

LEGAL MEMORANDUM

No. 380 | AUGUST 20, 2025

EDWIN MEESE III CENTER FOR LEGAL & JUDICIAL STUDIES

China and Cannabis

Paul J. Larkin

KEY TAKEAWAYS

China and its ruling Communist Party are using or willingly ignoring the operation of Chinese organized crime elements in the United States.

Cultivation of cannabis in states with medical or recreational use programs weakens the U.S. militarily by increasing cannabis use by military-age Americans.

The President should educate the public and his law enforcement agencies, and Congress should give the President additional tools, to stop this illegality.

A recent development in the debate over the legalization of cannabis has been the potential involvement (or willful blindness) of the People's Republic of China (PRC)—and therefore the Chinese Communist Party (CCP)—in the illicit growing of that plant by Chinese organized crime elements in the American states that have legalized cannabis for medical or recreational purposes.¹ It is troublesome to learn of the domestic involvement of parties who are committed enemies of the United States and the American way of life² in the cultivation and distribution of a drug that has numerous adverse long-term effects on American users.³ It also is troublesome to realize that the public is largely unaware of this development. But it is even more troublesome to know that the parties who profit from the state-legal sale of cannabis certainly will not educate political decision-makers or the public about a development that could dilute their income stream.

This paper, in its entirety, can be found at <https://report.heritage.org/lm380>

The Heritage Foundation | 214 Massachusetts Avenue, NE | Washington, DC 20002 | (202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

The public needs to be aware of the harms that China's involvement in this enterprise has brought and will continue to inflict on the American people. That is particularly important given that the percentage of Americans who use cannabis daily has increased over the past decade and now exceeds the number of people who drink alcohol on a daily basis.⁴ The media need to highlight this aspect of the cannabis legalization debate. The President needs to use his bully pulpit to educate the public and his law enforcement agencies to stop this illegality, and Congress should give the President some additional tools to employ.

States that Have Legalized Cannabis Have Not Eliminated an Illicit Market

Whether cannabis should be legalized and regulated as cigarettes and alcohol are regulated has been a controversial public policy issue since the 1960s.⁵ Then, some parties, particularly college students and people in their 20s through 40s, extolled cannabis use as an *avant-garde* expression of freedom and rebellion, while others condemned it as a dangerous steppingstone to far more serious and debilitating types of drug use.⁶ Following the end of the Vietnam War, the legalization debate largely (but not completely) died down for the ensuing decades.

Beginning in 1996, however, state law began to change significantly. First out of the gate, California voters passed a popular initiative to permit cannabis to be used for medical purposes.⁷ Numerous other states have followed California's lead, and a majority now permit cannabis to be used for medical or recreational purposes.⁸ The federal drug code still treats cannabis as contraband,⁹ but the Biden Administration initiated a re-examination of the proper treatment of cannabis under federal law. U.S. Attorney General Merrick Garland left office without issuing a final decision on the matter, and that proposal is pending before the Trump Administration.¹⁰

Advocates of reform have always made two primary arguments for the legalization of cannabis. One is that, when compared against other psychoactive drugs such as heroin or methamphetamine, cannabis is a relatively harmless pleasure-inducing intoxicant.¹¹ The other argument is that legalization would generate numerous benefits, among them being the elimination of black (or gray¹²) markets for the illicit sale of that drug.¹³ Liberalizers might concede that black markets will always exist to meet a consumer demand,¹⁴ but they argue that people would prefer to purchase lawfully sold weed from legitimate, respectable businesses if that option were available.¹⁵ That would eliminate any risk of arrest, prosecution, and

imprisonment. It also would permit the public to obtain safe strains of the plant from local stores with a reputation for quality that owners are interested in maintaining instead of buying nickel bags of ganja in “back alleys” from unknown or disreputable never-to-be-seen-again parties selling plants of uncertain potency with potentially dangerous adulterants. Illicit markets, we were told, would disappear through the ordinary work of basic economics and consumer choice in a lawful market.¹⁶

History has proved the reformers wrong; illicit markets are still with us today, nearly 30 years after California rolled the first cannabis snowball downhill.¹⁷ According to estimates made by Whitney Economics, which analyzes the cannabis industry, the illegal markets constitute approximately 75 percent of the \$100 billion industry, and two-thirds of the cannabis sold in these markets is grown domestically.¹⁸ Even the Supreme Court of the United States has acknowledged that “there is an established, albeit illegal, interstate market” for cannabis in the United States.¹⁹ Parties who grow and sell cannabis without a license have continued to prosper in states where it may be lawfully distributed under state law. The illicit industry in some states—California, where the contemporary cannabis revolution began, is a prime example—is larger than the lawful one that was supposed to drive the former out of business.²⁰

The reason for the black market’s survival is Economics 101 “with a dose of convenience thrown in.”²¹ Unlicensed growers do not pay the taxes that licensed businesses pay, nor do they comply with the environmental and labor regulations that increase the operating costs for regulated firms. The result is that they can sell cannabis at a lower price than state-licensed stores can charge.²² Additionally, some people will fear being “outed” as users because it could cost them their jobs or damage their reputation, so they will continue to purchase cannabis on the sly. Cannabis grown for medical or personal uses, which are not subject to any business taxes and regulations, can be sold locally in competition with retail stores.²³ Finally, cannabis has been grown illegally in federal and state parks, which adds to the amount available for sale to the public.²⁴ Illicit sales have become a fixture of the cannabis market, and there is no evidence that cannabis’s thriving black market will disappear, whether soon or ever.²⁵

The upshot is that cannabis’s legalizers have sold the public a bill of goods—a fugazi, and one that the PRC is fully exploiting for its own ends, which is yet another fact that legalization’s supporters don’t want to acknowledge, let alone defend. But that aspect of the cannabis problem can no longer be ignored.

China Has Come to Dominate the Cannabis Market in the United States

The public might have thought that legalization would lead to 1960s-era “counterculture pioneers, outlaws, and rebels” opening boutique cannabis stores.²⁶ There were some, to be sure, but the majority of cannabis businesses were large-scale operations,²⁷ and “[t]he people running companies in the cannabis industry far more closely resemble recent 2020 MBA graduates than members of the 1950s Beat Generation or 1960s Hippies.”²⁸ Many observers (myself included) predicted that large businesses would displace small-scale cannabis enterprises, because the former could achieve economies of scale that “Mom and Pop” farms and retail stores could not and also could afford the slew of professional lawyers, accountants, lobbyists, and others necessary to get their operations going.²⁹ Regardless of the size of the state-legal cannabis industry, predictions focused on American-owned wholesale and retail cannabis markets.

But that was before the PRC decided to make money for itself and trouble for Americans from the cannabis business made lawful by numerous states.

China Enters the Domestic U.S. Cannabis Industry. According to the U.S. Drug Enforcement Administration (DEA), “Chinese and other Asian TCOs [transnational criminal organizations] have taken control of the marijuana trade” in the United States.³⁰ Over 10 years, “Chinese TCOs have come to dominate the cultivation and distribution of marijuana across the United states, a phenomenon from California to Maine.”³¹ Most of the Chinese TCOs’ cannabis cultivation occurs in states that have legalized cannabis production under state law, although the TCOs often relocate to other states once they are discovered.³²

The DEA does not stand alone in making those findings. State and local law enforcement officers, Members of Congress, and investigative journalists have uncovered evidence of the PRC’s infiltration of state-lawful cannabis businesses. Chinese aliens, some of whom entered the United States unlawfully from Mexico, along with members of the Chinese “diaspora,” have worked at illicit cannabis farms (or “grow houses”) in a host of different states.³³ This phenomenon has occurred in states from coast to coast such as California,³⁴ Maine,³⁵ Massachusetts,³⁶ Oregon,³⁷ New Mexico,³⁸ and possibly elsewhere as well.³⁹ Oklahoma turned out to be a particularly attractive site for the rise of cannabis farms⁴⁰ because there is no effective state-law cap on the amount of cannabis a farmer may grow.⁴¹ The Oklahoma Bureau of Narcotics, for example, is said to believe that 2,000 of the 7,000 cannabis farms in that state “have a Chinese connection—supplying workers, funding or both.”⁴²

The Involvement of Chinese Organized Crime Elements. There is a serious concern that local Chinese cannabis growers are involved with elements of organized crime in China⁴³ and that their activities in the United States have the implicit blessing of the PRC and CCP.⁴⁴ Last year, ProPublica reported that “U.S. and foreign national security officials have alleged that the Chinese state maintains a tacit alliance with Chinese organized crime in the U.S. and across the world.”⁴⁵ Chinese mobsters “overtly support pro-Beijing causes and covertly provide services overseas,” ProPublica noted, “engaging in political influence work, moving illicit funds offshore for the Chinese elite and helping persecute dissidents, according to Western officials, court cases and human rights groups....”⁴⁶ According to Brookings Institution drug policy expert Vanda Felbab-Brown, “[t]he Chinese government has a complicated relationship with organized crime.”⁴⁷ The triads operate global fentanyl and methamphetamine drug trafficking networks, which the PRC ostensibly condemns while using them as “extra-legal enforcers for the government,” a role that the triads willingly play “to curry favor with the CCP.”⁴⁸ What is more, on at least one occasion, a Chinese government official visited cannabis farms in Oklahoma, indicating that this is a matter of concern to the PRC.⁴⁹

How to Expose and Eliminate the PRC’s Involvement in America’s State-Sanctioned Cannabis Industry

We know that China bears a large part of the blame for the illicit fentanyl plaguing America.⁵⁰ With regard to cannabis, perhaps the Chinese government has willfully blinded itself to what Chinese organized crime elements are doing.⁵¹ Congress and the executive branch are aware of the PRC’s infiltration of the state-sanctioned cannabis industry,⁵² but they have not yet fully exposed and eliminated that enterprise. They should.

Unlike illicit fentanyl use, cannabis use does not confront a user with risk of immediate death.⁵³ But it does put a massive number of our dollars into the pockets of the organized crime elements of our principal Second Cold War enemy. Congress and the President should act in partnership with the states to prevent Chinese organized crime elements from profiting from the illegal cultivation and distribution of cannabis. At a minimum, we must prevent our current predicament from worsening.⁵⁴ The Trump Administration recently expressed its belief that Chinese ownership of U.S. property raises serious national security concerns. As Secretary of Agriculture Brooke Rollins pithily told the PRC, “The Trump Administration has a message for China: Keep off the farm.”⁵⁵ The Administration said that it

plans to work with state lawmakers to prohibit any such prospective land sales and to unwind ones that have already occurred.⁵⁶ State law generally governs the subject of real estate transactions, and there is work for the states to do, as discussed below.

This problem, however, also raises national security concerns that are principally in the federal government's bailiwick. The President and Congress therefore should also consider some responses that only the federal government can make. Just this year, the federal political branches have worked together to stem the sale of illicit fentanyl by passing into law the Halt All Lethal Trafficking (HALT) Fentanyl Act⁵⁷ and the Fentanyl Eradication and Narcotics Deterrence Off (FEND Off) Fentanyl Act,⁵⁸ the two most recent federal efforts to address that scourge.⁵⁹ Thus, both ends of Pennsylvania Avenue see the need to cooperate to resolve drug problems. Some actions do not require the passage of new legislation, but some do. Both approaches are worthwhile.

