2020–21 ANNUAL REPORT
INTRODUCTION

A MESSAGE FROM THE DIRECTOR

In a year full of challenges, the Drug Enforcement and Policy Center (DEPC) has adapted its research and engagement efforts in order to continue to be a leading resource on drug enforcement and policies. We have produced and funded more research this past year than ever before, welcomed new team members, and strengthened and expanded our partnerships. We were especially proud to have supported a record number of students, who were invaluable contributors to our work and the work of numerous other organizations. And, thanks to technology that we all love (and hate), we continued to expand our networks through virtual engagements of all sorts.

Among other activities, DEPC contributed to public discourse and education through significant programming on the drug reform implications of the 2020 election, criminal justice developments in Ohio, potential federal class-wide scheduling of fentanyl analogues, cannabis social equity efforts, and more. We also introduced a new research section to DEPC’s website focused on detailed data and policy analyses and continued our efforts to provide information and resources concerning “Teaching Drugs.” We produced an array of original reports, analyses, and resource pages focused on drug reforms on the 2020 ballot, lessons learned from the transition from medical to recreational marijuana in four states, the impact of five decades of marijuana decriminalization, state marijuana legalization and expungement developments in early 2021, and the evolution of drug sentencing reform in Ohio.

Leading organizations continue to be eager to partner on various projects with DEPC, and collaborative efforts continued to produce exciting results. DEPC developed research and programming in partnership with the Collateral Consequences Resource Center, Drug Policy Alliance, the Ohio Justice & Policy Center, the National Association of Sentencing Commissions, Research Triangle Institute, and others. The center also continued its work with Ohio Governor Mike DeWine to provide an expedited path to a pardon in Ohio. Thirteen deserving clients have already received an expedited pardon and there is hope that many more will benefit from this program in the coming year.

Despite the many unknowns brought about by the COVID-19 pandemic, we remained steadfast in our work at the intersection of criminal justice and drug policy. As we look toward a new year, I am grateful for the support we have received from individual supporters and organizations alike. I hope you will continue to engage with us in the coming year.

DOUGLAS A. BERMAN
Professor and Newton D. Baker-Baker & Hostetler Chair in Law Executive Director, Drug Enforcement and Policy Center
DEPC supports academic research and scholarship on issues related to modern drug laws, policies, and enforcement through the Drug Policy Research Grant and Marijuana Research Grant programs.
Thirteen expedited pardons granted as project is set to expand

13 expedited pardons granted as project is set to expand

As of July 27, 2021, 163 individuals have submitted applications to the expedited pardon project. Of the 163, the Project Team formally accepted 72 clients. Another 24 are under review, 13 have been asked to reapply after meeting certain conditions, and 67 applicants did not meet the existing requirements. Applicants not accepted into the program were informed that they can still seek a pardon via the traditional pardon process.

The program has received applications from across the state of Ohio.

The top 3 reasons applicants cited for seeking a pardon

1. Employment and career opportunities
2. Removal of stigma and service barriers
3. Educational and political aspirations

“I want to have a positive impact on the world around me and I do not want my record to get in the way of that.”

- EXPEDITED PARDON PROJECT APPLICANT

A year and a half in, and despite challenges caused by the COVID-19 pandemic, the Ohio Governor’s Expedited Pardon Project (OGEPP) has helped thirteen deserving clients receive a pardon in less than half the time of the traditional pardon process. And as the project nears its second year, there is hope that many more qualifying applicants will be able to secure a pardon through this simplified and accelerated pardon process in Ohio. Thanks to a $1 million budget allocation from the Ohio General Assembly to advance OGEPP in summer 2021, that hope is now closer to reality.

Received

- 163 applications received
- 72 applicants accepted into the program
- 13 applicants pardoned

The other 59 clients accepted into the program are in various stages of completing their pardon application.

Accepted clients had 1–13 criminal convictions on their record

While the majority of accepted clients had between 1 and 3 convictions, 18 had 5 or more criminal convictions on their record.

The program has received applications from across the state of Ohio.

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Engagement

**Prosecutorial Elections: The New Frontline in Criminal Justice Reform**

The Ohio State Journal of Criminal Law, in collaboration with the Drug Enforcement and Policy Center, hosted a live symposium on prosecutorial elections. The goal was to provoke thoughtful and well-rounded discussion surrounding the responsibility of the modern prosecutor in ushering in criminal justice reform and how that responsibility intersects with their role to uphold the law. Speakers included both academics and practitioners. Panelists explored these questions from a variety of perspectives.

