



Policy Perspective - A Conversation with Peter Banys, MD, MSc

Dr. Peter Banys is a Clinical Professor of Psychiatry at UCSF and Past-President of the California Society of Addiction Medicine. Over a three decade career he has developed two addiction treatment fellowship training programs for physician specialists; he has served on a federal advisory board for methadone treatment; he has co-authored the California Department of Alcohol and Drugs Report on Co-Occurring Disorders; and, he has co-authored CSAM's "Youth First - Reconstructing Drug Policy, Regulating Marijuana, and Increasing Access to Treatment in California." He is a member of Lt. Gov. Gavin Newsom's Blue Ribbon Commission (BRC) on marijuana reform and regulation and has contributed policy briefings to that work.

What brought you to the issue of marijuana, and the work of the BRC?

I came to the issue in late 2011, when a 2012 ballot initiative to legalize marijuana was in the works. Dr. Timmen Cermak and I were concerned about adolescents, a population we have both treated clinically. We decided to review the relevant research and propose realistic interventions. From that effort came the "Youth First" Report. It reviewed medical issues for adolescents using marijuana, but also covered aspects that weren't strictly medical, like the juvenile justice system, the marijuana industry, and drug education.

The Youth First Report was our starting point for our current Youth Education and Prevention Working Group briefing papers (posted online). We wanted to avoid some of the mistakes that were made with a prior initiative (Prop 36 – Treatment Rather than Incarceration) which, although effective, eventually ran out of money for treatment. We want the public to know that if voters legalize marijuana in 2016, we need to specify useful regulations and sustainable funding for prevention, education, and treatment of adolescents, whom we consider a uniquely vulnerable population.

The Youth First Report highlighted the problems of our current juvenile justice emphasis, rather than remediation and treatment, for drug offenses. For minors in California, are there particular problems associated with arrest, prosecution, probation, or incarceration?

The situation in California has improved since 2011 when we made possession of small amounts of marijuana an infraction, rather than a crime, however, we still have inconsistent enforcement of these laws. Marijuana arrests remain low hanging fruit - they're easier and safer for law enforcement than dealing with violent or organized crime. Juvenile marijuana arrests still just about equal arrests for heroin and hard drugs like methamphetamine and cocaine combined. Law enforcement should not prioritize a drug with significantly fewer harms to the user and to society. This is law enforcement out of reasonable proportion.

In America we've had a war on marijuana for over eighty years, and we lump it in with much more dangerous drugs. For decades, we have demonized marijuana as if it were as dangerous as methamphetamine, cocaine, or heroin. And it's not; and, the voters know it. Continuing this demonization doesn't make any further sense - we should be focusing police enforcement on "hard" drugs. I make a distinction between hard and soft drugs because I think it's a practical necessity. They do this in Europe, but America can't seem to get its head around this concept.

Criminal prosecution of marijuana possession and use has its own harmful effects on young people. An arrest record or conviction can lead to so many problems downstream – it can interfere with federal student loans, they may have to disclose the arrest or conviction on a job application, it can interfere with their ability to maintain custody of their children, and it can affect applications for naturalization.

The criminalization of marijuana is also found in schools that have adopted a zero tolerance policy. Zero tolerance policies were originally developed to deal with violence in schools in the 1990's, but were later co-opted to deal with drugs. Data show that zero tolerance has not made an impact on reducing marijuana use among young people, and the suspensions and expulsions it produces are associated with poor educational outcomes. Zero-tolerance policies as well as random drug testing in schools have been opposed by the American Academy of Pediatrics and the National Institute on Drug Abuse. Student assistance programs, analogous to adult employee assistance programs, are a much more effective model than threat-based or punishment-based models for helping teens who experiment with, use, or abuse drugs.

For minors caught with marijuana, what would an alternative to the juvenile justice system response look like?

Outside of schools, consequences and some forms of leverage are still appropriate for teens caught with marijuana. An infraction system with fix-it tickets for juveniles would be a compassionate and effective consequence. Teens can be required to go to drug education and student assistance program counseling to work off the \$100 fine. A system like this would neither criminalize nor pathologize marijuana possession or use by teens - it's not harsh nor overly punitive. It gives authorities some leverage to educate kids on why using marijuana may not be their safest choice and why delaying or reducing use are scientifically sound policies for young brains.