Recommendations for the States. The Chinese purchase of U.S. real estate is not a new or isolated phenomenon.⁶⁰ Since 2017, the Chinese have been purchasing land near U.S. military bases and in other strategic locations around the country, and it is unlikely that they have done so to be able easily to commute to work after enlisting.⁶¹ Recently, "Chinese-owned agricultural land...has increased rapidly,"⁶² and "the number of farms funded by sources traceable back to Chinese investors or owners has skyrocketed."⁶³ With respect to cannabis, the PRC has used shell corporations and other "cutouts" to obscure their purchases of farms and rentals or homes and other structures for cannabis cultivation⁶⁴ by possible PRC agents,⁶⁵ elements of Chinese organized crime triads acting with (at least) the deliberate indifference of the CCP,⁶⁶ or Americans acting on their behalf for the purpose of growing cannabis or making a profit by obscuring the identity of the real parties in interest when purchasing or renting real property.⁶⁷

States that have not yet legalized cannabis under their own laws therefore should hold the line against doing so. We now know that the black market will not disappear. The only difference will be that Chinese organized crime will run it, not 1960s-era hippies that have made it this far. How many state legislators would want to encourage lawlessness in their jurisdictions? If the media and public make their opinions known, the legalization movement might be stopped in its tracks.

States should also prevent the use of land in their jurisdictions for Chinese organized crime's cannabis farming. As my colleague Bryan Burack has explained, states can take various actions to protect the nation against the

PRC's interest in acquiring real estate for spying or illegal drug activity.⁶⁸ For example, to increase the identification of foreign nations, companies, and individuals with an interest in particular real estate transactions, the states (certainly with and perhaps even without the blessing of the federal government) could require real estate purchasers and lessees to identify all foreign individuals and foreign-owned or foreign-controlled companies with a legal or financial interest in their purchases or rentals.⁶⁹ That would help to prevent the PRC from using third parties or sham corporations to obtain property for use as a listening post or an indoor cultivation (or production) site for illegal drugs.⁷⁰

Recommendations for the Department of Justice and the President. *The U.S. Department of Justice should undertake aggressive criminal investigations into and prosecution of the actions of Chinese organized crime elements for violations of one or more of several federal criminal laws.* The most obvious place to start is with the federal controlled substances laws. Cannabis is a Schedule I drug, the category for drugs that lack a current medical use, have a high potential for abuse, and are dangerous even when used under a physician's supervision.⁷¹ The cultivation and distribution of cannabis is a felony punishable by a lengthy term of imprisonment⁷² that depends on the weight of a "mixture or substance" containing a detectable amount of THC.⁷³ The department charged the parties in Maine and Massachusetts cases noted above with such offenses.⁷⁴

The President should reject the Biden Administration's proposal to reschedule cannabis from Schedule I to Schedule III of the Controlled Substances Act of 1970. That is the right action for the President to take on the merits of the rescheduling issue. Today's cannabis is far more potent than when legalization's efforts began in the 1960s,⁷⁵ and numerous medical studies, including some recent ones, have corroborated earlier arguments that heavy or long-term cannabis use can generate severe physical or psychological harms in users.⁷⁶

That is particularly so in the case of minors because of the juvenile brain's labile nature.⁷⁷ There are manifold potential costs from cannabis use by minors or young adults: dropping out of high school or failing to attend (or complete) a college education due to amotivational syndrome; absenteeism from or accidents in the workplace; motor vehicle accidents; increased national health care costs due to emergency department visits or cannabis use disorder (CUD); cardiovascular disease; compromised fetal development; and so forth.⁷⁸ All things considered, there is no persuasive medical, legal, or policy justification for increasing the availability of cannabis throughout the United States.⁷⁹

Recommendations for Congress. *Congress should consider whether federal legislation is necessary to protect uniquely national interests.* The federal government has a surpassing interest in preventing any foreign power or nationals from purchasing or renting property that enables it or them to spy on sensitive federal locations (such as military bases), to commit federal offenses, or to generate illegal funds that can be used to undermine American interests in other ways. As the Supreme Court explained in *Haig v. Agee*, “[i]t is ‘obvious and unarguable’ that no governmental interest is more compelling than the security of the Nation.”⁸⁰

The Supreme Court’s decision in *Zschernig v. Miller* is instructive in this regard.⁸¹ *Zschernig* involved the question of whether state or federal law governed the intestate distribution of property previously owned by an Oregon resident to the only next of kin, who were residents of East Germany before the Berlin Wall came down. Construing the 1923 Treaty of Friendship, Commerce and Consular Rights, which the federal government had said was still in force, the Oregon courts allowed for the transfer of realty but not personalty because an Oregon resident had no corresponding right to inherit personalty from an East German resident who had died intestate. The Supreme Court reversed. The Court reasoned that, as construed by the Oregon courts, Oregon probate law “affect[ed] international law in a persistent and subtle way”⁸² because it empowered state courts to make comparative judgments about the relative merits of the property rights protections afforded by Communist versus Western nations.⁸³ That approach “illustrate[d] the dangers which are involved if each State, speaking through its probate courts, is permitted to establish its own foreign policy.”⁸⁴ Those judgments, the Court concluded, were within the exclusive province of the federal government to make.⁸⁵

The President and Congress should act to establish a uniform cannabis land-use rule across the states. *Zschernig* makes it clear that the President and Congress have broad power to define the nation’s foreign policy and protect its residents against harms resulting from foreign powers. Cannabis use, particularly by military age men and women, can weaken our national security by reducing, perhaps greatly, the number of potential soldiers, sailors, airmen, and Marines who are qualified and fit to serve.⁸⁶

Moreover, the federal government has a powerful interest in having this issue decided and applied *uniformly* across the nation, which cannot happen if each state is free to develop its own, potentially conflicting rules and policies.⁸⁷ It is widely recognized that Delaware’s law is favorable to corporations, which is why many such entities are incorporated under Delaware law.⁸⁸ Corporations want to be able to take advantage of the benefits made available by Delaware’s corporate law and knowledgeable Chancery Court

system. That benefits those companies as well as the public. By contrast, the country would be considerably worse off if one state (or a small number of them) was more willing than the rest of the nation to disguise the real parties in interest in a land transaction. Accordingly, Congress should consider taking up this issue rather than waiting to see how different states resolve it.

There also are steps that the President and Congress should consider taking independently of the states. For example, Congress could expand the authority and role of the U.S. Committee on Foreign Investment in the United States (CFIUS).⁸⁹ Established by President Gerald Ford⁹⁰ pursuant to the Defense Production Act (DPA) of 1950,⁹¹ CFIUS is an interagency committee authorized to review certain transactions involving domestic foreign investment,⁹² including certain real estate transactions by foreign parties.⁹³ The committee has the authority to review such deals and advise the President as to whether to prohibit the transaction or allow it to go forward under whatever conditions he deems appropriate if he finds “credible evidence” that the transaction “threatens to impair the national security of the United States.”⁹⁴

Nevertheless, the CFIUS screen is porous.⁹⁵ Not every type of real estate transaction must be reported.⁹⁶ CFIUS has concluded that so-called greenfield or start-up investments are outside of its jurisdiction.⁹⁷ Additionally, some parties have not made the necessary disclosures even for a “covered transaction,” thereby depriving CFIUS and the President of the information needed to decide whether to allow a particular transaction to go forward.⁹⁸ Congress could revise the DPA to make it clear that there is no greenfield exception to CFIUS jurisdiction.⁹⁹

Conclusion

The PRC and CCP are committed to making China the world’s greatest commercial and military power. One step that they have taken is to use or willingly ignore the operation of Chinese organized crime elements in the United States. China has benefitted from the cultivation of cannabis in states with medical or recreational use programs because increasing cannabis use by military-age Americans weakens this country militarily. Both the President and Congress need to take the various steps outlined in this *Legal Memorandum* to address this serious, ongoing problem.

Paul J. Larkin is the John, Barbara, and Victoria Rumpel Senior Legal Research Fellow in the Edwin Meese III Center for Legal and Judicial Studies at The Heritage Foundation. The author wishes to thank Bryan Burack, Bertha K. Madras, John Malcolm, Luke Niforatos, and Bill Poole for valuable comments on an earlier draft of this paper. The author also wishes to thank Amanda Badalamenti for excellent research assistance. Any mistakes are the author’s.

Endnotes

1. “Marijuana has been legalized in some states, but *ProPublica*’s Sebastian Rotella says there’s still a thriving illicit market, dominated by criminals connected to China’s authoritarian government.” Terry Gross, *How the Chinese Mafia Came to Control Much of the Illicit Marijuana Trade in the U.S.*, NPR, Mar. 21, 2024, <https://www.npr.org/2024/03/21/1239854106/how-the-chinese-mafia-came-to-control-much-of-the-illicit-marijuana-trade-in-the-see-also-e-g-Liyan-Qi-How-Chinese-Marijuana-Operations-Cropped-Up-in-Small-Town-America>, WALL ST. J., Nov. 30, 2023, https://www.wsj.com/us-news/law/how-chinese-marijuana-operations-cropped-up-in-small-town-america-45b7b598?mod=Searchresults_pos2&page=1 (last accessed Aug. 1, 2025) (“Following the legalization of marijuana in many states, Chinese-run marijuana farms have emerged across the U.S. Some are run by investor groups with a commercial growing license. But just as illegal marijuana shops have proliferated, so have unlicensed growing operations.”). References to “China,” “Chinese,” the “PRC,” or the “CCP” should be read as referring to Chinese organized crime elements.
2. “The Chinese government has made no secret of its ambition to surpass the West both militarily and economically by the regime’s 100th anniversary in 2049 in the hope that the 21st century will be dominated by China in the same way that the 20th century was dominated by the United States. According to a popular saying in Chinese mythology, ‘there is only one sun in the sky.’... What is worrisome is how China achieves and maintains that wealth and power within the increasingly interdependent global environment and its effects on the security and well-being of the Western democracies.” JOHN A. CASSARA, MONEY LAUNDERING AND ILLICIT FINANCIAL FLOWS: FOLLOWING THE MONEY AND VALUE TRAILS 193 (2020) (footnote omitted); *see also, e.g.*, Kevin D. Roberts, *We’re in a New Cold War. It’s Time Our Politicians Acted Like It*, HERITAGE FOUND. COMMENTARY (Oct. 20, 2023), <https://www.heritage.org/china/commentary/were-new-cold-war-its-time-our-politicians-acted-it> (last accessed July 31, 2025); *Counter the CCP*, HERITAGE FOUND., <https://www.heritage.org/priorities/china> (last accessed July 31, 2025) (“The Chinese Communist Party is the most persistent and consequential foreign threat facing the American people today. It is building a military to challenge the U.S., stealing American technology at an unprecedented rate, and hurting U.S. workers with predatory economic policies. America is falling behind in this New Cold War.”); Tom Porter, *China Waging New Cold War to Topple U.S. as World’s Leading Superpower, Says CIA Official*, NEWSWEEK, July 22, 2018, <https://www.newsweek.com/china-waging-new-cold-war-topple-us-worlds-leading-superpower-says-cia-1036226> (According to Michael Collins, Deputy Assistant Director of the CIA’s East Asia Mission Center, “Beijing’s tactics to achieve its ambitions fit the definition of a cold war: ‘I would argue...that what they’re waging against us is fundamentally a cold war...by definition. [¶] A country that exploits all avenues of power licit and illicit, public and private, economic and military, to undermine the standing of your rival relative to your own standing without resorting to conflict.”).
3. Which is both why the U.S. Food and Drug Administration (FDA) has never found that the cannabis “plant” is a safe, effective, and uniformly made “drug” that may be distributed in interstate commerce and why the FDA could not make those findings today. *See* Paul J. Larkin, *Twenty-First Century Illicit Drugs and Their Discontents: Why the FDA Could Not Approve Raw Cannabis as a “Safe,” “Effective,” and “Uniform” Drug*, HERITAGE FOUND. SPECIAL REPORT No. 275 (2023).
4. NAT’L ACAD. SCI., ENG’G & MED., CANNABIS POLICY AFFECTS PUBLIC HEALTH AND HEALTH EQUITY 126–27 (2024) (“Over the past 20 years, the number of people who use cannabis in the United States has seen a large increase. More important, however, the share of people using cannabis on a DND basis has risen even faster—in fact, much faster; 2022 was the first year when the number of Americans using cannabis on a DND basis was larger than the number of Americans using alcohol on a DND basis. Perhaps of even greater significance from a public health perspective is the enormous rise in frequent use among those aged 65 and older as well as pregnant persons, two particularly vulnerable populations.”).
5. *See, e.g.*, Paul J. Larkin, Jr., *Medical or Recreational Marijuana and Drugged Driving*, 52 AM. CRIM. L. REV. 461–63 (2015) [hereafter Larkin, *Drugged Driving*]. For discussions of the various aspects of cannabis policy, *see, for example*, WILLIAM, J. BENNETT & ROBERT A. WHITE, GOING TO POT: WHY THE RUSH TO LEGALIZE MARIJUANA IS HARMING AMERICA (2015); JONATHAN P. CAULKINS ET AL., MARIJUANA LEGALIZATION: WHAT EVERYONE NEEDS TO KNOW (2d ed. 2016); JOHN KAPLAN, MARIJUANA: THE NEW PROHIBITION (1970); NAT’L ACAD. SCI., ENG’G & MED., THE HEALTH EFFECTS OF CANNABIS AND CANNABINOIDS: THE CURRENT STATE OF EVIDENCE AND RECOMMENDATIONS FOR RESEARCH (2017); ROBIN ROOM ET AL., CANNABIS POLICY: MOVING BEYOND STALEMATE (2010); CONTEMPORARY HEALTH ISSUES ON MARIJUANA (Kevin A. Sabet & Ken C. Winters eds., 2018). *See generally* Paul J. Larkin, Jr., *Introduction to a Debate: Marijuana: “Legalize, Decriminalize, or Leave the Status Quo in Place?”*, 23 BERKELEY J. CRIM. L. 73 (2018) (collecting authorities).
6. *See, e.g.*, Paul J. Larkin, Jr., *Reflexive Federalism*, 44 HARV. J.L. & PUB. POL’Y 523, 523–24, 527–28 (2021).
7. The 1996 initiative allowed the cultivation, possession, and use of cannabis by patients for medical purposes under state law. Larkin, *Drugged Driving*, *supra* note 5, at 467–68.
8. At present, 43 states, three territories, and the District of Columbia permit cannabis to be used for medical purposes, while 24 states, three territories, and the District of Columbia permit it to be used for nonmedical or recreational purposes (the two sets overlap). *See* NAT’L CONF. OF STATE LEGISLATURES, *State Medical Cannabis Laws* (June 27, 2025), <https://www.ncsl.org/health/state-medical-cannabis-laws> (last accessed July 29, 2025).
9. The CSA assigns drugs to one of five schedules according to their potential benefits and risks. *See* 21 U.S.C. §§ 812, 841 (West 2025).
10. For an explanation of why rescheduling cannabis would be improvident as a matter of medicine, law, and policy, *see* Bertha K. Madras & Paul J. Larkin, *Rescheduling Cannabis: Medicine or Politics?*, JAMA, June 11, 2025.
11. *See, e.g.*, Larkin, *supra* note 6, at 527 (“Beginning in the 1960s...[m]ore and more college-age students experimented with marijuana and found it to be just as much an enjoyable intoxicant and social lubricant as alcohol was to their parents’ generation.”) (footnote omitted); Herbert J. Cross & Randall R. Kleinhesselink, *The Impact of the 1960s on Adolescence*, 5 J. EARLY ADOLESCENCE 517 (1985).
12. “Black” describes markets where any cannabis sale is forbidden; “gray,” those markets where cannabis sales are permitted but taxed and regulated, and sales violate those rules.