*go.osu.edu/esjcl-symposium-2021*

**Where Do We Go From Here?: Criminal Justice Reform in Ohio**

Ohio has a long history of criminal justice reform and drug sentencing reform, and yet few can be pleased that Ohio still has the 12th highest incarceration rate in the country and one of the highest rates of overdose deaths. With the passage of HB1 and the failure of SB3 at the end of 2020, many are left wondering what can and cannot be achieved through legislative reforms in Ohio.

Our panel of experts discussed Ohio’s recent reform history, what we might expect in the near future, and how research and experience in other states can inform reform efforts in the Buckeye State.

*go.osu.edu/cjreformohio-feb24*

**Drug Policy Implications of the 2020 Elections**

The 2020 election had a monumental impact on how the United States addresses a broad range of policy issues, and drug enforcement and policy are no exception. Numerous states approved medical or full marijuana legalization via ballot initiative, and voters in other states weighed in on drug-related criminal justice ballot initiatives. At the federal level, marijuana reform has been gaining momentum and federal officials are likely to take cues from the nationwide election results to determine the pace of reform on an array of drug enforcement and policy issues.

Our panel of experts discussed the 2020 election results and what they are likely to mean for drug enforcement and policy at both the state and federal level.

*go.osu.edu/drug-policy-2020*

**Fentanyl Analogues Symposium**

The purpose of this invitation-only symposium was to educate advocates, congressional staff, administration officials, and scholars about the possibility that classwide scheduling of fentanyl analogues will yield unintended consequences, and to highlight evidence-based alternatives that can help reduce overdose deaths. Participants learned about the relationship between classwide scheduling and public health policy approaches to dealing with fentanyl analogues and overdose. Participants were presented with an intersectional discussion of the issue that examined classwide scheduling and its impact on the criminal legal system, racial inequities, scientific research, medicine, and evidence-based drug policy.

*u.osu.edu/fentanylanalouges*
In recent years, social equity has become a routine part of conversations surrounding cannabis legalization. Yet, despite the stated goals of political leaders and the various efforts of multiple states, challenges with implementing robust social equity programs persist.

The Drug Enforcement and Policy Center, along with Distinguished Cannabis Policy Practitioner in Residence Shaleen Title, hosted a virtual panel that brought together experts from states whose recent cannabis legalizations include social equity provisions. Panelists discussed their state’s experience, lessons learned, and focus areas for federal legislators and regulators as they begin considering cannabis legalization nationwide.

Despite enthusiasm from policymakers and hard work by government regulators, many feel that the promise of social equity in the cannabis industry remains elusive. The obstacles are numerous, ranging from legal challenges, to difficulties with implementation, to weak policy provisions. Is it time to rethink cannabis social equity?

The Drug Enforcement and Policy Center, along with Distinguished Cannabis Policy Practitioner in Residence Shaleen Title, hosted a virtual event that brought together a panel of experts who are imagining a different framework to achieve the goal of healing the harms of past prohibition and lift communities affected by the War on Drugs. Panelists discussed ways to expand the horizons of how we achieve social equity.

The National Association of Sentencing Commissions and the Drug Enforcement and Policy Center hosted a series of virtual sentencing workshops. The first moderated panel discussion focused on a new national initiative designed to help states make criminal justice data more accessible, clear, and usable for policymakers. Backed by a coalition of 21 national partner organizations and funded by the U.S. Department of Justice’s Bureau of Justice Assistance, Justice Counts brings together state and local leaders to reach consensus about a limited set of criminal justice metrics that leaders can use to inform budget and policy decisions. The initiative also includes a scan of public, aggregate-level criminal justice data and identifies existing gaps in data reporting.

The second panel in the National Association of Sentencing Commissions’ 2021 summer series focused on how jurisdictions are addressing wrongful convictions. The invited panelists shared their respective approaches to addressing wrongful convictions and candidly discussed which strategies are working and which are falling short. The panelists also discussed a variety of approaches such as conviction integrity units and standalone commissions, and provided their thoughts on how to best move forward.

The National Association of Sentencing Commissions and the Drug Enforcement and Policy Center hosted a series of virtual panels. The first panel discussed national initiatives to make criminal justice data more accessible and usable, while the second panel focused on addressing wrongful convictions.
DEPC supports record number of Moritz students during summer 2020

“Felt like everything I was doing was really relevant to what was going on in the world, especially with how sentencing would be impacted by COVID-19.”

- SHELBY MANN, MORITZ STUDENT

The Drug Enforcement and Policy Center supported a record 17 Moritz College of Law students in the summer of 2020 through research assistantships, internships, and fellowships. When COVID-19 forced DEPC to adapt, the center refocused its efforts and increased student support. Students contributed to new and ongoing research and supported wide-ranging drug policy and criminal justice initiatives. "Student involvement is an essential part of the work of the center and this year we were grateful for all-time high engagement from Montzors," said DEPC Executive Director Douglas Berman.

