

# The Marijuana Middle: Americans Ponder Legalization

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## Takeaways

- Polls show legalizing recreational marijuana is an issue that splits the country nearly in half, but there is actually a sizable movable middle on marijuana legalization.
- The "marijuana middle" is not who you'd expect.
- There is broad and deep support for federal policymakers to take action around certain aspects of marijuana legality.
- Americans widely support a "safe haven" from federal law for states that have legalized marijuana and are strictly regulating it.

Last month, voters in Oregon, Alaska, and Washington, D.C., added their states and cities to the list of those which have legalized marijuana for recreational use within their jurisdiction. Polls show significant increased support for marijuana legalization over the past decade, and many have posited that it is inevitable that state and federal policy will follow. Yet in a recent national poll conducted by Anzalone Liszt Grove for Third Way, we found that topline trend obscures a more complicated truth.<sup>1</sup> Most Americans do not view this issue as black and white—in fact, there is a significant "marijuana middle" who struggles with both sides of the legalization debate. This report explains who constitutes the marijuana middle, what policies they support (particularly on the federal level), and what messages best

resonate with them on this issue which shows no sign of abating.

## Identifying The Marijuana Middle

Third Way's national poll fielded by Anzalone Liszt Grove in October 2014 found the country equally divided on legalizing recreational marijuana for use by adults, with 50% supporting legalization and 47% opposed to it. There is no such split for medical marijuana, with 78% in favor of allowing individuals to use marijuana for medical purposes if a doctor recommends it (18% oppose). Far from a split of completely polarized extremes, that means more than a quarter of the country (28%) favors medical marijuana laws yet is not sold on legalized recreational use. The distinction between medical and recreational was also evident when we asked how voters in our poll viewed people who use marijuana. Only 36% of respondents said they viewed *recreational marijuana* users favorably versus 54% unfavorably. Meanwhile, a solid majority (55%) viewed *medical marijuana* users favorably—nearly 20 points higher than recreational users.

Another question further illustrated the gray, rather than black and white, nature of this debate and revealed how torn many Americans feel around it: how the federal government should deal with the states that have legalized marijuana under their own laws for medical or recreational use. Before Election Day 2014, 23 states had legalized medical marijuana, and two of those—Colorado and Washington—had voted in 2012 to allow recreational use as well. In November 2014, voters in Alaska, Oregon, and D.C. passed ballot initiatives legalizing recreational use in their states. In Florida, an initiative to legalize marijuana garnered 58% of the vote, short of the 60% necessary for passage. Currently, federal law prohibits marijuana use for medical or recreational purposes. Thus, in these states, users and sellers are breaking federal law even if they follow the rules in their state, and they could be prosecuted now or in the future for their actions. Further, because they are regulated by federal law, banks can't open

accounts for marijuana businesses even in states where it's legal, at least not without opening themselves up to money laundering liability. That means most marijuana businesses operate on an all-cash basis. And the states themselves can't effectively regulate their markets, because state employees can't be ordered to violate federal law—even to label or test marijuana products as a safety precaution. The Obama Administration has done what it can to address this conflict within the confines of current law, but without action by Congress, there can be no real resolution to this ongoing conflict.

With this legal reality as a background, we tested support for a policy we have proposed in the past to address the quandary: changing federal law to offer a “safe haven” to states that have legalized marijuana for medical or recreational use that allows them to act outside of federal law for a set number of years. To be eligible, states would need regulations in place that address federal concerns (such as keeping marijuana out of the hands of children and its profits away from gangs and cartels). In those states that are granted a safe haven from federal law, participants in the market would not be prosecuted by the federal government, marijuana businesses could have access to banking services, and the states themselves would be better able to effectively regulate their markets.

Our poll found that this policy has strong support across the board:

- 67% of voters said Congress should pass a bill giving states that have legalized marijuana a safe haven from federal marijuana laws, so long as they have a strong regulatory system, and;
- When given an option of state or federal control, a clear majority of the electorate believes states should control and decide whether to legalize marijuana (60% state control compared to 34% federal government enforcement).