13. For other benefits that reformers said would follow from legalization, see MARK A.R. KLEIMAN, MARIJUANA: COSTS OF ABUSE, COSTS OF CONTROL 29–30 (1989) (“The illicit marijuana market engenders violence and crime, participates in the corruption of public officials, demoralizes law enforcement and law-abiding citizens, contributes to the revenues of criminal organizations whose activities are not confined to handling marijuana, and complicates our relationships with foreign governments.”); see also, e.g., JOHN HUDAK, MARIJUANA: A SHORT HISTORY 153 (2016); MARK A.R. KLEIMAN ET AL., DRUGS AND DRUG POLICY: WHAT EVERYONE NEEDS TO KNOW 104–16 (2011); Tom James, *The Failed Promise of Legal Pot*, ATLANTIC, May 9, 2016, <https://www.theatlantic.com/politics/archive/2016/05/legal-pot-and-the-black-market/481506/> (“The dream of legal marijuana as it is being sold to the American public is that it will not only give states a chance to reap a tax windfall off of a drug millions of Americans already use; it will end the back-and-forth tussle among cops, users, and dealers, and shift police resources to more serious crimes. Most compellingly, advocates hold out the promise of a major step toward dismantling one of the pillars of racially biased policing—the war on drugs—and finally reeling in a legal net that has long entangled black men at vastly disproportionate rates.”); Jeffrey A. Miron, *The Budgetary Implications of Marijuana Prohibition*, WAYBACK MACHINE (2005), <http://web.archive.org/web/20110718082631/http://www.prohibitioncosts.org/mironreport.html> (“The report estimates that legalizing marijuana would save \$7.7 billion per year in government expenditure on enforcement of prohibition. \$5.3 billion of this savings would accrue to state and local governments, while \$2.4 billion would accrue to the federal government. [¶] The report also estimates that marijuana legalization would yield tax revenue of \$2.4 billion annually if marijuana were taxed like all other goods and \$6.2 billion annually if marijuana were taxed at rates comparable to those on alcohol and tobacco.”).
14. See, e.g., Jens Beckert & Matias Dewey, *The Social Organization of Illegal Markets*, in THE ARCHITECTURE OF ILLEGAL MARKETS: TOWARDS AN ECONOMIC SOCIOLOGY OF ILLEGALITY IN THE ECONOMY 1–34 (Jens Beckert & Matias Dewey eds., 2017); JOHN KAPLAN, THE HARDEST DRUG: HEROIN AND PUBLIC POLICY 45–46 (1985) (“The fact that only those willing to commit illegal acts can traffic in marijuana means that the only question is whether disorganized or organized crime will dominate the trade.”); Donald J. Kochan, *The Regulatabilization of Cannabis*, 49 FORDHAM URB. L.J. 519, 521 (2022) (“If illicit markets are attractive for both suppliers and consumers, they will exist. Substantial economics research demonstrates this fact.”) (footnote omitted).
15. See Paul J. Larkin, *Twenty-First Century Illicit Drugs and Their Discontents: The Failure of Cannabis Legalization to Eliminate an Illicit Market*, HERITAGE FOUND. LEGAL MEMORANDUM No. 326, at 2 (2023) [hereafter Larkin, *Cannabis Potency*] (laying out the reformers’ argument).
16. See, e.g., Steven Malanga, *The New Weed Whackers*, CITY J., Oct. 24, 2022, <https://www.city-journal.org/legalization-no-cure-for-black-market-in-pot> (“Californians who opened their voters’ guides to the state’s 2010 elections could read a pitch from backers of Proposition 19, an initiative designed to legalize the recreational use of marijuana. The argument: that ‘Prohibition [of marijuana] has created a violent criminal market run by international drug cartels.’ The advocates promised that ‘[b]y controlling marijuana, Proposition 19 will help cut off funding to the cartels.’ Though voters failed to approve Prop. 19 that year, advocates returned six years later with a more focused initiative, backed by a similar justification—in sum, that legalization ‘creates a safe, legal system for adult use of marijuana’ in California. This time, voters agreed, and recreational pot use became legal in the state.”); Jeffrey Miron, *How to Kill the Marijuana Black Market*, CATO INST. (Aug. 11, 2017); *Reeferregulatory Challenge*, ECONOMIST, Feb. 16, 2016, <https://www.economist.com/briefing/2016/02/13/reeferregulatory-challenge> (“Legalisers argue that regulated markets protect consumers, save the police money, raise revenues and put criminals out of business as well as extending freedom.”); cf. Christine Minhee & Steve Calandrillo, *The Cure for America’s Opioid Crisis? End the War on Drugs*, 42 HARV. J.L. & PUB. POL’Y 547 (2019). Not everyone bought that argument when it was made. See, e.g., KEVIN A. SABET, REEFER SANITY: SEVEN GREAT MYTHS ABOUT MARIJUANA (2013); Edwin Meese III, *Drugs, Change, and Realism: A Critical Evaluation of Proposed Legalization*, in SEARCHING FOR ALTERNATIVES: DRUG CONTROL POLICY IN THE UNITED STATES 283 (Melvyn B. Krauss & Edward P. Lazear eds., 1991).
17. “We have accumulated years of experience with the effect of those laws, and one result is clear: Cannabis legalization has not eliminated an illicit market for the drug. In some states—California is the leading example—the illicit market is larger than the lawful one and is driving pseudo-legitimate businesses to close because they cannot compete with the illicit market. Moreover, violence has not disappeared in states with legalized cannabis programs. In some instances, that problem has worsened.” Larkin, *Cannabis Potency*, *supra* note 15, at 2–3 (footnote omitted); see also, e.g., Matthew Walsh, *The State of the Marijuana Black Market*, BROWN POL. REV., Jan. 8, 2020, <https://brownpoliticalreview.org/2020/01/the-state-of-the-marijuana-black-market/> (“Legalization advocates relied on a few key assumptions to make their case: First, that cannabis consumers would almost always prefer legal, state-sanctioned weed over the illegal stuff. The second was that entrepreneurs, seeing a fruitful business opportunity, would rush into the marijuana market and crowd out illegal competitors. [¶] Neither presumption has turned out to be true.”).
18. Paul Demko, Report: 75 Percent of U.S. Cannabis Market Is Illicit Sales, POLITICO PRO, Dec. 6, 2022, <https://subscriber.politicopro.com/article/2022/12/report-75-percent-of-u-s-cannabis-market-is-illicit-sales-00072206> (last accessed Aug. 1, 2025) (“The U.S. cannabis market topped \$100 billion in 2021, but roughly 75 percent of that demand was met by illegal sales, according to a new report by Whitney Economics.”); Natalie Fertig, *The Growing Chinese Investment in Illegal American Weed*, POLITICO, Mar. 21, 2023.
19. *Gonzales v. Raich*, 545 U.S. 1, 18–19 (2005).
20. See, e.g., James, *supra* note 13 (“It’s the middle of August, two years and eight months after voters in Washington passed an initiative to permit both the possession and sale of recreational marijuana—making the state the second in the nation to do so. In large part, the law was aimed at eliminating the black market for marijuana and redirecting those sales from parking lots and living rooms into stores, where the state could monitor and tax the transactions. Yet, although legal marijuana has generated real declines in arrests, the presence of Terry and the young men on the corner points to a hitch not just in the nuts and bolts of marijuana sales but in one of legalization’s most touted goals.”).
21. James, *supra* note 13.