Inside of schools, we should replace the current zero tolerance model with student assistance programs (SAPs). A student assistance program would offer counseling, intervention, and peer and family support. Additionally, we should do away with random drug testing in schools. It's a violation of the privacy and dignity of young adults, and there is no evidence that it works as a deterrent to student drug use.

How do we keep kids from abusing drugs and alcohol? Are there specific education and treatment models that have been shown to be effective for this problem?

In the United States, we've had an all or none approach for too long - we put too much emphasis on "prevention," meaning total abstinence from drugs and alcohol. These just-say-no, scare-them-straight, and DARE-type programs have mostly failed. Data in California show that a huge proportion of kids in high school have personal experience with marijuana and, as an example, 8% of 11th graders in California are already *heavy* users, using more than 20 days each month. It's just not working. And, this is *before* any legalization initiative.

It's time for a new approach, one that emphasizes delay and reduced usage, and backs up its program with good, science-based education. Student assistance programs can do this. It is problematic for high school students to use marijuana, especially if they are using very frequently. It can have long term effects because it impacts their ability to learn and pay attention in school, and this can have lasting effects on work success. A student assistance program would be able to intervene with heavy users, who are the most likely to be working at a reduced learning capacity. I believe that the risks to education are greater than the risks of addiction.

With regard to marijuana use among adults, are there problems that are associated with more regular (or heavy) use, vs. occasional use? What are the risks with each?

People who wait until they are adults to try marijuana have a very low incidence of developing an addiction to it. In fact, most adults who use marijuana regularly do not meet addiction criteria. On balance, the risks of marijuana to the adult population don't require extraordinary public health efforts, apart from sensible

regulatory controls. I don't think we need to put tax revenue into remediating adult use - it's the kids I'm worried about, and them that we need to focus our funding on.

It's possible, however, that the increase in potency of refined products will lead to an increase in adult vulnerability. Potency won't go down once marijuana is legal, so we need to be thoughtful about how we regulate marijuana products. The Netherlands is considering 15% cap on THC content in their brown cafes, and it seems that Colorado and Washington, where recreational use is now legal, are considering similar potency limits.

What do you think is the most important issue that the public and policy makers need to think about before legalizing marijuana in California?

If we decide to legalize marijuana for recreational purposes in California, we need to be very careful and thoughtful about the way we regulate cannabis products. Any initiative put forward to voters should specifically address the problem of marijuana use among young people, how to fund programs for them, and how to leverage them when they break the rules.

This is the time to rethink how we look at drug use among young people and adults and how we reduce harm. We can't double down on the "Just Say No" model - it doesn't work. When about 50% of the population in California has experience with marijuana, we know that the total abstinence message does not work.

We can borrow from the medical meaning of "prevention," which is to take all steps necessary to prevent an undesired diagnosis. This doesn't mean "preventing all use" - it means keeping people safe if and when they use problematically. With young people, we could fund student assistance programs that would counsel and intervene with teens, keeping them safe and in school. We should also fund long term outcomes studies on the effectiveness of these programs, so that we can evaluate and change them.

Finally, we need to specify very clear parameters for drug use and possession among minors within a scheme where marijuana is legal for adults. What is charged as an infraction, as a misdemeanor, as a felony? What is the penalty for each? Is it commensurate with the harm or potential harm? Can we eliminate misdemeanor charges for juveniles in favor of infractions, fix-it tickets, and education? Moreover, can we anonymize low-level arrest databases so that individual names don't pop on computerized searches? Questions like this need to be addressed *before* we decide that legalizing marijuana is a "no-brainer."

In 2010, a marijuana legalization initiative in California failed, in part, because its regulatory controls were widely and correctly understood as insufficient to the task at hand.

In 2016, the voters at the ballot box must ask two questions, not just one. First, do I want to legalize marijuana as a soft drug in California? Second, and equally important, are the legalization proposition's regulatory controls, student assistance programs, and long-term outcomes studies effectively designed and stably funded?