Doctors for Drug Policy Reform

A D4DPR Position Paper

State-level Decriminalization of Personal Use and Simple Possession of Psychedelics

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Subject

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Summary

Psychedelics are a class of substances that trigger changes in perception and consciousness. Most psychedelics are currently classified as Schedule I drugs under the U.S. Controlled Substances Act (CSA), a designation reserved for substances deemed to have "no currently accepted medical use and a high potential for abuse." This classification fails to reflect scientific evidence that psychedelics pose a very low risk of serious harm, minimal potential for problematic use, and have shown promising applications in mental health treatment through large-scale clinical trials. While most psychedelics remain in Schedule I, some exceptions exist, e.g. ketamine compounds, which are used in medical settings, and salvia divinorum, which remains unscheduled at the federal level. These inconsistencies undermine the justification for criminal penalties and expose fundamental flaws in drug policy.

Expanding scientific research, advocacy efforts, and shifting public perceptions have led to an increase in local and state-level efforts to decriminalize psychedelics. Decriminalization removes criminal penalties for possession and use. Since federal reform involves both rescheduling psychedelics and implementing criminal justice changes, state-level decriminalization offers a practical and timely solution to mitigate societal harms caused by the disproportionate punishment for simple possession of psychedelics.

D4DPR advocates for cohesive state-level decriminalization of personal use and possession of psychedelics for adults. This approach provides a viable path to reducing mass incarceration, addressing systemic inequities, supporting public health, and lays the foundation for rational drug policy reform. This paper focuses on well-researched psychedelics within Schedule I—psilocybin, lysergic acid diethylamide (LSD), ibogaine, 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT), 3,4-methylenedioxymethamphetamine (MDMA), DMT (including ayahuasca), and mescaline—because their classification carries the most severe legal penalties despite

substantial scientific evidence of their safety and therapeutic potential. However, this does not imply that other psychedelics should remain criminalized. The reality is that any psychedelic substance—whether Schedule I or a Schedule III controlled prescription drug like ketamine—remains criminalized when used without medical authorization. Criminalizing the personal use and possession of psychedelics is a costly misuse of resources. A cohesive state-level decriminalization framework would better align with evidence-based drug policies, ensuring a more just and effective response to substance use.

Background

Psychedelics refer to substances that primarily act on the serotonin 2A (5-HT2A) receptor to induce altered states of consciousness, perceptual changes, and cognitive shifts. This includes classical serotonergic psychedelics such as psilocybin, LSD, DMT (including ayahuasca), mescaline, and 5-MeO-DMT. Additionally, compounds such as MDMA, ibogaine, and ketamine—while acting through distinct mechanisms—exhibit similar effects that often place them within the broader psychedelic classification. Psychedelics cause profound changes in perception and consciousness, influencing thought, emotion, and sensory experiences, with documented use across various cultures and historical contexts. Psychedelics have long been used by Indigenous groups for spiritual and medicinal purposes (1), but their emergence in mainstream U.S. consciousness from the 1950s through the 1970s sparked extensive scientific research and cultural exploration. During this period, policymakers sought to address broader concerns about drug use and the limitations of existing laws by creating a unified federal framework to regulate substances based on the potential for problematic, non-medical use. This effort culminated in the Controlled Substances Act (CSA) of 1970, which established the modern drug scheduling system and aligned U.S. policy with international drug control treaties.

Under federal law, possessing any controlled substance without a prescription is subject to criminal penalties, even for medically recognized psychedelics like ketamine and esketamine. The CSA placed psychedelics in Schedule I, the most restrictive category, designating them as having no accepted medical use and a high potential for “abuse” (as defined by the CSA) (2). This classification criminalized their use and possession and had a chilling effect on scientific research. The widespread recreational use of psychedelics in the 1960s fueled public fears of danger and social disruption, driving their strict regulation

under the CSA. This stigmatization institutionalized aggressive drug enforcement rooted in countercultural opposition and racial animus, disproportionately targeting marginalized groups and cementing a legacy of harm in their communities.