FACULTY RESEARCH

Although the COVID-19 significantly impacted day-to-day operations, the center’s faculty benefited tremendously from student research assistants. Nicholas Sgroi, Alexandra Kirkpatrick, and Alyssa Roberts worked with DEPC Associate Professor of Law Patricia Zettler. Sgroi and Kirkpatrick were part of a multidisciplinary team, including physicians and psychologists, that collaborated on a forthcoming paper on Opioid Treatment Agreements (OTA). The study results will inform the development of an ethical framework for OTA use and inform policymakers and health care institutions’ decisions about whether to require, and how to implement, OTA use.

DEPC Visiting Professor, Sarah Brady Siff, benefited from the assistance of Trica Roederer, John Berk, Troy Tomassello, Shahrzad Shams, and Nia Kaudo. Roederer contributed to research for Dr. Siff’s upcoming book Weedkillers. Troy Tomassello and Shahrzad Shams assisted Dr. Siff with research on state-level regulatory approaches to marijuana edibles.

CENTER RESEARCH

Other students supported center-based research, gaining valuable experience producing reports on the impact of COVID-19 on drug policy and enforcement. Shelby Mann compiled sentencing criteria for drug charges across several states and summarized key differences among state statutes. Mann shared that her work with the center reignited her passion for criminal law. "My favorite part about the whole experience was that I felt like everything I was doing was really relevant to what was going on in the world, especially with how sentencing would be impacted by COVID-19.”

Sienna Dunakin contributed to the Ohio Governor’s Expedited Pardon Project and produced research into the impacts the pandemic has had on clemency, compassionate release, and state prison populations. Walter Gibson researched state-level responses to COVID-19 and guidelines for their liquor and cannabis boards. Sam DeWitt produced a paper titled “Cannabis and Coronavirus: Impact on Medical Cannabis Industries in Three States” which the center published as part of the DEPC Student Paper Series.

DEPC partnered with the Last Prisoner Project (LPP), the Kirwan Institute for the Study of Race and Ethnicity, and the Ohio Justice & Policy Center (OJPC), to sponsor an additional four Moritz student internships. Liddy Potts, Mariah Daly, Terri McKee, and Shahrzad Shams were among those students who supported the work of these justice organizations during the summer of 2020.

Liddy Potts spent her summer working for the OJPC where she organized record sealing clinics in Mansfield and Dayton, Ohio. The day-long, remote clinics paired volunteer attorneys like Potts with clients in each city, walking them through the record sealing process. "The most valuable aspect of this internship was getting to interact with clients," said Potts.

Mariah Daly graduated from the Montz College of Law in December 2019 and said the experience gave her the chance to begin her legal career in uncertain times. Daly’s clerkship led to a permanent position as a legal fellow for LPP. “I am perpetually grateful for the DEPC and the whole team at LPP for giving me this chance to fulfill my life’s purpose while being able to financially sustain myself and advance my career," said Daly.

Shahrzad Shams worked for the Kirwan Institute for the Study of Race and Ethnicity. At Kirwan, Shams drafted and edited policies, worked on several briefs and reports, and co-authored a forthcoming research brief. In addition to learning directly from Dr. Derrick Hamilton, Kirwan’s executive director at the time of her internship, Shams recounted that her experience expanded her understanding of policy. “This internship deepened my understanding of some of the most popular progressive policies that are part of today’s political discourse.”

D.C. FELLOWS

For a third year, DEPC partnered with the Washington, D.C., Summer Program to award fellowships to Montz students interested in drug policy and enforcement. The fellowship partially supports their participation in the summer program. Despite having to do their work remotely, 2020 D.C. Fellows Rachel Riestenberg and Kevin Kolar agreed that their respective experiences were rewarding and vital to their understanding of the careers they each want to pursue.

Riestenberg was placed in the money laundering section of the criminal division at the Department of Justice (DOJ). At the DOJ, Riestenberg worked in asset forfeiture and banking, examined the effects of anonymous currencies like Bitcoin on the illegal drug trade, and contributed to case strategy. At the Cause 40 Foundation, Kolar worked on multiple projects including an internal 50-state summary of sentencing practices and multiple pieces on due process.

