staff should be given a more defined process of selecting task force participants that ensures equality or this function should be delegated to a neutral third party to define, in equal parts, proponents, opponents, and neutral stakeholders for the task force. Members should be made up from diverse backgrounds representing key stakeholders and important experts from the Colorado community.

If staff is unable to remain neutral and process-supportive, then the immediate reorganizing, restaffing and rebuilding of the staff (or staff member) should be defined, immediate and decisive as to correct the bias and maintain the integrity of the task force and policy making body.

Effective implementation of a legal marijuana system is crucially important in the early stage of rollout and must remain flexible enough to adapt at any time to account for any unintended consequences of enacted policies. In the case of opting out, this may be examining the impact of concerns proposed by proponents and measuring the overall intention of prohibition over time. Conversely, continued monitoring of retail businesses over time is important to ensure the preservation of public safety, health, and welfare.

If at any time, concerns arise after implementation of the policy, adjustments should be thought out, taking institutional bias into account, before corrective actions are made to policy, regulation, or process. Managing the policy over time and without institutional bias is critical in mitigating costly mistakes, reducing market uncertainty, avoiding expensive failures in government, intra and inter-agency management problems, and costly public and political embarrassment.<sup>29</sup>

To successfully implement marijuana policy, the goals of Jefferson County should be defined in order to benchmark measures of success. Rather than ask for a recommendation without defining the objective of the proposed policy, common ground and consensus should be used to define initial goals with which to examine proposed policies. In the case of regulation, the tools available to design, construct, and execute institutions, rules, and processes for a system of legal marijuana are more abundant than an outright ban.

Institutional biases, by definition, will ignore objective data and input necessary for weighing concerns, impacts, and measures of policies' alignment with desired goals and objectives. An effective way to overcome the misinformation and willful dismissal of new information outside the context of the institutional bias, is to provide objective education of the policies to be determined. The simplest solution is to provide educational tours of the regulatory environment and compliance protocols required in commercial cannabis compliance.

Furthermore, educational courses in these expectations may be taken by stakeholders, staff, and leadership to ensure common understanding of the legal marijuana framework. Training specific to law enforcement is especially helpful and was requested in 2014 from the state appropriations committee for this purpose:

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<sup>29</sup>Brookings Institute, Effective Public Management, John Hudak , 2014, <http://www.brookings.edu/~media/research/files/papers/2014/07/colorado%20marijuana%20legalization%20suceeding/cepmmjcov2.pdf>

“The Department of Law requests an increase of \$456,760 cash funds from the Marijuana Cash Fund and 2.0 FTE for FY 2014-15 to: (1) increase the Department’s expertise and knowledge of legal and regulatory issues surrounding marijuana legalization and (2) develop training materials and provide regional training opportunities for local law enforcement and prosecutors.”<sup>30</sup>

Finally, effective leadership in the public policy process is necessary in order to achieve desired outcomes to meet goals. Although Governor Hickenlooper opposed marijuana legalization, his leadership was crucial to the successful roll out of Colorado’s legal marijuana system.

“Hickenlooper set a done from which many state officials took cues. He essentially told state workers, appointees and career staff alike: Whatever your personal opinions, we have a job to do”<sup>31</sup>

Effective leadership is crucial within government. Weak leadership leads to corner-cutting, bureaucratic resistance, and organizational strife which can often compound each other’s ill effects. Leading the reform of institutional bias is the single biggest challenge to overcome given the history of marijuana and the systemic bias perpetuated throughout government and society, its relative risks, its users, and their stereotypes.

In the case of Jefferson County, effective changes and adjustments within staff leadership may be the most substantial and effective element to correct the obstructionistic, institutional bias prevalent in the process. These changes offer a sincere effort to represent and satisfy public expectations intended at the outset of the task force establishment.

This report and its awareness of the prevalence of institutional bias in Jefferson County represents an opportunity for leaders to learn from the procedural gaps and errors which corrupted the public policy process. By adopting meaningful solutions, leadership may honestly examine processes and procedres, identify areas of bias and take corrective actions to remediate recommendations that are presented prejudicially and, in doing so, make a true, objective, and unbiased effort in determining the best policy path forward for Jefferson County’s management of marijuana.

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<sup>30</sup> Colorado General Assembly, Joint Budget Committee, LAW: Development of in-house expertise on regulations (BA11) <http://www.healthnewscolorado.org/wp-content/uploads/2014/03/JBC-Marijuana-analysis.pdf>

<sup>31</sup> Brookings Institute, Effective Public Management, John Hudak , 2014, <http://www.brookings.edu/~media/research/files/papers/2014/07/colorado%20marijuana%20legalization%20suceeding/cepmmjcov2.pdf>