Since the passage of the CSA, research from the 1990s to the present has provided substantial evidence that naturally occurring psychedelics as well as the synthetic psychedelics MDMA and LSD have a low risk of problematic use and are less harmful compared to other controlled (e.g. heroin, cocaine) and non-controlled (alcohol and tobacco) substances. Research also demonstrates that psychedelics may be effective for treating depression, anxiety, post-traumatic stress disorder (PTSD), and substance use disorders, with efficacy that surpasses that of conventional treatments (3). Esketamine (Spravato) was the first psychedelic to receive FDA approval for a medical indication in 2019, and was classified as Schedule III. These advancements have prompted federal health organizations to take meaningful steps toward legitimizing the use of other psychedelics. The FDA granted breakthrough therapy designation to MDMA in 2017 and to psilocybin in 2019, which highlighted their strong therapeutic potential. In October 2021, the NIH awarded the first federal grant for psychedelic research in 50 years (Johns Hopkins Medicine, 2021). Despite increasing scientific and medical support for their integration into healthcare, these substances remain classified as Schedule I under outdated drug policies that fail to reflect current evidence

The prevalence of serious adverse events associated with psychedelics is low (4). LSD and psilocybin, for example, have a high safety ratio of 1000, meaning the lethal dose is approximately 1000 times greater than a typical therapeutic or non-therapeutic dose. As a result, fatalities from psychedelics are extremely rare and generally occur only in the presence of other substances or preexisting health conditions. Certain psychedelics, such as ibogaine, carry a small but notable risk of cardiotoxicity, specifically QTc prolongation, which can lead to life-threatening arrhythmias. These risks are heightened in nonmedical settings without proper screening and monitoring but can be mitigated in controlled clinical environments with appropriate precautions, including magnesium co-administration. While psychedelics have a strong safety profile, they are not without risks. In vulnerable individuals, they can cause acute psychological distress, paranoia, transient psychotic reactions, and exacerbation of underlying psychiatric conditions. These risks can be amplified when psychedelics are used outside medically supervised or structured facilitated settings, where proper screening and integration support can help

mitigate potential psychological distress. However, research consistently shows that in controlled environments, serious adverse events remain rare, reinforcing the broader conclusion that psychedelics are generally safe when used responsibly. A meta-analysis of 214 studies involving 3,504 participants found no serious adverse events in healthy individuals, further reinforcing the high safety profile of psychedelics when used in controlled settings. Importantly, no deaths by suicide, persistent psychotic disorders, or hallucinogen-persisting perception disorders were reported following high-dose administration of classic psychedelics (5). Additionally, psychedelics demonstrate minimal potential for problematic use and are generally considered non-addictive. Unlike traditional addictive substances, psychedelics do not activate the neural circuits associated with addiction or lead to physical dependence with repeated use (6). MDMA's potential for compulsive use is more complex than that of classic psychedelics; while some studies highlight patterns of misuse, others suggest it does not lead to physical dependence or withdrawal (7). This nuance sets it apart from substances with high abuse potential, reinforcing the broader conclusion that psychedelics generally have a low risk for addiction. In fact, psychedelics are now being explored as treatments for substance use disorders (8).

The growing body of evidence supporting the safety and therapeutic potential of psychedelics has prompted a shift in public opinion toward increasing access to psychedelics and removing legal penalties for personal use and possession. A 2023 national survey conducted by UC Berkeley found that 61% of registered U.S. voters favor the legalization of psychedelic plants and fungi, highlighting shifting public attitudes on psychedelic policy (9). This sentiment reflects increased public awareness of the gap between drug policies and scientific evidence. The misalignment between the legal psychedelics' classification and their actual risk underscores broader systemic failures in drug policy.

Drawbacks of Current Policies

The Schedule I status of psychedelics falsely inflates their risk and perpetuates a legal regime that imposes excessive punishment for nonviolent drug offenses. Schedule I violations carry harsh sentences under U.S. law, including up to 1-year imprisonment for simple possession (10). Incarceration burdens individuals with a lasting criminal record, thereby affecting employment, housing, and other important areas of life.

There is a paucity of data on psychedelic-related crimes since they account for only a small fraction of drug-related criminal activity. The majority of individuals incarcerated in federal prisons for drug offenses are there for non-hallucinogenic substances. Psychedelics are often grouped as “other dangerous narcotics,” and state-level data rarely distinguishes their specific rates of seizure, arrest, or incarceration. Available evidence shows that seizures of psilocybin increased by 369%, rising from 226 kg to 844 kg between 2017 and 2022. However, this remains a minor component of federal drug trafficking crimes. In 2023, "other dangerous narcotics" accounted for just 1.9% of cases (11).