Despite challenges, uncertainty, and adjustments to remote work, this diverse group of Moritz students proved invaluable to the center, its faculty, and a selection of partner organizations. With the help of students, DEPC expanded its research output and strengthened its partnerships. The center hopes student experiences were as valuable as their contributions. “DEPC faculty and staff were all fortunate to benefit from the hard work and thoughtful insights that defined student summer support,” said Professor Berman.
Since 2014, seven states have enacted reforms that have de-felonized low-level drug offenses: Alaska, California, Colorado, Connecticut, Oklahoma, Oregon, and Utah. In late 2020, the Ohio House of Representatives opted not to join this growing list by declining a vote on Senate Bill 3 which sought to reclassify some low-level drug offenses from felonies to misdemeanors. Its origins can be traced back to the ambitious, but ultimately failed, 2018 Issue 1 ballot initiative. The constitutional amendment initiative included language aimed at reclassifying as misdemeanors those offenses related to drug possession and use, prohibiting courts from sending people back to prison for non-criminal probation violations, and reallocating savings created from lowering prison populations toward drug treatment services. Like SB3, Issue 1 was generally opposed by judges and prosecutors around the state.

Though SB3 stalled, an array of other criminal justice reforms were enacted in the last General Assembly during 2020, including House Bill 1 HB1 allows more people to potentially benefit from alternative dispositions and record sealing. Some argued that the passage of HB1 addressed sufficiently some of the concerns driving support for SB3.

DEPC gathered a variety of resources to aid in understanding the complex evolution of criminal justice and drug sentencing reforms in Ohio, including a visualization of Ohio incarceration rates and a timeline of Ohio reforms since 2010. The page, hosted on the DEPC website, also includes commentaries and writings on current and past drug sentencing reform efforts in Ohio, DEPC’s prior events focused on Ohio’s criminal justice reforms, and research aimed at answering some of the most important questions raised by proponents and opponents alike.

In November 2020, five more states passed ballot initiatives legalizing marijuana for medical or adult-use consumption. In the wake of these election results, additional states and the federal government may choose to move forward on medical and recreational marijuana reforms through the traditional legislative process. This report provides timely and detailed advice to policy makers and regulators about how best to operationalize voter-approved reforms as well as forthcoming legislation. The collective experience of these states has created a wealth of lessons for other states that might legalize adult-use marijuana in the future. By organizing and sharing this advice, we hope to inform discussions about reform possibilities and potential pitfalls.
Early 2021 was an unprecedented period for policymaking at the intersection of marijuana legalization and criminal record reform. Between February and April, four states enacted legislation legalizing recreational marijuana. In conjunction with legalization, these states (New Jersey, New Mexico, New York, and Virginia) also enacted innovative criminal policy reforms—including the automatic expungement of an exceptionally broad array of past marijuana convictions—along with a variety of social equity provisions. These new laws mitigate past harms of the legal system while also supporting economic and social opportunities for people with a record in several ways. First, in all four states, expansive automatic expungement provisions will remove the burden of a criminal record from many individuals, while raising the bar on standards for marijuana record relief nationwide. These states also incorporated more general criminal record reforms into legalization, benefiting people with different types of criminal records in their efforts to reintegrate into society. Finally, these four states specifically addressed racial disparities in marijuana criminalization by directing tax revenue and business opportunities for legal marijuana to individuals and communities disproportionately affected by criminal law enforcement.

The Collateral Consequences Resource Center, with support from the Drug Enforcement and Policy Center, produced a report and an accompanying infographic that summarize the groundbreaking criminal reforms enacted this year as part of marijuana legalization and situate them in the national context.

In June 2019, DEPC partnered with Harm Reduction Ohio on a survey of medical marijuana patients and potential patients to evaluate their experiences and satisfaction with the Ohio Medical Marijuana Control Program (OMMCP). In 2020, DEPC continued this research, working to fill a critical gap in our understanding of the medical marijuana program in Ohio. The study aimed to determine how those potentially impacted by the current regime perceive its performance thus far. Doing so allows for a unique examination into the efficacy of the structure of OMMCP and how this state’s initial experience with marijuana reform can inform the larger national conversation.

In 2021, DEPC conducted its third annual survey of medical marijuana patients and potential patients in the spring of 2021 to evaluate their experiences and satisfaction with the OMMCP to date. DEPC plans to publish the resulting report in the autumn of 2021. Learn more and access the previous and forthcoming reports at the website above.
Five Decades of Marijuana Decriminalization

The topic of drug decriminalization has gained considerable attention in the United States after Oregon voted in November 2020 to decriminalize all drugs in that state. While we consider the possible impacts of broader drug decriminalization efforts, it is useful to look back at the five decades of marijuana decriminalization for lessons on effects and implementation.

DEPC collected all state and local statutes on marijuana decriminalization and created an interactive map to illustrate the patchwork nature of the U.S. approach. The corresponding dataset is available for download.