22. See, e.g., Michael R. Blood & Amy Taxin, *There Are Many Illegal Marijuana Farms, But Federal Agents Targeted California's Biggest Legal One*, AP, July 22, 2025, <https://apnews.com/article/marijuana-farm-ice-raid-california-trump-immigration-b47161266719a9e22ce44a5bd6ff29c1> (last accessed Aug. 6, 2025) (“Many legal operators have struggled despite the passage of Proposition 64 in 2016—which was seen as a watershed moment in the push to legitimize and tax California’s multibillion-dollar marijuana industry. In 2018, when retail outlets could open, California became the world’s largest legal marketplace. [¶] But operators faced heavy taxes, seven-figure start-up costs and for many consumers, the tax-free illegal market remained a better deal.”); James, *supra* note 13 (“Why is a black market that was supposed to be vanquished still thriving? In short: economics.... [W]hat is keeping people in Colorado’s black market is price, with a dose of convenience thrown in, says Mark Vasquez, a former narcotics detective and now the chief of police in Erie, Colorado. Vasquez heads the Colorado Association of Police Chiefs’ marijuana working group and has traveled nationally to educate other departments about Colorado’s experience with its new legal system. ‘The black market,’ he says, ‘is alive and well and will continue to thrive in Colorado....’ There are a few basic reasons for this. First, the medical market, Vasquez says, can sell marijuana more cheaply than the state-licensed and -regulated stores because medical dispensaries don’t have to charge most of the combined 27.9 percent tax on the drug. This increases the resale of medical marijuana on the street. Second, there are the plants that are grown for personal use, which are allowed under the law. Vasquez says the result is a steady supply of marijuana not only for street dealers but also for Craigslist sales, which have become so ubiquitous that some city departments don’t have the resources to crack down on them.... With various illegal sources flourishing, Vasquez says, the challenge for regulators ‘is trying to find the sweet spot, where the taxes are low enough that there’s an incentive for people to go to the regulated stores.’ Francisco Gallardo, a community leader in Denver, summarizes the situation more succinctly: ‘If it’s ridiculously expensive and they can get it from their homie cheaper, that’s what they’re going to do.’”); Press Release, *Whitney Economics Reduces Its U.S. Cannabis Retail Forecast by \$21.1 Billion from 2025–2030*, WHITNEY ECONOMICS, Apr. 9, 2025, [https://whitneyeconomics.com/press-detail/whitney-economics-reduces-its-u.s.-cannabis-retail-forecast-by-\\$21.1-billion-from-2025-2030/](https://whitneyeconomics.com/press-detail/whitney-economics-reduces-its-u.s.-cannabis-retail-forecast-by-$21.1-billion-from-2025-2030/) (last accessed Aug. 1, 2025) (“One of the reasons cannabis consumers are so price sensitive is that there are substitute products available, such as hemp-derived products. Given a choice of illicit suppliers, hemp suppliers and suppliers in other states, the consumer now has more options available to procure cannabis products outside of the traditional channels.”).
23. James, *supra* note 13.
24. See, e.g., U.S. FOREST SERVICE, U.S. DEP’T OF AGRIC., *Illegal Cannabis Grow Sites*, Mar. 30, 2025, <https://www.fs.usda.gov/r05/natural-resources/water-air-soil/illegal-cannabis-grow-sites> (last accessed Aug. 6, 2025) (“Illegal cannabis cultivation is an escalating problem in California’s national forests. [¶] Cannabis (or marijuana) use is legal in 38 states, 24 of which allow ‘legal recreational’ use, including California, and nearly all have cannabis cultivation activity on National Forest System lands. For instance, California has the largest legal cannabis market in the world, with more than \$5 billion in sales in 2021.”); NAT’L DRUG INTELLIGENCE CNTR., *Marijuana and Methamphetamine Trafficking on Federal Lands Threat Assessment* No. 2005-Q0317-007 (Feb. 2005), <https://www.justice.gov/archive/ndic/pubs10/10402/10402p.pdf> (“Much of the outdoor cannabis cultivation in the United States occurs in remote areas on federal lands. A considerable number of cannabis plants are eradicated each year on NFS [National Forest System] lands and, to a lesser extent, DOI [Department of the Interior] lands. The number of cannabis plants eradicated on NFS lands increased from 2002 (597,797) to 2003 (729,481) and far surpassed eradication on DOI lands in both 2002 (168,645) and 2003 (263,356). [¶] Law enforcement reporting indicates that cannabis cultivation sites have been discovered on NFS and DOI lands throughout the United States.”).
25. See, e.g., ROBIN GOLDSTEIN & DAVID SUMNER, *CAN LEGAL WEED WIN? THE BLUNT REALITIES OF CANNABIS ECONOMICS* xi (2022) (“[W]eed retail prices that have little to do with the cost of farming, heavy-duty weed investments in crisis, and laws dreamt up by activists and tech elites [wound] up *illegalizing* more weed businesses than they legalized.”) (emphasis in original); *id.* at 128 (“What is very clear is that Proposition 64 [which legalized recreational-use cannabis] did little to shift much weed from illegal to legal. In many specific cases it did the opposite.”); Paige St. John, *The Reality of Legal Weed in California: Huge Illegal Grows, Violence, Worker Exploitation and Deaths*, L.A. TIMES, Sept. 8, 2022, <https://www.latimes.com/california/story/2022-09-08/reality-of-legal-weed-in-california-illegal-grows-deaths> (“*The Times*’ analysis of satellite images shows that unlicensed operations in many of California’s biggest cultivation areas, such as parts of Trinity and Mendocino counties, outnumbered licensed farms by as much as 10 to 1.”); Walsh, *supra* note 17 (“From California, where there are more than three times as many illicit cannabis dispensaries than licit ones, to Oregon, where the State Police Sergeant laments a growing problem with illegal marijuana, the black market for weed has persisted in states that have legalized the drug. Advocates of legalization have painted a rosy picture of a flourishing legal market while the illicit market withered—a picture far from reality in 2019.”). See generally Larkin, *supra* note 15. The United States is not the only nation with a black market for legalized cannabis. Canada legalized cannabis in 2018, but the Canadian government reported that there is a black market still operating there. See, e.g., LEGISLATIVE REVIEW OF THE CANNABIS ACT: FINAL REPORT OF THE EXPERT PANEL 60 & 62 (Prepared by Morris Rosenberg et al., Mar. 2024) (“[W]e are concerned...with the criminal activity that persists. Of particular concern are the activities related to organized crime and criminal networks (which often include trafficking in other substances and firearms, the use of firearms and the use of cannabis products to finance other serious criminal activities), the diversion of cannabis by certain persons registered with Health Canada to produce cannabis for medical purposes as a source of illicit supply, the proliferation of unauthorized retail stores on First Nations reserves (that is, shops operated without community approval, or a provincial or territorial authorization) and the relative ease with which unauthorized online sellers operate.... Law enforcement highlighted the ongoing involvement of organized crime in the production and supply of illicit cannabis. They noted investigations had established links between organized crime providers and online sellers. Illicit supply may end up being distributed and sold in different places (for example, the export market). We heard concerns about the illicit market supplying products to unauthorized stores on First Nations reserves (that is, shops operated without approval from the community, or a provincial or territorial authorization) and to unauthorized retail stores that are re-emerging in major cities and to illicit online sellers.”); PUBLIC SAFETY CANADA, GOV’T OF CANADA, CANNABIS BLACK MARKET (June 15, 2020) (“The government is committed to maintaining the integrity of the legal cannabis market by displacing the black market.... One of the main goals of the legalization of cannabis was to reduce criminal activity by keeping profits out of the pockets of criminals.... One year after legalization, 52% of Canadians obtain (at least some of) their cannabis from a legal source (compared to 22% prior to legalization). However,

it seems that Canadians are still obtaining their cannabis from the black market. In the third quarter of 2019, results from the National Cannabis Survey show that 42% of Canadians had purchased cannabis from an illegal source. Some provinces are experiencing more challenges displacing illegal sales. For example, in British Columbia, less than 40% of cannabis users report obtaining cannabis from the legal market. Consumers are turning to the black market for a variety of reasons, including but not limited to: higher prices, limited selection, and a scarcity of licensed stores in their area. According to Statistics Canada a gram of legal cannabis costs 55 per cent more than illicit cannabis (\$10.30/gram vs. \$5.73/gram).... The Criminal Intelligence Service of Canada (CISC) monitors the involvement of organized crime in the Canadian criminal marketplace. In their latest report published in April 2019, CISC reported that of the assessed OCGs [Organized Crime Groups] involved in the black market of cannabis, almost all of these groups were also involved in at least one other illicit drug market and were unlikely to be disrupted by legalization, given their alternate streams of revenue. CISC reported that although the new cannabis legislation makes it harder for OCGs to infiltrate the legal regime, these groups are finding new ways and adapting to changes in the market.”; see also, e.g., Bryan Passifiume, *Illegal Cannabis Market Still Flourishing Despite Years of Licenced Competition: Report*, NAT’L POST, Feb. 12, 2024, <https://nationalpost.com/news/illegal-cannabis-market-flourishing-in-canada> (last accessed Aug. 6, 2025).

26. See JOHN GELUARDI, CANNABIZ: THE EXPLOSIVE RISE OF THE MEDICAL MARIJUANA INDUSTRY 5 (2010) (noting belief in that development but finding it unlikely to occur).
27. *Id.* at 4–5.
28. Paul J. Larkin, Jr., *Cannabis Capitalism*, 69 BUFF. L. REV. 101, 122 (2021).
29. *Id.* at 122–24.
30. DRUG ENF’T ADMIN, U.S. DEP’T OF JUST., *2025 National Drug Threat Assessment*, DEA-DCT-DIR-007-25, at 51 (May 2025) [hereafter 2025 DEA Threat Assessment].
31. *Id.* at 49.
32. *Id.*
33. See, e.g., 2025 DEA Threat Assessment, *supra* note 30, at 49; U.S. DEP’T OF JUST., Press Release, *Seven Chinese Nationals Charged for Alleged Roles in Multi-Million-Dollar Money Laundering, Alien Smuggling and Drug Trafficking Enterprise*, July 8, 2025, [hereafter DOJ, *Seven Chinese Nationals Charged*], <https://www.justice.gov/usao-ma/pr/seven-chinese-nationals-charged-alleged-roles-multi-million-dollar-money-laundering> (“Seven Chinese nationals were charged today in connection with a multi-million-dollar conspiracy to cultivate and distribute marijuana across the Northeast that used interconnected grow houses concealed inside single-family properties in Massachusetts and Maine. It is alleged that Chinese nationals were smuggled into the United States to work in these grow houses without access to their passports until they repaid their smuggling debts.... Data extracted from Chen’s [Jianxiong Chen, the accused ringleader of this organization] cell phone allegedly revealed that he helped smuggle Chinese nationals into the United States—putting the aliens to work at one of the grow houses he controlled while keeping possession of their passports until they repaid him for the cost associated with smuggling them into the country.”); Emily Feng, *Marijuana Farms Are Increasingly Chinese-Run. Why?*, NPR, Mar. 13, 2024, <https://www.npr.org/2024/03/23/1240510436/marijuana-farms-are-increasingly-chinese-run-why> (last accessed Aug. 1, 2025) (“37,000 Chinese people...crossed into the country this way last year alone [i.e., 2023]. U.S. border authorities say this number is more than the past 10 years combined.”); Qi, *supra* note 1 (“Many Chinese networks have enough equipment for several large residential operations.... They find the house that they want, equip it to grow marijuana a year or longer before the police crack down, then fix the property up and sell it at a profit.... A residential black-market growing operation can be set up for as many as six harvests a year, bringing in an annual profit of several million dollars depending on the size, said [Lieutenant Raymond] Framstad, who oversees the marijuana enforcement team at the sheriff’s office.”); Sebastian Rotella et al., *A Diplomat’s Visits to Oklahoma Highlight Contacts Between Chinese Officials and Community Leaders Accused of Crimes*, PROPUBLICA, Mar. 22, 2024, <https://www.propublica.org/article/oklahoma-marijuana-china-diplomat-visits>.
34. See, e.g., Fertig, *supra* note 18 (“In California, the Department of Cannabis Control says Chinese triads have been nominally involved in illegal cannabis production for decades, but that there’s been a recent increase in the number of actors and money that may have originated in China. The DCC also said that some—but not all—of the Chinese-funded grows they’ve encountered are operated by Chinese triads. ‘This notion that you now have Chinese actual funding for illicit cannabis, it’s definitely new, and it cuts directly across the interests of Mexican drug trafficking groups,’ said [Vanda] Felbab-Brown. ‘It’s interesting to see whether it continues growing, [and] how that’s going to affect relations between the Mexicans and the Chinese [criminal groups].’”); *id.* (“A few days before Christmas, a joint law enforcement task force found nearly 9,000 pounds of cannabis worth almost \$15 million during a raid in a suburban neighborhood in Antioch, Calif.... The California Department of Cannabis Control believes that the four houses searched in the bedroom community 45 minutes outside San Francisco were linked to China.”); Qi, *supra* note 1 (“In California, Chinese networks have seized on the highly lucrative black market in marijuana growing, said Lt. Raymond Framstad of the Merced County Sheriff’s Office, who has investigated more than 20 cases involving unlicensed Chinese-run operations.”).
35. See, e.g., Qi, *supra* note 1 (“State and local officials identified the Carmel [Maine] property as one of many unlicensed marijuana-growing operations throughout Maine that are run by Chinese networks. According to court documents, one of the defendants in the case told police that from Exit 130 to Exit 244 on I-95, a stretch of more than 100 miles, ‘all the Chinese people are growing marijuana.’”); Windham Hollis, *Chinese Nationals Indicted on Drug and Other Charges Had Medical Weed Licenses in Maine*, SUN JOURNAL, July 15, 2025, <https://www.sunjournal.com/2025/07/14/chinese-nationals-had-active-licenses-in-maine-before-indictment-for-illegal-grow-houses/> (“Two men indicted by the Department of Justice last week are alleged to have operated numerous illegal ‘grow houses’ while also being licensed to grow medical marijuana in Maine.”).
36. See, e.g., DOJ, *Seven Chinese Nationals Charged*, *supra* note 33.