Psychedelics lack many of the dangerous physiologic risks (e.g., lethal overdose) of drugs like cocaine, opioids, and methamphetamine, but the classification under Schedule I imposes equally severe punitive outcomes. LSD sentencing guidelines offer a clear and concrete example. The 'net weight' of LSD is calculated by including its carrier medium (e.g., blotter paper). LSD doses are measured in micrograms, so *any* carrier medium would vastly outweigh the drug itself. This artificially inflates the total weight, misrepresents the drug’s real pharmacological effect, and results in elevated charges and harsher sentencing (12). This is both inconsistent and unjust.

Psychedelic criminalization harms public health. Decades of prohibition have fueled stigma, which creates barriers to open communication and harm reduction education. While information about psychedelics is widely available, many individuals struggle to identify reliable resources. This challenge is compounded by the fear of prosecution, which further discourages open dialogue and hinders efforts to promote safety. This reluctance impacts clinical settings, where fear of judgment may discourage patients from discussing psychedelic use with doctors. For instance, a survey of 1,221 individuals using psychedelics in personal settings found that fewer than 5% relied on medical professionals for information, favoring personal experimentation, internet sites, and personal contacts. Notably, government agencies were the least trusted source of information (13). Similarly, healthcare providers often avoid discussing psychedelics with patients due to limited knowledge, personal biases, fear of legal repercussions, or concerns about appearing to condone illicit drug use (14), resulting in a missed opportunity for safety discussions and informed decision-making. Most individuals interested in psychedelics end up turning to the unregulated market for access (15). This poses significant public safety risks: exposure to products of unknown purity and safety,

medical and psychiatric complications, being in unsafe environments, sexual abuse and other forms of exploitation (16). These are the repercussions of prioritizing punishment over public health. Criminalizing psychedelic use and possession—a nonviolent act involving substances with a low potential for misuse and minimal long-term health impacts—is a waste of resources that leaves people with psychedelic-related offenses with the lasting consequences of a criminal record. These policies reveal a fundamental misalignment between their stated objectives and rational public health strategy, underscoring the need to reevaluate the legal foundation of psychedelics.

Psychedelic Policy Momentum

Despite federal inaction, psychedelic policy reforms are progressing at the local and state levels as bipartisan lawmakers are reconsidering decades of prohibition. Some jurisdictions have adopted deprioritization measures, treating psychedelic-related offenses as low enforcement priorities without changing their legal status and reducing punishment through measures like fines or diversion to treatment programs. Other jurisdictions have implemented full decriminalization, eliminating criminal liability for personal use and possession (18). In May 2019, Denver was the first US city to decriminalize psilocybin mushrooms (19). In 2020, Oregon became the first state to enact a framework for state-regulated psilocybin services (20). Note that this is distinct from decriminalization. Possession and use of psilocybin outside the state-sanctioned program remains illegal.

In November 2022, Colorado passed Proposition 122, the Natural Medicine Health Act, which decriminalized the personal use and possession of psilocybin, psilocin, mescaline (excluding peyote), ibogaine, and DMT for persons 21 and older (21). The act also allows residents to grow and share psilocybin mushrooms, although the sale of psilocybin mushrooms remains illegal in Colorado outside state-licensed healing centers, where the mushrooms must be consumed onsite under the supervision of a licensed facilitator. By late 2023, more than a dozen cities and states either decriminalized or deprioritized enforcement for plant-based psychedelics like psilocybin, mescaline, ayahuasca, and ibogaine (22). Despite these advances, state-level reforms do not supersede the federal prohibition of psychedelics. Federal reform must balance rescheduling or descheduling psychedelics with criminal justice concerns. Federal changes continue to lag state initiatives, but recent progress includes the introduction of the 2022 Breakthrough Therapies Act, which aims to amend the Controlled Substances Act and ease research

barriers for psychedelics designated as breakthrough therapies. At present, state and city-level decriminalization efforts reflect a transition toward treating psychedelic use as a public health issue rather than a criminal matter.

Decriminalizing psychedelics is a step that prioritizes public health over punitive policies, fostering a safer and more equitable society. A state-level decriminalization approach avoids direct conflict with federal law, instead reflecting a decision to cease penalizing psychedelic use and possession within their jurisdictions. This reduces the burdens on the criminal justice system and redirects resources from incarceration to other public health priorities. Decriminalization addresses the harms of unsound drug policies while creating a foundation for effective and practical reform. Removing the threat of legal consequences encourages individuals to adopt safer behaviors in the unregulated market (e.g., contacting emergency services, disclosing their use to healthcare providers), seek reliable information, and access necessary support. This approach provides benefits that support public health and positive social outcomes.