Over the past 30 years, America’s support for the policies enacted during the War on Drugs has slowly dissipated. According to the Cato Institute’s 2019 Welfare, Work, and Wealth National Survey, more than half of all Americans support “reclassifying drug offenses from felonies to civil offenses” (55%). While decriminalizing statutes and legalization efforts are a significant step forward in the marijuana arena at the state level, without federal action on decriminalization or legalization, Americans will continue to live under a patchwork of disparate measures leaving some exposed to the continued dangers of arrest and imprisonment for cannabis offenses while others accumulate wealth from a legal cannabis industry.
DEPC solicits research papers from Ohio State students in all areas of drug law and policy. Given the new and relatively unexamined area of academic writing on the subject of cannabis law, these student research papers often offer first takes on important issues of growing interest. Accepted student papers are made available for download on Social Science Research Network.

Top five 2020–21 student papers based on downloads:
1. “Cannabis and Coronavirus: Impact on Medical Cannabis Industries in Three States” by Sam DeWitt
2. “New Market Entrants and Uncertain Drug Policy in the United States” by Nathaniel Wilson
3. “Building a Better Marijuana Tax” by Carl Crow
4. “Economic Recovery Through Interstate Cannabis Commerce” by Nicholas Sgroi
5. “Blowing Smoke at the Second Amendment” by Helen Sudhoff

Reflects data available as of August 24, 2021. Includes student papers published through July 1, 2021.

Zettler’s FDA expertise in demand during pandemic

With the arrival of the pandemic, DEPC and Montz College of Law Associate Professor Patricia J. Zettler shifted her research focus, quickly becoming a sought-after expert on a variety of COVID-19-related topics. “As was true for many, much of my research has pivoted to focus on urgent law and policy questions raised by the ongoing COVID-19 pandemic. And the interdisciplinary and collaborative nature of DEPC and Ohio State has enabled that work to be more impactful,” said Professor Zettler.

Over the course of the year, Zettler, a former associate chief counsel in the Food and Drug Administration (FDA) Office of the Chief Counsel and an expert in FDA law and policy, was quoted on topics related to COVID-19 testing, drugs, and vaccines more than 30 times. Zettler provided expertise on legal and ethical issues surrounding product development, FDA regulations, Emergency Use Authorizations (EUAs), and do-it-yourself (DIY) vaccines, among other topics. Zettler shared her expertise with a variety of outlets, including:

- Bloomberg
- CBS News
- Forbes
- MIT Technology Review
- National Public Radio
- Pink Sheet
- POLITICO
- Science
- S&P Global
- STAT
- The Atlantic
- Washington Post
- WIRED

In addition to providing expert analysis, Zettler authored seven publications including a chapter on COVID-19 drugs and vaccines in Volumes I and II of the COVID-19 Policy Playbook produced by Public Health Law Watch, an op-ed in STAT titled “The Biden-Harris FDA should make friends with independent researchers,” and an article in Science titled “Self-experimentation, ethics, and regulation of vaccines.”

“My research has pivoted to focus on urgent law and policy questions raised by the ongoing COVID-19 pandemic.”

~ PATRICIA J. ZETTLER
DEPC Drug Policy and Marijuana Research Grant Programs

DEPC awarded over $145K via the Marijuana Research Grant Program
DEPC awarded over $40K via the Drug Policy Research Grant Program
Winners represented 8 universities across five U.S. states

MARIJUANA RESEARCH GRANTS
Drug Enforcement and Policy Center invites researchers from universities and independent research centers in the United States to submit proposals for funded research focused on implementation and policy impacts of marijuana legalization. We are specifically interested in research addressing questions related to public health, criminal justice and public safety, as well as various intersections. In selection for funding, we are likely to prioritize short-term research projects that can help inform the work of lawmakers, regulators and advocates eager to promote evidence-based best practices and policies in future reforms efforts.

DRUG POLICY RESEARCH GRANTS
The Drug Enforcement and Policy Center invites faculty and graduate students from The Ohio State University and other Ohio universities to submit proposals for funded research. DEPC grant program focuses on supporting academic research on issues related to the reform of criminal and civil laws prohibiting or regulating the use and distribution of traditionally illicit drugs. The center supports scholarship that examines the impact of modern drug laws, policies, and enforcement on personal freedoms and human well-being.