37. See, e.g., Fertig, *supra* note 18 (“Law enforcement in southern Oregon in 2021 reported as many as 20 different nationalities linked to illegal grows. But the increasing amount of Chinese funding—and what lawmakers and some experts say is the potential influence of the Chinese Communist Party—has caught the attention of legislators and law enforcement alike.”).
38. See, e.g., Emily Feng et al., *The Connection Between Chinese Money and Labor and U.S.-Grown Marijuana*, NPR, Apr. 5, 2024, <https://www.npr.org/2024/04/05/1196980152/the-connection-between-chinese-money-and-labor-and-u-s-grown-marijuana> (podcast).
39. See, e.g., Feng, *supra* note 33 (“FENG: This is Lynn Sanchez, a director at the New Mexico social services nonprofit The Life Link. She was called into the farm after the raid took place. SANCHEZ: They had burns, visible burns on their hands and arms. So they were very scared, very freaked out. They looked very malnourished. FENG: The workers say they were trafficked to these farms, prevented from leaving and never paid. They’re part of a new pipeline of vulnerable Chinese migrants trying to escape China and who are now streaming into the U.S., and they’re ending up at least hundreds of Chinese-run marijuana farms that have popped up nationwide from California to Maine.”); Fertig, *supra* note 18 (“Chinese investors, owners and workers have emerged in recent years as a new source of funding and labor for illegal marijuana production. What is known—from interviews with state law enforcement officials, experts on the international drug trade, economists and lawmakers—is that the number of farms funded by sources traceable back to Chinese investors or owners has skyrocketed. Chinese owners and workers have become a larger presence at illegal grows in Oklahoma, California and Oregon, they say.... Of the more than 800 farms the OBN [Oklahoma Bureau of Narcotics] has shut down in the last two years for operating illegally, [OBN spokesman Mark] Woodward said roughly 75 percent are linked to China.”); Kevin Sabet, *Easing Cannabis Restrictions Would Set Back the “Golden Age”...and Boost China*, N.Y. Post, July 10, 2025, <https://www.nypost.com/2025/07/10/opinion/easing-weed-rules-will-harm-golden-age-and-boost-china/> (“Marijuana is looking like another big-time business unit for Beijing. [¶] But it gets worse: China’s communist government appears to have significant links with these criminal weed enterprises. [¶] Two Chinese nationals charged with running an illegal grow operation in Maine in 2023 had deep links to the Sijiu Association, a Brooklyn-based nonprofit reportedly connected to China’s New York consulate and to the United Front Work Department—the branch of the CCP’s Central Committee that handles influence operations abroad. [¶] Another report in 2024 tracked the connections of Zhu Di, one of China’s top US diplomats, to an Oklahoma cultural association that Sooner State authorities investigated for its links to the illicit weed business. [¶] It’s beyond clear that Beijing smells the skunky funk of a tactical play against the United States rising from the red-hot marijuana trade.”).
40. See Gross, *supra* note 1 (“When states started legalizing marijuana, one of the hopes was that it would cut down on crime because people could buy it legally from licensed sellers. But in some states, including Oklahoma, legalization inadvertently helped organized crime, especially the Chinese mafia, exploit new opportunities. Chinese organized crime has come to dominate much of the illicit marijuana trade in the nation, from California to Maine[.]”).
41. That fact made Oklahoma attractive as growers moved eastward when law enforcement began to crack down on illegal growing operations in California. Gross, *supra* note 1 (“You have remarkable scenes of private planes flying from rural airstrips in California to Oklahoma with couriers carrying suitcases full of cash to go out and buy farms in Oklahoma, where land is cheap, and setting up new operations in the new hotspot where they can make even more money because there’s really no limits on how big these farms are and how much marijuana they can grow.... GROSS: ... [W]hy Oklahoma? You mentioned that land is cheap there. Is that the main reason why Oklahoma has become such a big state for the illicit growth of marijuana? [¶] ROTELLA: It’s partly because the land is cheap. It’s also because that medical marijuana law they passed made it particularly easy just to move in, set up and grow. In other states, there are limits on how much you can grow. In Oklahoma, there are basically no limits. So you have these huge operations and thousands of farms growing marijuana and, you know, law enforcement kind of overwhelmed and trying to keep up with it and prevent what is kind of wholesale trafficking to other states.”). As a result, Oklahoma became a major source for cannabis that could not be grown in other states, which might have added further to the PRC’s coffers. *Id.* (“ROTELLA: What has happened is there have just been a great deal of—an overwhelming number of farms—at one point, there were 10,000 growing operations in Oklahoma—and systematic abuse and violation of those laws, particularly criminal groups paying, illegally, Oklahoma residents to be straw owners and farms that are producing far more marijuana than could be consumed in Oklahoma for medical purposes. And most of that marijuana is going around the country, particularly the East Coast, to be sold illegally. [¶] GROSS: So organized crime gets people to front for them and get a license, and then organized crime can move in and grow. And it looks legal. [¶] ROTELLA: And it has the facade of legality. And what’s happening is then taking advantage of the fact that you can get a lot more money, say, if you’re selling the dope in New York or on the East Coast. There’s smuggling of, you know, truckloads of marijuana and huge profits—you know, billions of dollars being made in this marijuana that’s grown in Oklahoma and being trafficked and sold elsewhere.”).
42. Fertig, *supra* note 18.
43. See, e.g., Qi, *supra* note 1 (“Oklahoma has shut down nearly 1,000 marijuana farms since late 2020, with about 80% to 90% of them linked to Chinese organized crime rings, said Mark Woodward, a spokesman for the Oklahoma Bureau of Narcotics. ‘It’s an open all-cash business that requires large land purchases,’ he said.”); Sebastian Rotella & Kirsten Berg, *How a Chinese American Gangster Transformed Money Laundering for Drug Cartels*, PROPUBLICA, Oct. 11, 2022, <https://www.propublica.org/article/china-cartels-xizhi-li-money-laundering> (last accessed Aug. 3, 2025) (“There is no question there is interconnectivity between Chinese organized crime and the Chinese state, said [former senior FBI Official Frank] Montoya[, Jr.]. ‘The party operates in organized crime-type fashion. There are parallels to Russia, where organized crime has been co-opted by the Russian government and Putin’s security services.’”); Rotella et al., *supra* note 33 (“‘These diaspora associations are tools of the Chinese state,’ said Donald Im, a former senior official at the Drug Enforcement Administration. ‘The presence of criminal elements in the leadership suggests an alliance, directly or indirectly, between the Chinese state and organized crime.’”); Nicole Sganga et al., *Black Market Marijuana Tied to Chinese Criminal Networks Infiltrates Maine*,

CBS News, Apr. 26, 2024, <https://www.cbsnews.com/news/black-market-marijuana-tied-to-chinese-criminal-networks-infiltrates-maine/> (“‘Chinese organized criminal networks that are international by nature are behind some of the biggest black market marijuana trafficking organizations that we’ve seen to date,’ [former DEA Chief of Operations Raymond] Donovan said. In February, 50 U.S. lawmakers wrote to Attorney General Merrick Garland demanding answers about China’s role in illicit marijuana nationwide. ‘We are deeply concerned with reports from across the country regarding Chinese nationals and organized crime cultivating marijuana on United States farmland,’ the bipartisan group wrote.”).