Even 21% of those opposed to legalization for recreational use *still* agreed Congress should pass such a policy. The fact that state legalization of marijuana violates federal law and creates an untenable policy situation was clear—and the voters we polled responded not with ideological proclamations but by supporting a middle-ground, pragmatic policy which would ease that conflict as the legal landscape continues to quickly shift. This means marijuana is not an issue of absolutes for many Americans—rather, it requires a nuanced balancing of values and interests. And when you take a closer look at this group in the “marijuana middle,” its composition is far more complicated than simply representing a bloc of traditional ideological moderates.

## **Demographics of the Marijuana Middle**

There is less of a partisan tilt to the marijuana middle than you’d expect. Not surprisingly, Democrats are heavily supportive of marijuana legalization, with 87% supporting medical and 64% backing recreational marijuana. Seventy-eight percent support safe haven legislation specifically, with 53% strongly supporting such Congressional action.

Republicans also overwhelmingly support medical use (68%), but not recreational use (32%). A solid majority of Republicans (54%) support a safe haven from federal law for states that have legalized marijuana, and nearly a quarter support a safe haven even if they don’t support recreational legalization. At least on this issue, the stereotypes of the out-of-touch, tough-on-drugs-at-all-costs Republican Party may be outdated—rather, most Republicans are either pro-legalization or squarely in the marijuana middle.

Among Independents, half favor both medical and recreational marijuana legalization, with another 27% supporting medical marijuana only. A full 74% support a federal safe haven—with 47% expressing strong support.

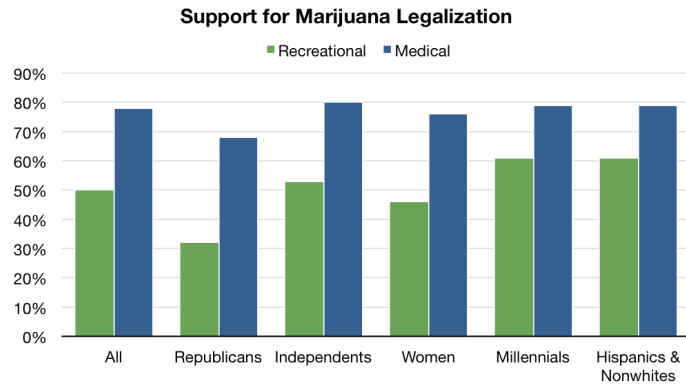
Men are more pro-legalization than women. Forty-five percent of women supported both individual use of medical

marijuana and legalization of recreational marijuana— compared to men at 52%. Another 29% of women (and 27% of men) supported medical but not recreational marijuana. A majority (53%) of women under 50 years of age were open to both medical and recreational marijuana use, while women over 50 were more skeptical of recreational use. Only 36% of women age 50+ favored medical marijuana and supported recreational, while another 39% favored only medical but not recreational. Of all of the people in the marijuana middle, 56% are women, and after hearing persuasive messages, women were also more likely to change their opinion to support a federal safe haven policy (63% of respondents who initially opposed a federal safe haven policy but throughout the course of the poll changed their minds in favor of it were women).

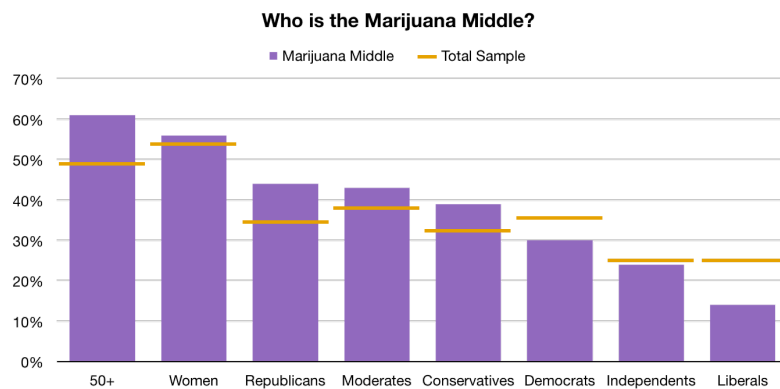
Even though they are generally more skeptical, nearly two-thirds (64%) of women surveyed supported a federal waiver which would grant states who legalize marijuana a safe haven from federal marijuana laws as long as they have strong regulatory systems. Seventy-one percent of men also supported a safe haven policy.

The Millennial Generation (born 1981–2000) is strongly in favor of marijuana legalization. Seventy-nine percent favor medical marijuana use and 61% think recreational marijuana should be legalized for adults. Three-quarters support a federal safe haven—higher than any other age group.