2020–21 MARIJUANA RESEARCH GRANT WINNERS
Assessing the Status of Minors in Possession: Marijuana Versus Alcohol
Mitchell F. Crusto, professor, Loyola University (New Orleans) College of Law

Examining the Impact of Cannabis Policy Reform on Referrals to Drug Treatment for Cannabis Use
Katharine Neill Harris, Alfred C. Glassell, III Fellow in Drug Policy, and Christopher F. Kulesza, Alfred C. Glassell, III Research Analyst, Baker Institute of Public Policy, Rice University

Impact of Marijuana Legalization on the Regional Economy
Seung-hun Chung, post-doctoral researcher, and Mark Partridge, Swank Professor of Rural-Urban Policy and professor, Department of Agricultural, Environmental, and Development Economics, The Ohio State University

Marijuana Legalization In New Jersey: Early Impacts on Community-Level Crime and Beliefs
Jordan M. Hyatt, associate professor, Department of Criminology and Justice Studies, Center for Public Policy, Drexel University; Nathan W. Link, assistant professor, Department of Sociology, Anthropology and Criminal Justice, Rutgers University–Camden; Valerio Baćak, assistant professor, School of Criminal Justice, Rutgers University–Newark

2020–21 DRUG POLICY GRANT WINNERS
Sobriety Checkpoint Laws in the USA: Effects on Driving While Intoxicated, Traffic Fatalities, and Arrests
Lauren Jones, assistant professor, Department of Human Science and John Glenn College of Public Affairs, The Ohio State University

Racial Inequities in Drug Case Processing: The Role of Prosecutorial Discretion
Russell S. Hassan, associate professor, and Daniel Baker, postdoctoral scholar, John Glenn College of Public Affairs, The Ohio State University

Examination of Drugs Courts and Court-Ordered Treatment for Substance Use
Myûki Fujikawa, associate professor, Department of Criminology, Anthropology, and Sociology (CAS), Patricia Stoddard-Dare, professor, School of Social Work; Ilya Yaroslavsky, associate professor, Department of Psychology, and James Chriss, Professor, CAS, Cleveland State University

Perceptions of Psychoactive Drugs Among Psychiatrists in the United States: The Impact of National Drug Policy
Alan K. Davis, assistant professor, College of Social Work; Adam Levin, PGY-1 psychiatry resident, Department of Psychiatry & Behavioral Health, College of Medicine, and Paul Nagib, medical student, College of Medicine, The Ohio State University

The Implementation of Medical Marijuana in the United States: A Case Comparison of Ohio and Pennsylvania
Lee Hannah, associate professor of political science, Wright State University

The Impact of Drug Laws on the Lived Experiences of Currently Jailed and Previously Jailed African American Mothers, their Children and Caregivers
Yvette R. Harris, professor of psychology and director, Center for the Study and Support of Children and Families of the Incarcerated (CSSCFI), and Cricket Meehan, director, Center for School-Based Mental Health Programs and associate director, CSSCFI, Department of Psychology, Miami University

For more information visit go.osu.edu/depc-drugpolicygrants and go.osu.edu/depc-mjgrants.
On election day 2020, voters weighed in on drug policy and enforcement reforms that appeared on numerous state-level ballots. Five states had qualifying initiatives that attempted to legalize marijuana for medical or adult-use consumption, including some states that asked voters to decide on multiple pathways to a legal market. And marijuana reform was not the only drug-related issue on ballots. Initiatives in a few states and Washington, D.C. asked voters to modify existing sentencing laws, decriminalize all drugs, or legalize psychedelics for adult-use and therapeutic reasons.

To gain a better understanding of what this election could mean for drug policy across the U.S., the Drug Enforcement and Policy Center developed a list of key ballot initiatives reaching voters in 2020. See our website for a list of initiatives we watched in November 2020 in the areas of marijuana legalization, psychedelics, and criminal justice.

Study authors:
Jana Hrdinová
Dexter Ridgway
John Berk
Samuel DeWitt
Claire Kinnear
SSRN Abstract ID: 3788079
u.osu.edu/teachingdrugs

Despite the significant impact of laws and policies surrounding controlled substances, few classes in the typical law school curriculum focus on either basic legal doctrines or broader scholarship in this field. This gap in law school curricula is especially problematic given the shifts in the landscape of legalized cannabis and hemp, as well as the range of legal and policy responses to the recent opioid crisis. To continue our efforts to better understand how law schools currently approach these issues and to identify how drug policy and law could be better incorporated into law school curricula, we conducted a third survey of all accredited law schools in the U.S. The 2020-21 survey followed two previous annual surveys and a workshop of legal scholars who work in this space. The surveys and 2019 workshop were designed to identify law school courses currently taught and the primary obstacles to teaching this subject matter. The results show that the vast majority of law schools do not teach courses touching on drugs or the evolving legal structures around cannabis, and this is true even for law schools located in states with legalized cannabis markets.

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In 2020-21, roughly 5 of 6 accredited U.S. law schools did not teach drug-related courses.

A total of 50 cannabis courses were offered by accredited U.S. law schools.