44. “The doctrine of willful blindness is well established in criminal law. Many criminal statutes require proof that a defendant acted knowingly or willfully, and courts applying the doctrine of willful blindness hold that defendants cannot escape the reach of these statutes by deliberately shielding themselves from clear evidence of critical facts that are strongly suggested by the circumstances. The traditional rationale for this doctrine is that defendants who behave in this manner are just as culpable as those who have actual knowledge. Edwards, *The Criminal Degrees of Knowledge*, 17 Mod. L. Rev. 294, 302 (1954) (hereinafter Edwards) (observing on the basis of English authorities that ‘up to the present day, no real doubt has been cast on the proposition that [willful blindness] is as culpable as actual knowledge’). It is also said that persons who know enough to blind themselves to direct proof of critical facts in effect have actual knowledge of those facts. See *United States v. Jewell*, 532 F.2d 697, 700 (C.A.9 1976) (en banc).... While the Courts of Appeals articulate the doctrine of willful blindness in slightly different ways, all appear to agree on two basic requirements: (1) The defendant must subjectively believe that there is a high probability that a fact exists and (2) the defendant must take deliberate actions to avoid learning of that fact. We think these requirements give willful blindness an appropriately limited scope that surpasses recklessness and negligence. Under this formulation, a willfully blind defendant is one who takes deliberate actions to avoid confirming a high probability of wrongdoing and who can almost be said to have actually known the critical facts. See G. Williams, *Criminal Law* § 57, p. 159 (2d ed. 1961) (‘A court can properly find willful blindness only where it can almost be said that the defendant actually knew’).” *Global-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 766–70 (2011) (footnote omitted).
45. Rotella et al., *supra* note 33; see also Drazen Jorgic, *Special Report: Burner Phones and Banking Apps—Meet the Chinese “Brokers” Laundering Mexican Drug Money*, REUTERS, Dec. 3, 2020, <https://www.reuters.com/article/mexico-china-cartels-idLTAL8N2I34RV/> (last accessed Aug. 4, 2025) (“U.S. law enforcement officials told Reuters that Chinese ‘money brokers’ such as Gan [Xianbing] represent one of the most worrisome new threats in their war on drugs. They say small cells of Chinese criminals have upended the way narcotics cash is laundered and are displacing the Mexican and Colombian money men that have long dominated the trade. [¶] Virtually unheard of a decade ago, these Chinese players are moving vast sums quickly and quietly, authorities said. Their expertise: routing cartel drug profits from the United States to China then on to Mexico with a few clicks of a burner phone and Chinese banking apps—and without the bulky cash ever crossing borders. The launderers pay small Chinese-owned businesses in the United States and Mexico to help them move the funds. Most contact with the banking system happens in China, a veritable black hole for U.S. and Mexican authorities.”); Rotella & Berg, *supra* note 43 (“As they investigated Li’s [i.e., “a Chinese American gangster named Xizhi Li”] tangled financial dealings, U.S. agents came across evidence indicating that his money laundering schemes involved Chinese government officials and the Communist Party elite. China’s omnipresent security forces tightly control and monitor its state-run economy. Yet Li and others moved tens of millions of dollars among Chinese banks and companies with seeming impunity, according to court documents and national security officials. The criminal rings exploited a landscape in which more than \$3.8 trillion of capital has left China since 2006, making the country the world’s top ‘exporter of hot money,’ said John Cassara, a former U.S. Treasury Department investigator, in testimony to a Canadian commission of inquiry.”).
46. Rotella et al., *supra* note 33; *id.* (“Freedom House, a human rights organization, summed up China’s global reach in a report in 2021, describing a ‘framework of influence that encompasses cultural associations, diaspora groups, and in some cases, organized crime networks.’ [¶] The activities of the 14K triad, one of the Chinese criminal groups that are the dominant money launderers for Latin American drug lords and the Chinese Communist Party elite, highlight another suspected connection to the Chinese state, current and former law enforcement officials say. [¶] The 14K has expanded its portfolio to play a command role over marijuana trafficking networks in Oklahoma and other states....”).
47. Fertig, *supra* note 18.
48. *Id.* Evidence that the PRC government is aware of and might be complicit in money laundering was found on encrypted cell phones seized in a DEA investigation. See Rotella & Berg, *supra* note 43 (“Looking at Chen’s smartphones, the agents were able for the first time to read the suspects’ most sensitive conversations on WeChat, an application for messaging and commerce. WeChat is ubiquitous in China and the Chinese diaspora and impenetrable to U.S. law enforcement. Because it uses a form of partial encryption allowing the company access to content, WeChat is closely monitored by the Chinese state, according to U.S. national security veterans. [¶] U.S. officials view the brazen use of WeChat for money laundering as another suggestive piece of evidence that authorities in Beijing know what is going on. [¶] ‘It is all happening on WeChat,’ Cindric said. ‘The Chinese government is clearly aware of it. The launderers are not concealing themselves on WeChat.’”).
49. “After a mass murder at a marijuana farm, a Chinese diplomat visited an organization that has been the subject of investigations. The meetings reflect an international pattern of contacts between Chinese officials and suspected criminal networks. [¶] ...During two trips to Oklahoma, Consul General Zhu Di of the Chinese embassy visited a cultural association that has been a target of investigations into Chinese mafias that dominate the state’s billion-dollar marijuana industry. And the community leaders posing with him in the photos? A number of them have pleaded guilty or been prosecuted or investigated for drug-related crimes, according to court documents, public records, photos and social media posts. [¶] ‘He’s meeting with known criminals,’ said Donnie Anderson, the director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, in an interview. [¶] There is no indication of wrongdoing by the consul general, who is one of China’s top diplomats in the United States. Still, the encounters in Oklahoma reflect a pattern of contacts around the world between China’s authoritarian government and diaspora leaders linked to criminal activity—a subject of increasing concern among Western national security officials, human rights groups and Chinese dissidents.” Rotella et al., *supra* note 33.

50. See Paul J. Larkin, *Twenty-First Century Illicit Drugs and Their Discontents: The Scourge of Illicit Fentanyl*, HERITAGE FOUND. LEGAL MEMORANDUM No. 313, at 6–8 (2023) [hereafter Larkin, *Fentanyl*] (“China was not a traditional source of the narcotics that have been smuggled into the United States, such as heroin. Nonetheless, beginning in approximately 2013, China became the principal direct source of the processed illicit fentanyl that arrived in America.... Initially, Chinese companies would synthesize fentanyl and traffic the completed product into the United States (or send it to Mexico for one of the cartels to take fentanyl the last mile) by the U.S. Postal Service, private express carriers, passenger boats, commercial freighters, trains, and drones.... In 2019, however, after engagements at multiple levels, including a meeting between President Donald Trump and President Xi Jinping, China changed its fentanyl regulatory scheme. The Chinese government included all fentanyl analogues within its schedule of controlled substances and banned their export without a special government-issued license. The result was to shift the nature of China’s involvement in fentanyl trafficking. Rather than send processed fentanyl directly to the United States by mail or by express carriers, China began to send fentanyl’s precursor chemicals to Mexico, where they have been processed into the final product and smuggled across the border.”) (footnotes omitted); see also, e.g., Andres Martinez-Fernandez & Andrew Harding, *Holding China and Mexico Accountable for America’s Fentanyl Crisis*, HERITAGE FOUND. BACKGROUNDER No. 3851 (2024).
51. See *supra* note 44.
52. See, e.g., Letter from U.S. Senator Jodi Ernst and 49 Other Members of Congress to U.S. Att’y Gen’l Merrick Garland Regarding Chinese Nationals and Organized Crime Cultivation of Cannabis in the United States (Feb. 2, 2024), https://www.ernst.senate.gov/imo/media/doc/ernst_works_to_shut_down_ccp-linked_marijuana_farms.pdf (last visited Aug. 2, 2025); Kyle Jaeger, *Congressional Committee Pushes to “Eliminate” Illegal Marijuana Grows and Tackle Money Laundering by Chinese-Linked Cannabis Operations*, Marijuana Moment, July 25, 2025, <https://www.marijuanamoment.net/congressional-committee-pushes-to-eliminate-illegal-marijuana-grows-and-tackle-money-laundering-by-chinese-linked-cannabis-operations/> (“Another report—which is being attached to appropriations legislation covering Commerce, Justice, Science, and Related Agencies (CJS)—focuses on combating money laundering by cannabis businesses associated with the Chinese Community [*sic*] Party (CCP).... Here’s the text [of the report]: ‘CCP Money Laundering.—The Committee directs the Department to utilize funds directed to anti-money laundering programs to investigate potential money laundering schemes involving CCP-connected marijuana businesses and entities providing financial services to these businesses. The Department is further directed to provide a report on its activities within 120 days of enactment.’”).
53. Unless the user then gets behind the wheel of a car. Then the user *does* expose himself, his passengers, other motorists, and pedestrians to that risk. See, e.g., *Drug-Impaired Driving*, NAT’L HIGHWAY TRAFFIC SAFETY ADMIN., <https://www.nhtsa.gov/risky-driving/drug-impaired-driving> (last visited Aug. 2, 2025) (“You can’t drive safely if you’re impaired. That’s why it’s illegal everywhere in America to drive under the influence of alcohol, marijuana, opioids, methamphetamines, or any potentially impairing drug—prescribed or over the counter.”); EUROPEAN MONITORING CNTR. FOR DRUGS AND DRUG ADDICTION, *DRUG USE, IMPAIRED DRIVING, AND TRAFFIC ACCIDENTS* 33–41 (2d ed. 2014); Robert L. DuPont et al., in *CONTEMPORARY HEALTH ISSUES ON MARIJUANA* 183, 186 (Kevin A. Sabet & Ken. C. Winters eds., 2018) (“Today there is a wealth of evidence that marijuana is an impairing substance that affects skills necessary for safe driving.”); Paul J. Larkin, *Driving While Stoned in Virginia*, 59 AM. CRIM. L. REV. ONLINE 1 (2022). Moreover, heavy or long-term cannabis use poses numerous physical and psychological risks. See, e.g., Paul J. Larkin, *Twenty-First Century Illicit Drugs and Their Discontents: The Potential Risks that Cannabis Use by Pregnant and Nursing Women Poses to Their Children*, HERITAGE FOUND. LEGAL MEMORANDUM No. 319 (Dec. 8, 2022), <https://www.heritage.org/sites/default/files/2023-04/LM319.pdf>; Larkin, *supra* note 15.
54. “The totality of Chinese-owned real estate in the United States remains unknown and, under current law, is unknowable. For agricultural land, Chinese-owned acreage reportedly only constitutes a small share of the United States’ total, but has increased rapidly in recent years, suggesting a growing threat that would best be managed now before it turns into a significant problem.” Bryan Burack, *China’s Land Grab: The Sale of U.S. Real Estate to Foreign Adversaries Threatens National Security*, HERITAGE FOUND. BACKGROUNDER No. 3825, at 1 (2024).
55. See, e.g., Patrick Thomas, *Trump Administration Seeks to Ban China from Buying U.S. Farms*, WALL ST. J., July 8, 2025, https://www.wsj.com/business/trump-administration-seeks-to-ban-china-from-buying-u-s-farms-5e2aa349?mod=Searchresults_pos3&page=1; *id.* (“Agriculture Secretary Brooke Rollins said Tuesday the administration will work with state lawmakers to ban sales of U.S. farmland to buyers from China and other countries of concern, citing national-security interests. [¶] Rollins, joined by Defense Secretary Pete Hegseth and Homeland Security Secretary Kristi Noem, said the government is ratcheting up scrutiny on existing land owned by Chinese buyers and is looking at ways to potentially claw back past purchases. [¶] ‘We’ll never let foreign adversaries control our land,’ said Rollins.”).
56. *Id.*
57. Halt All Lethal Trafficking of Fentanyl Act (Halt Fentanyl Act), 119th Cong. (2025); White House, President Trump Signs HALT Fentanyl Act into Law, July 16, 2025, <https://www.whitehouse.gov/articles/2025/07/president-trump-signs-halt-fentanyl-act-into-law/> (permanently reclassifying “fentanyl-related substances” into CSA Schedule I, among other things).
58. Fentanyl Eradication and Narcotics Deterrence Off (FEND Off) Fentanyl Act, H.R. No. 815, 118th Cong. (2025) (authorizing the President to use his powers under the International Emergency Economic Powers Act, 50 U.S.C. § 1701 *et seq.* (West 2025), to “block and prohibit all transactions in property and interests in property of ‘any foreign person’ who is ‘(1) knowingly involved in the significant trafficking of fentanyl, fentanyl precursors, or other related opioids, including such trafficking by a transnational criminal organization; or (2) otherwise is knowingly involved in significant activities of a transnational criminal organization relating to the trafficking of fentanyl, fentanyl precursors, or other related opioids.’”); see U.S. DEP’T OF THE TREASURY, Press Release, *Treasury Issues Historic Orders Under Powerful New Authority to Counter Fentanyl*, June 25, 2025, <https://www.southcom.mil/Media/Special-Coverage/SOUTHCOMs-2021-Posture-Statement-to-Congress/> (last accessed Aug. 2, 2025) (initial Treasury Department order issued pursuant to the FEND Off Fentanyl Act identifying “three Mexico-based financial institutions...as being of primary money laundering concern in connection with illicit opioid trafficking” and prohibiting “certain transmittals of funds”); FINANCIAL CRIMES ENF’T NETWORK, U.S. DEP’T OF THE

TREASURY, *Frequently Asked Questions* 1–2, Aug. 1, 2025, <https://www.fincen.gov/sites/default/files/shared/Final-FAQs.pdf> (last accessed Aug. 2, 2025) (explaining that the FEND Off Fentanyl Act empowers the Treasury Secretary (1) to find that “‘reasonable grounds exist for concluding’ that any of the following is of primary money laundering concern in connection with illicit opioid trafficking: (i) One or more financial institutions operating outside of the United States; (ii) One or more classes of transactions within, or involving, a jurisdiction outside of the United States; or (iii) One or more types of accounts within, or involving, a jurisdiction outside of the United States,” and, if so, (2) to order those financial institutions to take “special measures... to defend the United States financial system from money laundering risks connected to illicit opioid trafficking.”).

