**The Illegality of Legalizing Marijuana Use: An Open Plea to the President and All Other Sworn Federal, State, and Local Public Officials Concerning Marijuana Policies and Laws in the United States: What Part of “I swear to take Care that Laws be faithfully executed” or “I swear to support and defend the Constitution”**

**Do You Not Understand?**

**By Paula D. Gordon, Ph.D.**

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Public officials in the U.S. take oaths to support and defend the nation’s Constitution and laws. Indeed, the President of the United States takes an oath and has a Constitutional obligation in Art. II, Sec. 3 to “take Care that the Laws be faithfully executed”. The President swears or affirms “to preserve, protect and defend the Constitution of the United States”. Those serving in elective or non-elective roles at all levels in government swear to support and defend the Constitution. All may want to keep in mind the following questions when it comes to U.S. laws and Constitutional obligations:

* Can a State constitutionally pass and implement laws that are in effect in violation of Federal law and that are in contravention of International Treaties to which the U.S. is a signatory?
* Can the Federal government constitutionally allow a State to take actions that are in violation of Federal law and in contravention of International Treaties to which the U.S. is a signatory?
* Should sworn Federal officials countenance or even, in effect, promote civil disobedience and disregard for duly enacted Federal laws?
* Does the failure of a public official to act when a felony is committed constitute “imprisonment of a felony”, itself a crime according to 18 USC 4 and punishable by fines, imprisonment or both?
* When a State legislature votes to enact a law that is in violation of Federal laws, is the Governor of such a state obligated to veto such a law? The Governor of New Hampshire has vowed to use her veto power if the New Hampshire State Legislature passes legislation that would allow recreational use of marijuana.
* What is the significance of the January 15, 2014 ruling of the 9th U.S. Circuit Court of Appeals to “uphold three lower court decisions” and “(follow) previous rulings by federal appeals courts and the U.S. Supreme Court” and thereby affirm the Federal government’s policy that “California medical marijuana dispensaries have no protection under state law from drug prosecutions” (LegalNewsJournal.com, 2014 Jan 16)?
* What are the implications for the rule of law and the primacy of the U.S. Constitution if the laws of the U.S. and the International Treaties to which the U.S. is a signatory are abandoned, ignored, disobeyed, or otherwise unenforced?

It behooves those in government as well as all citizens concerned with the preservation of the rule of law and the primacy of the U.S. Constitution to recognize the importance of addressing these legal questions.

There is yet another set of questions that also needs to be addressed that have major implications for the public health of the nation, questions pertaining to the public health goals that local, State, and Federal policies and laws should be designed to serve.

* **What should the public and public officials understand concerning effects of marijuana? What should they understand concerning how the harmfulness of an intoxicant and psychoactive substance is ascertained?**  First the effects of the active principle are studied in animals and humans. A major finding often unknown to proponents of marijuana use is that Delta 9 THC can have idiosyncratic psychotomimetic effects in human subjects. The brain functioning of users has been studied and impairment of brain functioning has been established. In addition to impairing the functioning of the brain, marijuana use has been found to lower the IQ of those youth and young adults whose brains are still developing. (For a discussion involving Dr. Nora Volkow, Director of the National Institute on Drug Abuse and the Dalai Lama focusing on brain functioning and brain scans showing the effects of psychoactive substances on the brain, see <http://www.drugabuse.gov/about-nida/noras-blog/2013/11/talking-to-dalai-lama-about-addiction-science>. Also of particular importance is the April 15, 2014 issue of the **Journal of Neuroscience** that reported on research showing brain anomalies in casual users of marijuana. (See <http://jn.sfn.org/press/April-16-2014-Issue/zns01614005529.pdf>.)

Physical health effects have also been studied in humans and animals. Any substance that is smoked affects the respiratory and cardiovascular systems. Smoking anything is also carcinogenic. The endocrine and nervous systems are affected by marijuana use. Hormonal imbalances in males can lead to Gynecomastia, enlargement of the breasts in males. Use has been linked to teratogenic effects resulting in stillbirths and birth abnormalities, including anencephaly in newborns. The immune system is impaired. Cognition, memory, perception, judgment, sense of time are all impaired by use of marijuana rendering a person incapable of driving responsibly or operating machinery or equipment. Unlike alcohol, any amount of marijuana in one’s system can immediately affect one’s perceptions, cognition, memory, sense of time, and judgment. Simple motor skills tests and the reading of an eye chart can readily determine whether or not an individual is high as a result of using marijuana and being in an environment where it has been used. Zero tolerance should be the only reasonable standard for drivers of vehicles, pilots, train operators, and for all those in OSHA-regulated occupations. (For reports and links to the scientific research on relevant research findings and for a 33 page list of research references on the harmful effects of marijuana, see <http://GordonDrugAbusePrevention.com>).