Among nonwhite and Hispanic voters, support for medical marijuana use mirrors that among white voters—79% for nonwhites and Hispanics and 78% for white voters. Small differences emerged on recreational marijuana, with 61% of nonwhites and Hispanics favoring legalization as compared to 46% of those who are white. Still, there is broad support for a federal safe haven across all racial groups, with 73% of nonwhite and Hispanic voters supporting such a policy, even slightly stronger than the 65% of white voters who feel the same way.



As noted above, 28% of the voters in our survey favored medical marijuana use but not legalization of recreational marijuana. This group in the marijuana middle differed from the overall population in several ways. First, they were slightly more Republican (44%) than the overall sample (34%). Another 24% were Independent, virtually the same as among our overall survey population (25%). Three in ten were Democrats, slightly fewer than among the total group (36%). The plurality of those supporting medical but not recreational were self-described moderates (43%), while 39% described themselves as conservative and 14% as liberal. Those favoring medical marijuana but not recreational skewed older than among the total survey, with 61% over 50 years of age compared to 49% of all respondents who were over 50.



The other group in the marijuana middle, the 21% who did not support recreational marijuana use but still supported Congressional passage of a safe haven from federal law for states that have already legalized it, overlapped considerably (83%) with those who supported medical but not recreational marijuana—and they looked very demographically similar.

They skewed slightly Republican (40%), with the rest splitting between Democratic (30%) and Independent (28%). The plurality (46%) was self-identified moderates, with 37% identifying as conservative and 16% liberal. They also skewed slightly older, with 55% over 50 years of age.

Overall, the demographics of the marijuana middle skew towards white women, voters over the age of 50, Republicans, and moderates. Our analysis of their worldview finds that the recognition of a conflict between state and federal marijuana laws and a willingness to solve it with a safe haven from federal law for certain states are evident across a wide swath of the country—not just among the usual suspect voters.

## **Talking to the Marijuana Middle**

Our two recent rounds of public opinion research found that when it comes to marijuana—recreational use, medical use, and a safe haven from federal law—neither positive nor negative messaging moved voters substantially in either direction. Support for a safe haven from federal law for states that legalize and strictly regulate marijuana began at 67%, increased 4 points to 71% after respondents heard positive messages, and fell only to 64% after hearing negative messages. However, despite the small magnitude of movement, Election Day ballot initiatives last month demonstrated quite clearly that even a small number of voters can make the difference on deciding policies around marijuana. There are five basic principles to keep in mind when talking to the marijuana middle—in particular about a safe haven policy at the federal level.

### **Medical marijuana opens the conversation, but it doesn't close the sale.**

Medical marijuana is extremely popular. The statement we tested saying medical marijuana “provide[s] compassionate relief to people suffering from diseases like cancer” was far and away the most popular message—with 52% of

respondents rating it the most convincing, including 60% of female voters, 48% of Independents, 48% of Millennials, 45% of Hispanics and nonwhites, 64% of those favoring medical but not recreational marijuana, and 56% of those favoring a safe haven but not recreational legalization.

However, narrowing the conversation at the federal level to only focus on this message could invite a targeted solution that does not address the federal-state conflict for those states that have legalized recreational use. In some ways, that would mirror the mistake the LGBT movement made in the early stages of the debate over marriage for gay couples in focusing solely on the legal rights and benefits of marriage. Americans who were torn on marriage responded by addressing only those concerns—with civil unions. But the outcome here could be worse for legalization supporters. There were significant values that connected support for civil unions and support for marriage that provided a bridge from one position to the other, and they made civil union support an unstable rest stop for most people in which they could not indefinitely stay. Yet here, it is unclear whether there is anything unstable about supporting the use of medical marijuana but not recreational—meaning framing the problem primarily around medical marijuana conflicting with federal law could leave four states and D.C. (and counting) with all-cash, un-regulatable recreational markets that violate federal law indefinitely.

## **Decrying the War on Drugs has limited appeal.**

To reach the marijuana middle, marijuana policy can't be framed in terms of simply fixing a failure of the War on Drugs. In our online focus groups, suburban soccer moms (a group overrepresented in the middle) were not persuaded to support safe haven legislation if the justification is that we have been too tough on drug users or sellers writ large—they just don't believe that's true. As one participant in our focus group wrote (seconded by others), "War on drugs? A miserable failure? Seriously?! I have seen [drug]heads that



never stopped, that live off the government now because they cannot, will not stop. I have seen over use, stoners and burners. Weed, Cocaine, Heroin, I think we did a pretty damn good job based on all that is trying to come in here. Can you imagine if we just relaxed?”