Nearly 1/2 of states with legal marijuana have no law schools that offer cannabis law courses.

The Drug Enforcement and Policy Center created a guide to presidential candidates’ stances concerning the reform of federal marijuana laws, as of March 3, 2020, also known as Super Tuesday.

DEPC, drawing from the candidates’ public statements, policy proposals, and support for existing bills, created an infographic to help illuminate the complexities of candidates’ policy positions on marijuana.
Drug Enforcement and Policy Center Executive Director Douglas A. Berman recently released Marijuana Law and Policy with former DEPC Visiting Professor Alex Kreit. Marijuana Law and Policy provides comprehensive coverage of the contemporary issues of law and policy related to marijuana criminalization, regulation, and reform. Marijuana Law and Policy joins just a few other such casebooks on the subject.

**A CASEBOOK ORIGIN STORY**

Professor Berman began teaching a seminar on marijuana reform in the autumn of 2013 using a portion of Kreit’s Controlled Substances: Crime, Regulation, and Policy text. But with legal reforms moving at a rapid pace, Professor Berman began collecting materials on a specialized blog. Eager to assemble these emerging resources, Berman seized the opportunity to collaborate with Professor Kreit. “I was excited to have a chance to work with Alex to develop a policy-oriented book that could provide a foundation for teaching different types of courses in the marijuana space,” said Professor Berman.

**FILLING A GAP**

Berman and Kreit’s casebook follows the release of two other notable casebooks in this space. Robert Mikos, professor of law at Vanderbilt Law School, published Marijuana Law, Policy, and Authority in 2017. Professors Howard Bromberg and Mark K. Osbeck of The University of Michigan Law School, along with Michael Vitiello of University of the Pacific McGeorge School of Law, published Cases and Materials on Marijuana Law in 2019.

Marijuana Law and Policy is the third text focused on marijuana law to emerge since Alex Kreit, now director of the Center on Addiction Law & Policy at Northern Kentucky University’s Salmon P. Chase College of Law, published his groundbreaking Controlled Substances text in 2013. Reflecting growing interest in marijuana reforms, Carolina Academic Press rereleased Professor Kreit’s casebook as Illegal Drug and Marijuana Law in 2019.

Marijuana Law and Policy provides comprehensive coverage of the contemporary issues of law and policy related to marijuana criminalization, regulation, and reform. Marijuana Law and Policy joins just a few other such casebooks on the subject.

**A CASEBOOK ORIGIN STORY**

Professor Berman began teaching a seminar on marijuana reform in the autumn of 2013 using a portion of Kreit’s Controlled Substances: Crime, Regulation, and Policy text. But with legal reforms moving at a rapid pace, Professor Berman began collecting materials on a specialized blog. Eager to assemble these emerging resources, Berman seized the opportunity to collaborate with Professor Kreit. “I was excited to have a chance to work with Alex to develop a policy-oriented book that could provide a foundation for teaching different types of courses in the marijuana space,” said Professor Berman.

**FILLING A GAP**

Berman and Kreit’s casebook follows the release of two other notable casebooks in this space. Robert Mikos, professor of law at Vanderbilt Law School, published Marijuana Law, Policy, and Authority in 2017. Professors Howard Bromberg and Mark K. Osbeck of The University of Michigan Law School, along with Michael Vitiello of University of the Pacific McGeorge School of Law, published Cases and Materials on Marijuana Law in 2019.

Marijuana Law and Policy is the third text focused on marijuana law to emerge since Alex Kreit, now director of the Center on Addiction Law & Policy at Northern Kentucky University’s Salmon P. Chase College of Law, published his groundbreaking Controlled Substances text in 2013. Reflecting growing interest in marijuana reforms, Carolina Academic Press rereleased Professor Kreit’s casebook as Illegal Drug and Marijuana Law in 2019.

DEPC’s “Teaching Drugs” report, published earlier this year, showed that roughly five out of six accredited U.S. law schools do not teach courses focused on drugs or the evolving legal structures around marijuana. Professor Osbeck believes the issue may in part be a result of law school administrators’ tendency to view marijuana law as an extension of criminal law. “While there is overlap with criminal law, marijuana law is a much broader topic, intersecting with a number of important civil, constitutional, and policy issues,” said Osbeck. When asked why administrators may be slow to adopt courses on marijuana law, Professor Vitiello pointed to the previous lack of coursebooks as a possible cause.