* **What should public health policy be regarding a substance with established harmful mental, psychological, and physical effects?** What should the public and public officials know about those effects and their impacts on both public health and safety? In order to make sound decisions concerning public health and safety policies surrounding the use of marijuana for any purpose, what should those in roles of public responsibility know about the high levels of THC in the marijuana that is being used by users of marijuana today? Even medical marijuana users are left to determine for themselves if the benefits they think they are getting outweigh the risks to all other aspects of their wellbeing and safety.
* **What are the civil liberties implications of the use of a substance that deleteriously effects the health of users and those in their proximity?** The passive inhalation of marijuana smoke can indeed render a person high. A blood test of a non-user who has passively inhaled marijuana smoke will be positive for cannabinoids. **The right not to be rendered high against one’s will** appears to be overlooked by those who think that smoking marijuana effects only the individual smoker. (A report on the subject of the passive inhalation of marijuana smoke can be found at <http://GordonDrugAbusePrevention.com>).

**What then would constitute sound public health policy?** Some argue in economic terms believing that the only rational policy would be to legalize the use of the substance owing to the high cost of adjudicating and incarcerating individuals who are using this intoxicant. There is a simple alternative that those who make such an argument for legalization often overlook. That simple alternative is to divert individual users from the criminal justice system into drug court programs and in lieu of prosecution and in lieu of incarceration programs. Such alternatives to prosecution and incarceration emphasize counselling, education, and mental health treatment. Some include an emphasis on social services and job training as well. All of these kinds of approaches are currently being implemented, not only in the U.S. but in numerous other countries as well.

The 2013 Report of Organization of American States on “The Drug Problem in the Americas” discusses such diversion programs. (See <http://www.oas.org/documents/eng/press/Introduction_and_Analytical_Report.pdf>, p. 95). The Report included a most telling line that has profound implications of legalization:

**….Even with relatively restrictive regulation, the result of le­galization is likely to be expanded use and dependency** (p. 94).

The results of expanded use and dependency if current trends were to continue will be the kinds of results that are already being seen Washington and Colorado in the increase in DUIs associated with marijuana use, the spread of access to marijuana among school age children, increase in emergency room admissions, increase in calls for aid to poison centers, the increase in numbers of individuals of all ages needing treatment for marijuana use and addiction, and the spreading unthinking acceptance of the use of a very harmful intoxicant by those who have little or no knowledge of the scientific findings, including on the brain functioning of users. There has also been an increase in the revenue to those selling marijuana “illicitly” since they are able to undercut the prices charged by “legal dispensaries”.

Legalization and support of legalization is leading to the spreading use of a very harmful intoxicant. What is the most viable policy that can be enacted in lieu of legalizing marijuana? An answer is to use the criminal justice system and the court system to remand users to drug court type programs, and other in lieu of prosecution programs, providing users the counselling, education, and information that will help them live a life that is not dependent on intoxicants. If a record is acquired, provision for its expungement can be provided when such programs are successfully completed. In both the short and long run, such programs will help those whose lives are now being affected at untold costs to them, their families and loved ones, and society. Some jurisdictions are even giving users who are identified the option of arrest and prosecution or treatment, with no accrual of a criminal record if an individual opts for counselling and treatment. See “After Arrest, Virginia Suspects Offered Treatment” (<http://www.washingtonpost.com/blogs/local/wp/2014/07/01/prince-william-cops-after-raids-arrange-treatment-for-drug-users-get-some-takers/>).

The sustainability and success of the representative form of government that the U.S. has depends on adherence to the rule of law and the Constitution. Those in positions of public responsibility, including the President and the Attorney General, Members of Congress, Members of the Judiciary, the Governors and the Attorney Generals in the States, and Mayors need to understand the ramifications for the future of the nation and the public health of its citizens if they allow, in contravention of Federal law and International treaties, significant portions of the public surrender their mindfulness and their individual agency, initiative, and will power to the use of a substance that affects their cognition, memory, and judgment, the use of which threatens the mental functioning and psychological and physical wellbeing of all, including most significantly the rising generation of the would be leaders and responsible citizens of this nation.

**Contributing Editor Dr. Paula D. Gordon is an educator, analyst, writer, speaker, and consultant. She has also served in a variety of capacities in the Federal government, including staff officer, policy analyst, and special projects director. She has an extensive background in several domestic policy arenas including *drug* abuse prevention, emergency management and homeland security.*****She previously served as a consultant to the National Institute of Mental Health and also served as founder and former director of a non-profit organization focused on drug abuse prevention and early intervention.*** **Her websites at** [***http://GordonDrugAbusePrevention.com***](http://GordonDrugAbusePrevention.com)***,*** [***http://GordonPublicAdministration.com***](http://GordonPublicAdministration.com)***,*** [***http://GordonHomeland.com***](http://GordonHomeland.com)***, and*** [***http://GordonHumankind.com***](http://GordonHumankind.com) **include her articles, reports, publications, and presentations on drug abuse prevention and a variety of other issue areas. Her doctoral dissertation, “Public Administration in the Public Interest” (posted at** [***http://GordonPublicAdministration.com***](http://GordonPublicAdministration.com) **) focuses on a values-based approach to administration and governance in the United States, one that is informed by the values of the Founders. She is based in Washington, D.C. E-mail:** ***pgordon@starpower.net******.***