59. For an explanation of why illicit fentanyl trafficking deserves that moniker, see Larkin, *supra* note 50.
60. Real estate purchases by non-Americans appear often to be accomplished using cash, perhaps because federal law does not require cash real estate purchases to be reported to the government. See Rotella & Berg, *supra* note 43 (“‘Almost 60% of purchases by international clients are made in cash,’ Cassara said, citing a report by the National Association of Realtors. ‘Chinese buyers have been the top foreign buyers in the United States both in units and dollar volume of residential housing for six years straight.... In the United States, there is little if any customer due diligence by real estate agents.’”).
61. See James J. Carafano et al., *Winning the New Cold War: A Plan for Countering China*, HERITAGE FOUND. BACKGROUNDER No. 270, at 37–38 (2023) (“Undisclosed and unregulated land investments in U.S. agricultural assets and acquisition of land by Chinese individuals, state-owned enterprises, or affiliated entities can present a national security risk. The greatest concerns relate to the purchase of lands in sensitive areas, particularly near U.S. military installations and critical infrastructure. Since 2017, U.S. officials have ‘investigated Chinese land purchases near critical infrastructure...and stonewalled what they saw as clear efforts to plant listening devices near sensitive military and government facilities.’... Chinese land investments in the United States grew from roughly 14,000 acres in 2010 to 194,000 acres in 2020—more than a tenfold increase. If joint ventures are included, the total exceeds 335,000 acres.”) (footnotes omitted); see also, e.g., Burack, *supra* note 54, at 5 (“Chinese government entities have made numerous well-documented attempts to gain access to strategic locations in the United States. During the Obama Administration, the FBI had to step in to stop China’s ‘donation’ of a pagoda to the National Arboretum, one of the highest points in Washington, DC, which China planned to equip with signals collection equipment shipped in diplomatic package.”) (footnote omitted).
62. Burack, *supra* note 54, at 6.
63. Fertig, *supra* note 18; *id.* (“A few days before Christmas, a joint law enforcement task force found nearly 9,000 pounds of cannabis worth almost \$15 million during a raid in a suburban neighborhood in Antioch, Calif.... The California Department of Cannabis Control believes that the four houses searched in the bedroom community 45 minutes outside San Francisco were linked to China.”).
64. Feng, *supra* note 33 (“Much of the money behind these operations is also coming from Chinese-born investors trying to move their money out of China....”).
65. See Rotella et al., *supra* note 33 (noting a meeting between a Chinese diplomat and workers at an Oklahoma cannabis site).
66. See Rotella & Berg, *supra* note 43 (“In an interview with ProPublica, the now-retired [U.S. Admiral Craig] Fallor elaborated on his little-noticed testimony. He said China has ‘the world’s largest and most sophisticated state security apparatus. So there’s no doubt that they have the ability to stop things if they want to. They don’t have any desire to stop this. There’s a lot of theories as to why they don’t. But it is certainly aided and abetted by the attitude and way that the People’s Republic of China views the globe.’ [¶] Some U.S. officials go further, arguing that Chinese authorities have decided as a matter of policy to foster the drug trade in the Americas in order to destabilize the region and spread corruption, addiction and death here. [¶] ‘We suspected a Chinese ideological and strategic motivation behind the drug and money activity,’ said former senior FBI official Frank Montoya Jr., who served as a top counterintelligence official at the Office of the Director of National Intelligence. ‘To fan the flames of hate and division. The Chinese have seen the advantages of the drug trade. If fentanyl helps them and hurts this country, why not?’”); see also, e.g., Fertig, *supra* note 18 (quoting Brookings scholar Vanda Felbab-Brown).
67. See, e.g., Burack, *supra* note 54.
68. Leaseholds could pose the same problems that purchases pose. See *id.* at 3 (“[N]ational security concerns may be present even in non-ownership interests in real estate—for example, if a Chinese tech company leases office space across the street from the Pentagon or acquires an easement to build wind turbines near a military base. [¶] The United States currently has no system for broadly monitoring Chinese ownership of U.S. real estate. Ownership of real estate is overseen by state and local governments, and even if the federal government did institute a system to collect such data, the United States’ friendliness toward shell companies would render any results incomplete at best. Non-ownership interests, such as leases, easements, licenses, and rights to water or subsurface minerals, may be even harder to discern.”) (footnote omitted).
69. See *id.* at 11.
70. For additional recommendations that states should adopt, see *id.* at 13–15.
71. 21 U.S.C. §§ 801, 802, 841(6), (10)–(12), (15)–(16), (22), 812(a), (b) & Schedule I (West 2025).
72. A term that can include life imprisonment without the possibility of parole if an offender is convicted for violating the Continuing Criminal Enterprise Act, 21 U.S.C. § 848 (West 2025).
73. 21 U.S.C. § 841.
74. DOJ, *Seven Chinese Nationals Charged*, *supra* note 33.

75. “Delta-9 tetrahydrocannabinol (THC) is the main psychoactive ingredient in marijuana. THC levels in marijuana continue to climb and are largely unregulated in states where marijuana has been legalized. The potency levels in THC products, such as dabs and edibles, are often even higher—sometimes as high as 90 percent.” 2025 DEA Threat Assessment, *supra* note 30, at 49; see also, e.g., OFFICE OF THE SURGEON GENERAL, U.S. SURGEON GENERAL’S ADVISORY: MARIJUANA USE AND THE DEVELOPING BRAIN (Aug. 29, 2019) (“Marijuana has changed over time. The marijuana available today is much stronger than previous versions. The THC concentration in commonly cultivated marijuana plants has increased three-fold between 1995 and 2014 (4% and 12% respectively).”); AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 511 (5th ed. 2013) (“During the past two decades, a steady increase in the potency of seized cannabis has been observed.”); Nora D. Volkow et al., *Adverse Health Effects of Marijuana Use*, 370 NEW ENG. J. MED. 2219, 2222 (2014); Larkin, *supra* note 55.
76. See, e.g., NAT’L INST. ON DRUG ABUSE, *Research Report: Cannabis (Marijuana) Research Report* 15 (Rev. July 2020) (“Several studies have linked marijuana use to increased risk for psychiatric disorders, including psychosis (schizophrenia), depression, anxiety, and substance use disorders, but whether and to what extent it actually causes these conditions is not always easy to determine. Recent research suggests that smoking high-potency marijuana every day could increase the chances of developing psychosis by nearly five times compared to people who have never used marijuana. The amount of drug used, the age at first use, and genetic vulnerability have all been shown to influence this relationship. The strongest evidence to date concerns links between marijuana use and psychiatric disorders in those with a preexisting genetic or other vulnerability.”) (footnotes omitted); WORLD HEALTH ORG., THE HEALTH AND SOCIAL EFFECTS OF NONMEDICAL CANNABIS USE 28 (2016) [hereafter WHO CANNABIS REPORT] (“[A]ccumulating evidence suggests that prenatal cannabis exposure may interfere with normal development and maturation of the brain. Children exposed to cannabis in utero demonstrate impaired attention, learning and memory, impulsivity and behavioural problems and a higher likelihood of using cannabis when they mature....”) (citations omitted); Qiana L. Brown et al., *Cannabis Use, Cannabis Use Disorder and Mental Health Disorders in Pregnant and Postpartum Women in the US: A Nationally Representative Study*, 248 DRUG & ALCOHOL DEPENDENCE 109940, at 7 (2023) (“From pregnancy up to one year postpartum is a critical period where women may be particularly vulnerable to mental health disorders, cannabis use and CUD. Screening, treatment and clinic- and population-level prevention efforts are essential during this time, especially given that of the pregnant and postpartum women who used cannabis nonmedically in the past year, more than 1 of 3 used daily or near daily[.]”) (table omitted); Olsen Chan et al., *Cannabis Use During Adolescence and Young Adulthood and Academic Achievement: A Systematic Review and Meta-Analysis*, 178 JAMA PEDIATRICS 1280, 1286 (2024) (“In this systematic review and meta-analysis of 63 observational studies involving more than 400,000 adolescents and young adults, moderate-certainty evidence showed cannabis use was probably associated with reduced school grades, high school completion, university enrollment, and postsecondary degree attainment and increased school absenteeism and dropout. Low-certainty evidence suggested that cannabis use in adolescence and young adulthood may be associated with increased unemployment. Available evidence for cannabis use and grade retention proved to be of very low certainty.”) (footnote omitted); Raphael E. Cuomo, *Cannabis Use Disorder and Five-Year Risk of Oral Cancer in a Multicenter Clinical Cohort*, 57 PREVENTATIVE MEDICINE 103105, at 2 (2025) (“In this large clinical cohort, patients who developed CUD after drug use screening had more than three times the odds of developing oral cancer within five years compared to patients who remained CUD-free.”); Deborah S. Hasin et al., *Cannabis Legalization and Cannabis Use Disorder in United States Veterans Health Administration Patients With and Without Psychiatric Disorders, 2005–2022—A Repeated Cross-Sectional Study*, 48 LANCET REGIONAL HEALTH—AMERICAS 101155, at 1, 8 (2025) (“Evidence indicates that cannabis use worsens the symptoms and course of numerous psychiatric disorders, despite public perceptions that cannabis is helpful for treating these disorders.”); Tyler J. Gallagher et al., *Cannabis Use and Head and Neck Cancer*, 105 JAMA OTOLARYNGOLOGY—HEAD & NECK SURGERY 1068, 1072 (2024) (“In this cohort study, cannabis disorder diagnosis was independently associated with greater risk of subsequent development of any HNC [head and neck cancer], as well as cancers in various subsites of the head and neck among US adults.”); David A. Gorelick, *Cannabis-Related Disorders and Toxic Effects*, 389 NEW ENG. J. MED. 2267, 2268 (2023) (“Cannabis use poses a global disease burden, albeit substantially less than that posed by other psychoactive substances such as alcohol, tobacco (nicotine), opioids, and stimulants. The Global Burden of Disease project calculated that cannabis use in 2016 was responsible for an estimated 646,000 years of healthy life lost to disability, an age-standardized rate of 8.5 years per 100,000 persons. Cannabis use is most strongly associated with an increased risk of motor vehicle crashes, suicidality, and cardiovascular and pulmonary disease.”) (footnotes omitted); *id.* at 2269 (“Cannabis-induced anxiety disorder may manifest as either general anxiety or panic attacks. Panic attacks that result from cannabis use are similar to those that are not related to cannabis use. Patients with cannabis-induced anxiety disorder comprise 20 to 25% of patients presenting to emergency departments with cannabis-related symptoms.”) (footnotes omitted); *id.* at 2270 (“Transient psychotic symptoms during cannabis intoxication are reported by 5 to 50% of adults, depending on how the symptoms are described in questions.”) (footnote omitted); *id.* at 2270–71 (“Cannabis use disorder, like other substance use disorders, is a chronic, relapsing condition. The core feature is loss of control over cannabis use, which is reflected in persistent use of cannabis despite adverse consequences.... The risk of cannabis use disorder is significantly positively associated with the frequency of cannabis use: 3.5% prevalence of cannabis use disorder is seen with yearly use (<12 days per year), 8.0% with monthly use (<4 days per month), 16.8% with weekly use (<5 days per week), and 36% with daily or near daily use (>4 days per week). The prevalence of past-year cannabis use disorder among adolescents (12 to 17 years old), is positively associated with their overall duration of cannabis use: 11% among those who have been using cannabis for 1 year or less, 15% among those who have been using cannabis for 1 to 2 years, 18% among those who have been using cannabis for 2 to 3 years, and 21% among those who have been using cannabis for more than 3 years.”) (footnotes omitted); *id.* at 2273 (“Pregnant persons who use cannabis expose their neonates to cannabis. Such in utero exposure is associated with increased risk among newborns of having low birth weight, being small for gestational age, and being admitted to the neonatal intensive care unit, but cannabis use is not associated with adverse maternal outcomes.”) (footnote omitted); *id.* (“Cannabinoid hyperemesis syndrome, a form of cyclic vomiting syndrome that is often accompanied by abdominal pain, occurs during or within 48 hours after frequent and heavy cannabis use. Cannabinoid hyperemesis syndrome is a major reason for cannabis-related visits to emergency departments, and it accounts for about 10% of patients with cyclic vomiting syndrome.”) (footnotes omitted); Larkin, *supra* note 3 (“[A] causal relationship between cannabis use and psychosis is ‘biologically plausible,’ and there also is

