

September 12, 2018

The Honorable Bob Goodlatte
Chairman, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn HOB
Washington, DC 20515

The Honorable Jerry Nadler
Ranking Member, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn HOB
Washington, DC 20515

cc: Members of the House Judiciary Committee

Dear Chairman Goodlatte and Ranking Member Nadler,

The undersigned organizations are writing you regarding language that is currently in H.R. 5634, Medical Cannabis Research Act of 2018. Specifically, we are concerned with a provision that would preclude any “personnel” with a “conviction for a felony or drug-related misdemeanor” from being employed by research cultivation operations. There is no legitimate health or public safety justification for the inclusion of this language and we urge you to strike this unnecessary, punitive ban on individuals with previous drug law violations.

Any “public safety” rationale is misplaced. Individuals with criminal records face a plethora of barriers when reentering society post-conviction and/or incarceration. These barriers place substantial burdens on people who are trying to get their lives back on course. With over 70 million Americans who have criminal histories, adding an additional barrier to employment is counterproductive and in some cases exacerbates the very issue it purports to correct. A 2011 study in the Justice Quarterly found that the lack of employment was the single most negative determinant of recidivism.¹ With little hope of obtaining a decent paying job, returning citizens are often left with few options but to return to a life of crime when faced with substantial barriers to employment that individuals are otherwise qualified for. To help lower recidivism rates and improve public safety, we should be making it easier for people with records to obtain jobs, not more difficult.

Barring people with felonies and drug-related misdemeanors from working as researchers or even within research facilities would have a disparate impact on minorities. African Americans and Latinos are grossly overrepresented in our criminal justice system—particularly for drug crimes. According to one study, African Americans are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs, even though whites and blacks use drugs at similar rates and whites are actually *more* likely to sell drugs than

¹ MARK T. BERG AND BETH M. BUEBNER, REENTRY AND THE TIES THAT BIND: AN EXAMINATION OF SOCIAL TIES, EMPLOYMENT, AND RECIDIVISM, 28 JUSTICE QUARTERLY 382, 397 (2011) available at <http://www.pacific-gateway.org/reentry.%20employment%20and%20recidivism.pdf>.

blacks.² With 10 times more people in state and federal prison today than in 1980 for drug offenses,³ this felony and drug-related misdemeanor ban will undoubtedly impact a large number of otherwise, qualified minorities.

The language may also have unintended consequences. For example, if a university researcher receives approval to grow marijuana, that same university may not be able to employ *anyone* with a “conviction for a felony or drug-related misdemeanor”, because of language stating that “all personnel” involved in the operations must be subject to a background check. This broad language may be interpreted as preventing the hiring of anyone with a “conviction for a felony or drug-related misdemeanor”, from a researcher to maintenance worker.

As we roll back the antiquated, failed criminal justice policies, we are increasingly concerned about doing so in a way that neglects the disparate harms of prohibition and fails to acknowledge the collateral consequences of criminalization. Therefore, we urge you to remove language from H.R. 5634, “Medical Cannabis Research Act of 2018” that would prevent individuals with felonies and/or drug-related misdemeanors from affiliating with research cultivation operations. Thank you in advance for your consideration.

Sincerely,

American Civil Liberties Union
Americans for Safe Access
Center for Law and Social Policy
Cut50
Defending Rights & Dissent
Drug Policy Alliance
Harm Reduction Coalition
Human Rights Watch
Legal Action Center
National Association of Criminal Defense Lawyers
National Association of Social Workers
National Council on Alcoholism and Drug Dependence- Maryland Chapter
National Employment Law Project
National LGBTQ Task Force Action Fund
National Organization for the Reform of Marijuana Laws
Safer Foundation
The Sentencing Project
StoptheDrugWar.org
Students for Sensible Drug Policy
Treatment Communities of America
WOLA - Washington Office on Latin America

² JONATHAN ROTHWELL, HOW THE WAR ON DRUGS DAMAGES BLACK SOCIAL MOBILITY (2014) available at <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility/>.

³ Fact Sheet: Trends in U.S. Corrections, THE SENTENCING PROJECT 3 (June 2018), <file:///C:/Users/danielsmith/Downloads/Trends-in-US-Corrections.pdf>.