

US could allow state-approved marijuana commerce in return for help from states

August 23 2013, by Matt Hurst

(Medical Xpress)—Federal law gives the Justice Department better options in dealing with marijuana legalization in Colorado and the state of Washington than a complete crackdown, simple acquiescence or a policy of muddling through, according to an article by Mark Kleiman, professor of public policy at the UCLA Luskin School of Public Affairs.

The paper, published August 21 in the *Journal of Drug Policy Analysis*, argues that contracts between the federal government and the [states](#) could allow the states to freely operate their voter-approved systems in return for the states' help in preventing interstate shipments of marijuana.

"The U.S. attorney general is caught between his obligation to enforce the federal law and the lack of adequate capacity to enforce it effectively without state and local help," Kleiman said. "Contractual agreements, which are provided for in the law, may be the only workable option he has for preventing Washington and Colorado from flooding the country with high-potency, low-price marijuana."

Federal law forbids marijuana, but the federal government—with only 4,000 drug enforcement agents, compared with more than a half million state and local police—lacks the capacity to enforce that law without the active help of state and local governments. More than 90 percent of marijuana-dealing arrests are made at the state and local levels.

The decisions by voters in Washington and Colorado to allow the taxed and licensed sale of marijuana put the Justice Department in a difficult position. It could crack down on the state-licensed systems, but as a practical matter could not prevent an explosion of illegal growing—not only for use in those states, but for interstate sale—unless Colorado and Washington help out.

The law allows the attorney general to enter into "contractual arrangements" with the states for "cooperative enforcement and regulatory activities" for drug abuse control, "notwithstanding any other provision of law" (21 U.S.C. Section 873; full text below).

Kleiman proposes that the [attorney general](#) should use that authority to make contracts with the two states under which their state-licensed production and sales systems would be allowed to operate, while the federal government and state and local authorities combined to shut down illegal growing, especially for export across state lines.

The paper also offers another alternative: Congress could pass new legislation allowing the legalization of cannabis on a state level under "policy waivers" that would require states to meet certain conditions, including the prevention of marijuana exports. Such an approach would clarify the legal status of state-licensed marijuana businesses, but it seems unlikely that a new federal [law](#) could be enacted before the Colorado and Washington systems start sales to consumers.

"Kleiman makes a strong argument that the alternatives now being considered are thoroughly unsatisfactory," said Peter Reuter, professor of public policy and criminology at the University of Maryland, who approved the paper for publication on the basis of academic peer reviews. "His two proposals are clever and logically sound. Whether they are politically practicable remains to be seen."

In addition to his teaching duties at UCLA, Kleiman is a member of the Committee on Law and Justice of the National Research Council. He is a co-editor of the Journal of Drug Policy Analysis and co-author (with Jonathan Caulkins, Angela Hawken and Beau Kilmer) of [*Marijuana Legalization: What Everyone Needs to Know*](#) (Oxford University Press, 2012). He also heads BOTEK Analysis Corporation, which has provided decision support to the Washington State Liquor Control Board in designing that state's cannabis regulations. But, according to Kleiman, the paper is purely an academic venture with no input from anyone in Washington state government.

"The Liquor Control Board didn't ask me to write this paper, they didn't pay for it, they haven't seen it and they're not responsible for it," said Kleiman. "Right or wrong, these are my ideas and Eric Sterling's."

Sterling, president of the Criminal Justice Policy Foundation, is credited in the paper for raising the idea of "contractual agreements."

Provided by University of California, Los Angeles

Citation: US could allow state-approved marijuana commerce in return for help from states (2013, August 23) retrieved 24 April 2024 from <https://medicalxpress.com/news/2013-08-state-approved-marijuana-commerce-states.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--