a material risk that use can speed along individuals toward that outcome if they are genetically predisposed to that illness. Factors such as the amount, potency, age of first use, and genetic disposition are critical.”) (footnotes and punctuation omitted); Leila Mohammadi, *Association of Endothelial Dysfunction with Chronic Marijuana Smoking and THC-Edible Use*, JAMA CARDIOLOGY, e251399, May 28, 2025, <https://www.ncbi.nlm.nih.gov/40434782/> (“[C]hronic cannabis smoking and THC ingestion were associated with endothelial dysfunction similar to that observed in tobacco smokers, although apparently occurring via distinct mechanisms.”); Wilhelm Storck et al., *Cardiovascular Risk Associated with the Use of Cannabis and Cannabinoids: A Systematic Review and Meta-Analysis*, 1 HEART 1, 7–9 (2025) (“24 studies evaluated the occurrence of MACE [major adverse cardiovascular events] in the context of exposure to cannabis, including one to medical cannabis and none to other cannabinoids. The quantitative analysis suggests a positive association between cannabis use and MACE.... Cannabis use significantly increased all-cause mortality and cardiovascular mortality in a cohort of patients diagnosed with MI [myocardial infarction] before the age of 50, after adjustment for age, cardiovascular risk factors including tobacco smoking and other health conditions. These findings are consistent with results from studies included in our previous review in which cannabis was statistically associated with increased middle-term but not long-term mortality in subjects with a history of acute MI.... Our findings are consistent with those from previous reviews, which outlined a positive association between cannabis use and cardiovascular disorders.”) (footnotes omitted); Tesfa Mekonen Yimer, *The Adverse Public Health Effects of Non-Medical Cannabis Legalisation in Canada and the USA*, 10 LANCET PUBLIC HEALTH e148 (2025) (“There have been increased Emergency Department attendances by adults reporting adverse effects of cannabis use and increased childhood poisonings from the ingestion of cannabis products in both countries.”).

77. See, e.g., WHO CANNABIS REPORT, *supra* note 76, at 16 (“Accumulating evidence reveals that regular, heavy cannabis use during adolescence is associated with more severe and persistent negative outcomes than use during adulthood.”); GEORGE F. KOOB ET AL., DRUGS, ADDICTION, AND THE BRAIN 287 (2014) (“Growing evidence suggests that marijuana use during adolescence affects normal physiological maturation processes in the frontal cortex.”); Paul J. Larkin, Jr., *Marijuana Edibles and “Gummy Bears,”* 66 BUFF. L. REV. 313, 326–28 (2018) (“Several respected government and private organizations—the American Medical Association, the American Psychiatric Association, the American Academy of Pediatrics, the American Cancer Society, the American Academy of Ophthalmology, the National Institute [on] Drug Abuse, and others—have noted those harms and agree that minors should not use cannabis.”) (footnote omitted). See generally *id.* at 328–39 & nn.32–63 (collecting authorities).
78. See, e.g., Rebecca Kheel, *Marijuana Testing for Recruits Could End Under House’s Must-Pass Defense Policy Bill*, MILITARY.COM, May 17, 2024, <https://www.military.com/daily-news/2024/05/17/marijuana-testing-recruits-could-end-under-houses-must-pass-defense-policy-bill.html> (last accessed Aug. 6, 2025) (“A poll released by Gallup last month found 12% of Americans aged 18 through 29—the demographic most aligned with prime military recruiting age—said they used marijuana regularly, defined as at least 10 days per month.”).
79. As explained in detail in Madras & Larkin, *supra* note 10.
80. Haig v. Agee, 453 U.S. 280, 307 (1981) (quoting Aptheker v. Sec’y of State, 378 U.S. 500, 509 (1964)).
81. 389 U.S. 429 (1968).
82. *Id.* at 440.
83. *Id.* (“In short, it would seem that Oregon judges in construing [the probate code] seek to ascertain whether ‘rights’ protected by foreign law are the same ‘rights’ that citizens of Oregon enjoy. If, as in the Rogers case, the alleged foreign ‘right’ may be vindicated only through Communist-controlled state agencies, then there is no ‘right’ of the type [the probate code] requires. The same seems to be true if enforcement may require approval of a Fascist dictator, as in *Krachler*. The statute as construed seems to make unavoidable judicial criticism of nations established on a more authoritarian basis than our own.”).
84. *Id.* at 441.
85. “The practice of state courts in withholding remittances to legatees residing in Communist countries or in preventing them from assigning them is notorious. The several States, of course, have traditionally regulated the descent and distribution of estates. But those regulations must give way if they impair the effective exercise of the Nation’s foreign policy. See Miller, *The Corporation as a Private Government in the World Community*, 46 Va. L. Rev. 1539, 1542–1549 (1960). Where those laws conflict with a treaty, they must bow to the superior federal policy. See *Kolovrat v. Oregon*, 366 U.S. 187. Yet, even in absence of a treaty, a State’s policy may disturb foreign relations. As we stated in *Hines v. Davidowitz*, [312 U.S. 52, 64 (1941)], ‘Experience has shown that international controversies of the gravest moment, sometimes even leading to war, may arise from real or imagined wrongs to another’s subjects inflicted, or permitted, by a government.’ Certainly a State could not deny admission to a traveler from East Germany nor bar its citizens from going there. *Passenger Cases*, 7 How. 283; cf. *Crandall v. State of Nevada*, 6 Wall. 35; *Kent v. Dulles*, 357 U.S. 116. If there are to be such restraints, they must be provided by the Federal Government. The present Oregon law is not as gross an intrusion in the federal domain as those others might be. Yet, as we have said, it has a direct impact upon foreign relations and may well adversely affect the power of the central government to deal with those problems.” *Zschernig*, 389 U.S. at 440–41 (footnote omitted).
86. The armed forces forbid all illegal drug use by any servicemember but may grant a waiver to applicants who fail a drug test for cannabis use. See Rachel S. Cohen, *Aim High: Air Force Green-lights Waivers for THC-Positive Applicants*, AIR FORCE TIMES, Sept. 28, 2022, <https://www.airforcetimes.com/news/your-air-force/2022/09/27/aim-high-air-force-green-lights-waivers-for-thc-positive-applicants/> (last accessed Aug. 6, 2025).
87. State cannabis regulations differ widely. See, e.g., DRUG POLICY AND THE PUBLIC GOOD 245–54 (Thomas Babor et al. eds., 2d ed. 2018); Rosalie Liccardo Pacula et al., *Words Can Be Deceiving: A Review of Variation Among Legally Effective Medical Marijuana Laws in the United States*, 7 J. DRUG POL’Y ANALYSIS 1 (2014).
88. See Lewis S. Black, Jr., *Why Corporations Choose Delaware*, DEL. DEP’T OF STATE, DIV. OF CORPORATIONS 1 (2007).

89. For a summary of the origin and legal development of CFIUS, see U.S. GOV'T ACCOUNTABILITY OFF., *Foreign Investments in U.S. Agricultural Land: Enhancing Efforts to Collect, Track, and Share Key Information Could Better Identify National Security Risks*, GAO-24-106337, at 4–7 (2024) [hereafter GAO Foreign Investments Report].
90. Foreign Investment in the United States, Exec. Order No. 11858, 40 FED. REG. 20,263 (May 9, 1975).
91. 50 U.S.C. ch. 55, §§ 4501–4518 (West 2025).
92. See 31 C.F.R. §§ 800.101 to 800.1108 (West 2025); *Penalty Provisions, Provision of Information, Negotiation of Mitigation Agreements, and Other Procedures Pertaining to Certain Investments in the United States by Foreign Persons and Certain Transactions by Foreign Persons Involving Real Estate in the United States*, 89 FED. REG. 93,179 (Nov. 26, 2024).
93. See 50 U.S.C. § 4565(4)(A), (B)(i)–(ii), (C) & (E); 31 C.F.R. Pt. 802 & App. A (West 2025); Burack, *supra* note 54, at 3–4 (“In theory, many of these transactions would be subject to national security review by [CFIUS]. CFIUS can review transactions in specific types of real estate, as well as some acquisitions of and investments in U.S. companies that can hold real estate—assuming that the parties obey their legal obligations to disclose the transaction.”).
94. 50 U.S.C. § 4565(d)(1) & (4).
95. Burack, *supra* note 54, at 3–7.
96. 50 U.S.C. § 4565(4)(C) (“(i) Exception for certain real estate transactions—A real estate purchase, lease, or concession described in subparagraph (B) (ii) does not include a purchase, lease, or concession of (I) a single ‘housing unit’, as defined by the Census Bureau; or (II) real estate in ‘urbanized areas’, as defined by the Census Bureau in the most recent census, except as otherwise prescribed by the Committee in regulations in consultation with the Secretary of Defense. (ii) Definition of close proximity [¶] With respect to a real estate purchase, lease, or concession described in subparagraph (B)(ii)(I)(bb)(AA), the Committee shall prescribe regulations to ensure that the term ‘close proximity’ refers only to a distance or distances within which the purchase, lease, or concession of real estate could pose a national security risk in connection with a United States military installation or another facility or property of the United States Government described in that subparagraph.”); Burack, *supra* note 54, at 3–4 (“[N]umerous types of foreign-owned interests in U.S. agricultural land are exempted from AFIDA [Agriculture Foreign Investment Disclosure Act of 1978] reporting, even though they might present national security concerns, including ‘leaseholds of less than 10 years’ duration...non-agricultural easements and rights-of-way, and interests solely in mineral rights.”) (footnote omitted); *id.* at 7 (“In 2021, the Chinese agribusiness giant Fufeng Group purchased 370 acres in Grand Forks as the site for a \$700 million corn mill project. The industrial facility would have been located just 12 miles from Grand Forks Air Force Base and near Cavalier Space Force Station, which tracks over half of all earth-orbiting objects” to “provide critical missile warning and space surveillance data. The project drew immediate scrutiny at the local level, from the Air Force, and from the U.S. Congress, with both of North Dakota’s Senators and its Governor requesting a CFIUS review in July 2022. That December, CFIUS instead informed Fufeng that it lacked jurisdiction to review the land purchase.”).
97. Burack, *supra* note 54, at 7.
98. *Id.* (“In multiple high-profile cases discussed below, however, CFIUS has failed to address, or has even approved, transactions in real estate with clear national security concerns, forcing state and local governments to apply their own restrictions. CFIUS’s track record indicates both a failure to appropriately enforce existing authorities, and that shortcomings in those authorities have hindered CFIUS from taking critical national security actions. Given this track record, it seems unlikely that existing CFIUS authorities generate sufficient visibility into Chinese real estate interests in the United States.”).
99. Burack, *supra* note 54, at 11. Congress and the President, along with the President and Secretary of Agriculture, also could ensure that the Agriculture Department has adequate resources to implement the requirements of the Agricultural Foreign Investment Disclosure Act of 1978. See GAO Foreign Investments Report, *supra* note 89.