Of all the potential positive messages we tested, 13% said this message was the most convincing: “The War on Drugs has been a failure and wastes billions in taxpayer dollars by locking up marijuana users in crowded jails. We should change federal law and allow states to experiment with ways to end the disastrous and expensive War on Drugs.” But it was less persuasive with those in the middle than with respondents generally. While it resonates with a certain group of voters, namely Independent men, focusing on the War on Drugs as a whole lumps marijuana together with hard drugs like meth, cocaine, and heroin—and that’s the exact opposite argument you want to make with the marijuana middle. Sentencing reform is a different policy with completely different motivations and consequences in their minds, and to woo them on marijuana, you need to emphasize how different it is from other drugs, not how similar. Conflating the marijuana conversation with a broader one about drug policy generally can only hurt that cause.

## **Don’t overhype the risk of prosecution.**

Voters in the marijuana middle demonstrated a heavy dose of skepticism that the federal government would actually prosecute those engaging in the use or sale of marijuana in states that have legalized its use. In both our online focus group and poll, participants simply did not believe that a cancer patient in a state that has legalized medical marijuana would be prosecuted by the federal government. Similarly, voters were unconvinced that the next president, regardless of his or her party, would unilaterally change the Department of Justice’s enforcement policy or undo any of the prosecutorial discretion that the Obama Administration has put in place where marijuana use is legal. While it might be

more effective with legislators, the argument that we must fix the federal-state conflict before 2016 in order to protect it from backsliding didn't build a sense of urgency with those in the marijuana middle.

## **Voters believe states are responsible actors on marijuana.**

When we tested a states' rights message, it was not especially effective, perhaps because of the baggage it carries over from civil rights (“[on marijuana, states] should have the right to determine what policies and laws fit them best” was most convincing to only 8% of respondents). But it is much more persuasive with the marijuana middle when framed in terms of states' responsibilities. States are *responsible* for enforcing marijuana laws on the ground, and they are trying to do the right thing by regulating their marijuana markets effectively. That puts advocates of a safe haven on the side of public safety—ensuring states can measure outcomes, regulate responsibly, and make sure that businesses play by the rules. States have a responsibility to ensure that their markets are safe and regulated—but they can only do that effectively if they are given a safe haven from federal drug laws.

## **Banking messages work—but only after a long explanation.**

Talking to the marijuana middle about the convoluted banking situation created under current law requires significant voter education. At the end of our three-day online focus group, participants identified the all-cash nature of marijuana businesses as one of the most persuasive motivations for supporting a safe haven policy—focusing on the threat to public safety and invitation to crime in those communities. But the one-sentence banking message in our poll was among the least effective arguments we tested, with only 3% of respondents rating it the most convincing. It was the most compelling message for only 2% of women, 2% of Independents, 5% of Millennials, 5% of Hispanics and nonwhites, 4% of those favoring medical but not recreational marijuana, and 2% of those who support a safe haven but do

not support recreational marijuana. The banking issue is specific to those in the industry, making it less immediately understandable, and thus less persuasive, than other messages to the average voter—especially for those who may not know much about federal regulation of financial institutions in the first place.

## Conclusion

As opponents lean heavily into values-based arguments regarding teenage marijuana use and highway safety, more research still needs to be done to identify a compelling value for legalizing recreational marijuana—the way that compassion underlies support for medical marijuana. But while there is still more work to be done, we do now know significantly more about the marijuana middle—a group that recognizes the conflict between state and federal marijuana policy and the need to resolve it. A supermajority of Americans believe that federal policymakers have a role to play in this discussion, and that they should act to provide a safe haven from federal law for states that have already legalized marijuana and are acting responsibly to strictly regulate it.

### END NOTES

1. Anzalone Liszt Grove conducted an online focus group (QualBoards) of twenty likely 2014 voters from August 21 to August 24, 2014. Participants were screened to exclude those who neither strongly supported nor strongly opposed marijuana legalization and those who thought marijuana was immoral. Anzalone Liszt Grove also conducted an online poll of 856 registered voters from October 25 to October 29, 2014.