The authors agree that the study of marijuana law has far-reaching benefits, especially for law students. Professor Mikos believes the subject “provides a great vehicle for engaging students about a wide range of important topics.” Professor Bromberg explained that

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DEPC Executive Director Douglas Berman recently released Marijuana Law and Policy with former DEPC Visiting Professor Alex Kreit. Marijuana Law and Policy provides comprehensive coverage of the contemporary issues of law and policy related to marijuana criminalization, regulation, and reform. Marijuana Law and Policy joins just a few other such casebooks on the subject.

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“Food and Drug Law”  
Patricia J. Zettler  
This seminar focuses on current issues concerning federal and state regulation of foods and drugs, including FDA structure and organization; the regulation of human drugs, medical devices, animal feed and drugs, nutraceuticals and alternative medical therapies; and state regulation of drugs, devices and food quality.

“Drug Law Enforcement & the Bill of Rights”  
Sarah Brady Siff  
This seminar offers a constitutional legal history of drug control in the United States. The Bill of Rights has long been invoked by both individuals and states against the very idea of a federal war on drugs. But local, state, and federal police have all used a broad range of questionable tactics in pursuit, nominally, of American abstinence. In addition to creating openings for, and then limiting, Fourth and Fifth Amendment defenses against drug crimes, rulings in drug cases helped to clarify issues of privacy, states’ rights, free speech, and religious freedom.

“Sentencing Law & Policy”  
Douglas A. Berman  
This seminar reviews traditional theoretical justifications for punishments and examines society’s approach to the sentencing of criminal offenders.

“Cannabiz: Exploring the Legalization of Marijuana”  
Benton B. Bodamer  
This course is an exploration of the risks inherent in entrepreneurial enterprises, and the ways in which entrepreneurs embrace the possibility of failure and personal freedom to pursue opportunities at the frontiers of legal boundaries.

“Criminal Law”  
Douglas A. Berman, Sean Hill  
Criminal Law covers the moral and penological principles underlying the definition of crime. The course also considers full and partial defenses to crimes. In considering the process of translating these principles into law, specific offenses and their development through the common law and modern statutes, are studied in detail.

“Legislation and Regulation”  
Patricia J. Zettler  
This course examines the lawmaking process, how the legislative process works, the process by which statutes are enacted, and how judges interpret the legislative product in theory and practice.

Films

**THE VANISHING TRIAL (2020)**

This documentary, produced by Families Against Mandatory Minimums (FAMM), follows four individuals forced to make a choice between pleading guilty and receiving a shorter sentence—or going to trial and risking decades behind bars. DEPC provided students with screening access to the film and Professor Douglas Berman led the discussion.

**PRESCRIBING DEATH (2019)**

Associate Professor Patricia Zettler led a discussion of this documentary that centers on the efforts of lawyers and prosecutors in Oklahoma to address the opioid crisis through litigation.

**GRASS IS GREENER (2019)**

The discussion of this Netflix documentary was led by Assistant Professor Sean Hill with Distinguished Cannabis Policy Practitioner in Residence Shaleen Title. Using the documentary as a point of departure, the discussion explored whether ongoing efforts to legalize marijuana and increase diversity in the industry are responsive to the scale of harm wrought by the War on Drugs. Given the myriad ways that marijuana has contributed to the mass criminalization of Black and Latinx people, the group discussed how select strategies can fall short and the types of solutions that may align with principles of racial equity.
CONCLUSION

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The work of the Drug Enforcement and Policy Center would not be possible without the great generosity of the Charles Koch Foundation, the Menard Family and Menard, Inc. We are likewise thankful to The Ohio State University, the Moritz College of Law, and the John Glenn College of Public Affairs for ongoing support of the center.

It is thanks to these organizations that we were able to welcome five members to the DEPC team this year. In the autumn of 2020, we welcomed Assistant Professor of Law Sean Hill, Senior Research Associate Dr. Alex Fraga and Research Associate Dexter Ridgway. Dr. Sarah Brady Siff joined the DEPC team as a visiting professor in the fall, and DEPC welcomed Distinguished Cannabis Policy Practitioner in Residence Shaleen Title as a visiting expert this spring.

The considerable activities and productivity of DEPC is made possible by the extraordinary support we receive from our funders, our partners, and the organizations and individuals who engage with us. We hope you feel our warm and sincere thanks for all you do in support of the DEPC.
Drug Enforcement and Policy Center

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The Drug Enforcement and Policy Center focuses on promoting and supporting interdisciplinary, evidence-based research, scholarship, education, community outreach, and public engagement on the myriad issues and societal impacts surrounding the reform of criminal and civil laws prohibiting or regulating the use and distribution of traditionally illicit drugs. The center examines the impact of modern drug laws, policies, and enforcement on personal freedoms and human well-being, giving particularized and sustained attention to analyzing the rapid evolution of marijuana laws and the impacts of state-level reform efforts.

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