

October 2023

The Honorable Merrick Garland  
United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

The Honorable Anne Milgram  
Administrator  
Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, VA 22152

Dear Attorney General Garland and Administrator Milgram,

We write to you as former DEA Administrators and Directors of National Drug Policy appointed by Republican and Democratic Presidents, and confirmed by the United States Senate, who are gravely concerned about the Department of Health and Human Services' (HHS) recommendation that the Department of Justice (DOJ) reclassify marijuana as a Schedule III drug. The scheduling of marijuana was last reviewed seven years ago, and since that time there has been no evidence that marijuana's schedule should change. Schedule I drugs are those with no accepted medical use. The FDA has not approved marijuana for medical use because no double-blind, published studies show safety and efficacy for raw marijuana; thus, it must remain a Schedule I drug.

Indeed, recent research has shown that marijuana is more addictive than ever, with increasingly potent marijuana becoming the norm. We understand that moving marijuana to Schedule III would not legalize the drug, nor allow its prescription. However, the change would greatly serve to benefit marijuana companies who would bypass IRS Section 280E and deduct business expenses, drastically increasing their profit margins. This means more advertising, commercialization, and normalization.

The last petition to move marijuana from Schedule I to Schedule II was [denied](#) in 2016 under the presidency of Barack Obama. At that time, "HHS concluded that marijuana has a high potential for abuse, has no accepted medical use in the United States, and lacks an acceptable level of safety for use even under medical supervision," and recommended that it remain in Schedule I. DEA concurred "that there is no substantial evidence that marijuana should be removed from Schedule I." Nothing has changed since then to assert any new conclusions.

Since that time there is a growing body of evidence to support HHS's 2016 finding, particularly with regard to the drug's potential for abuse. Research has [found](#) that 3 in 10 people who use marijuana become addicted to the drug. That rate is even higher for those who begin using before the age of 18. A [study](#) in *Lancet* of the addictive potential of different drugs determined that marijuana is more addictive than several other Schedule I drugs, including LSD, GHB, ecstasy, and khat.

Marijuana potency has also increased since Scheduling was last reviewed. The average THC potency of marijuana seized by the DEA has [spiked](#) from 3.96% in 1995 to 15.34% in 2021. In 2016, the average THC potency was at 11.51%. Many concentrates sold in state “legal” markets today are upwards of 99% THC. Research has [demonstrated](#) that “use of high potency cannabis, compared to low potency cannabis, was linked to a four-fold increased risk of addiction.”

Advocates for rescheduling marijuana argue that it has medical value. In fact, a NIDA factsheet on medical marijuana [wrote](#), “So far, researchers haven’t conducted enough large-scale clinical trials that show that the benefits of the marijuana plant (as opposed to its cannabinoid ingredients) outweigh its risks in patients it’s meant to treat.” If certain marijuana compounds are found to have medical value, few would oppose FDA-approved marijuana-derived medications. Several of these medications exist in more relaxed schedules today, like dronabinol. Also, advocates for this change cite increased ability for research about marijuana. Drug research, of course, is primarily funded by the pharmaceutical industry and the cost of developing a product and bringing it to market is often \$1 billion or more. This may represent one reason more marijuana-based medications do not exist, versus where the drug sits in the Controlled Substances Act. We urge NIH to continue to fund research on any potential medical value of marijuana, and also on the harms of today’s highly potent products.

Despite state laws legalizing marijuana, the illicit marijuana market remains strong. In California, where marijuana is legal, the black market makes up [75%](#) of sales. Law enforcement estimate that over [80%](#) of the state’s dispensaries sell products grown illegally. Attorneys and law enforcement already have one hand tied behind their back when it comes to enforcing federal marijuana laws. Rescheduling marijuana, and thus reducing criminal penalties for marijuana trafficking, removes a key tool federal agents have to prosecute cartels.

Moving marijuana to Schedule III would supersize the cannabis industry in the United States by allowing them to evade IRS Section 280E and deduct business expenses. Not only would this mean that marijuana corporations would be able to deduct expenses for advertisements appealing to youth and the sale of kid-friendly marijuana gummies, but it would also dramatically increase the industry’s commercialization ability.

We urge you to follow the science demonstrating marijuana’s high addictive potential and its lack of accepted medical use, as well as the impact rescheduling will have on law enforcement and the ability to prosecute drug trafficking organizations.

Sincerely,

Michele Leonhart  
Former Administrator  
November 10, 2007 to May 14, 2015  
Drug Enforcement Administration

Robert C. Bonner  
Former Administrator  
August 13, 1990 to October 31, 1993  
Drug Enforcement Administration

Peter B. Bensinger  
Former Administrator  
January 23, 1976 to July 10, 1981  
Drug Enforcement Administration

R. Gil Kerlikowske  
Former Director  
May 7, 2009 to March 6, 2014  
Office of National Drug Control Policy

General Barry R. McCaffrey USA (Ret.)  
Former Director  
February 29, 1996 to January 20, 2001  
Office of National Drug Control Policy

William J. Bennett  
Former Director  
March 13, 1989 to December 13, 1990  
Office of National Drug Control Policy

Karen Tandy  
Former Administrator  
September 17, 2003 to November 10, 2007  
Drug Enforcement Administration

John C. Lawn  
Former Administrator  
March 1, 1985 to March 23, 1990  
Drug Enforcement Administration

John R. Bartels Jr.  
Former Administrator  
October 4, 1973 to May 30, 1975  
Drug Enforcement Administration

John P. Walters  
Former Director  
December 7, 2001 to January 20, 2009  
Office of National Drug Control Policy

Robert Martinez  
Former Director  
March 28, 1991 to January 20, 1993  
Office of National Drug Control Policy