

United States Senate

WASHINGTON, DC 20510

The Honorable Anne Milgram
Administrator
U.S. Drug Enforcement Administration
8701 Morrissette Drive
Springfield, Virginia 22152

November 9, 2023

Dear Administrator Milgram,

I write to you concerning the rescheduling of marijuana under the Controlled Substances Act (CSA). While I remain under the strong conviction that marijuana should be descheduled entirely, I urge the Drug Enforcement Administration (DEA), at a minimum, to consider rescheduling marijuana from a Schedule I to Schedule III substance.

In October 2022, President Biden initiated the administrative process to expeditiously review marijuana's status as a Schedule I substance under federal law. Pursuant to the review process, the Food and Drug Administration (FDA) and the Department of Health and Human Services (HHS) reportedly recommended that the DEA reschedule marijuana from Schedule I to Schedule III based on scientific and medical considerations. We request that the Department of Justice (DOJ) and DEA take FDA's recommendation into full consideration when determining the rescheduling of marijuana.

The CSA categorizes controlled substances into five schedules, with Schedule I classification being the most restrictive. Schedule I classification is characterized by its stringent criteria of having no recognized medical utility and a high potential for abuse. Schedule I is the same classification used for heroin and LSD, and an even higher classification than medical fentanyl and methamphetamine – the drugs that currently pose a serious public health crisis in our communities.

Marijuana is currently categorized as a Schedule I substance, which has severely hindered our ability to gather the necessary data to make well-informed decisions regarding its legal status. Marijuana is considered to have a lower potential for harm compared to Schedule I substances like heroin. The acute health risks and potential addiction associated with marijuana use are lower than the risks associated with substances like cocaine or heroin, with it being virtually impossible to fatally overdose on marijuana alone. And unlike cocaine, marijuana is already legal for medical use in 38 states and the District of Columbia and in 24 states for decriminalized adult use.

Rescheduling marijuana to Schedule III classifies the substance as an “accepted medical use” and moves the substance closer to being legally available by prescription. It would encourage investments and research into its medical uses. Medical marijuana has been proven to effectively address chronic pain, nerve pain, and post-traumatic stress disorder – among other uses.

Rescheduling marijuana to Schedule III will foster scientific research that can help further safe and effective marijuana use and marijuana-derived therapeutic benefits.

I commend the Biden Administration's commitment to addressing the systemic and racial injustices of federal marijuana policy. Harsh penalties have deliberately stigmatized marijuana and disproportionately targeted minority communities for decades. Selective policing and racial profiling have led to higher arrest rates among people of color, particularly among Black and Brown communities, even when marijuana usage across different racial groups remains comparable. These disparities extend into our judicial system where harsher sentences disproportionately affect people of color. Criminal records for marijuana possession impose needless barriers to employment, housing, and educational opportunities, contributing to cycles of multigenerational poverty.

The DEA should move with great urgency to align themselves with the reported recommendations of the FDA and HHS to reschedule marijuana from a Schedule I to Schedule III substance. We appreciate your attention to this critical issue and stand ready to work collaboratively to correct the decades-long policy that has not only slowed the medical research of the substance, but also resulted in the deep racial disparities bringing harm particularly to Black and Brown communities.

Sincerely,



Kirsten Gillibrand
Kirsten Gillibrand
United States Senator

Cc:
The Honorable Merrick Garland
Attorney General Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530