- Reduced Arrests**:** Jurisdictions with active decriminalization measures have significantly reduced arrests for drug offenses. Washington's 2021 decriminalization measure reduced monthly drug possession arrests by 91% within eight months (23). In Denver County, hallucinogen-related offenses decreased from 2.41% of drug-related crimes in 2020 to 1.4% in 2023.
- Advancing Public Health**:** Decriminalization reduces stigma and reframes drug policy, shifting the focus from criminalization to a public health framework. It prioritizes harm reduction strategies and education on safe use and associated risks. In Denver, decriminalization spurred local health organizations and advocacy groups to create educational initiatives on safe use and risk awareness. These efforts enhance safety and empower individuals to make informed decisions about psychedelic use.
- Resource Allocation: Decriminalization enables resources to be redirected to other public health needs. While not full decriminalization, California's Proposition 47, passed in 2014, reduced penalties for simple possession of controlled substances. This has saved the state approximately $816 million in prison spending. Those savings were distributed to mental health and substance use treatment programs, community organizations, and the Department of Education. These savings have helped reduce recidivism rates, improved employment opportunities, and increased housing stability (24).

- Social Equity: Drug criminalization has disproportionately harmed Black, Indigenous, and People of Color (BIPOC) and low-income communities, driving higher arrest and incarceration rates while creating lasting barriers to jobs, housing, and education. Decriminalization can lead to expungement of past convictions, helping to mitigate the damaging impacts of incarceration and restoring access to opportunities lost as a result of a criminal history. For example, in *State v. Blake* (2021), the Washington State Supreme Court declared the state's drug possession law unconstitutional, effectively decriminalizing simple possession (25). This landmark ruling led to the dismissal of thousands of convictions and the refunding of fines, marking a significant step toward restoring social equity by addressing the harms caused by the law. Decriminalization also provides an opportunity to promote fairness and inclusivity by collaborating with Indigenous communities to ensure their traditional practices with psychedelics are respected and protected within evolving policy frameworks. After decriminalizing psychedelics in 2019, Oakland, CA engaged with Indigenous leaders to ensure policies respect traditional practices and address concerns about peyote conservation. Similarly, Santa Cruz, CA removed peyote from its decriminalization list in 2020 following Tribal concerns about its cultural significance. Colorado's 2022 Natural Medicine Health Act also created a Tribal working group to prevent misappropriation, protect communities, and support conservation efforts.

Experiences from other countries that have implemented decriminalization reforms provide valuable evidence of the tangible benefits to public health. In Portugal, where all drugs were decriminalized in 2001, the adoption of a harm-reduction model has significantly lowered incarceration rates and drug-related deaths. In Canada, exemptions for medical psychedelic use have removed criminal liability for patients and providers, facilitating safer therapeutic practices. Similarly, Australia's legalization of MDMA and psilocybin in 2023 for mental health conditions demonstrates how regulated frameworks can align public health goals with reduced criminalization. These international precedents underscore the potential for jurisdictions considering decriminalization to achieve comparable public health and social benefits.

D4DPR Policy Recommendation

Building on this momentum, D4DPR advocates for cohesive state-level decriminalization of personal use and possession of psychedelics for adults. Our recommendation emphasizes well-researched Schedule I psychedelics—psilocybin, LSD, MDMA, mescaline, ibogaine, DMT, and 5-MeO-DMT—to advance evidence-based policy reform. However, we acknowledge that the harms of criminalization extend beyond these substances to other psychedelics. Schedule III psychedelics, like ketamine and esketamine, are still subject to criminal penalty if possessed without a prescription. Lesser-researched Schedule I psychedelics remain criminalized, reinforcing punitive policies that harm communities. While expanding decriminalization to include these substances is a critical step, it must be accompanied by ongoing research to assess risks and benefits. A harm reduction-based approach ensures a more just, evidence-driven, and equitable framework for drug policy, reducing incarceration rates, mitigating stigma, and fostering public health-centered solutions. This policy framework does not include the cultivation, sale, or distribution of psychedelics, but prioritizes harm reduction by eliminating outdated and ineffective penalties for personal use.

State-level decriminalization abolishes penalties while maintaining the current legal status of psychedelics. A unified approach across states would resolve the patchwork of conflicting laws that perpetuate criminal justice harms. This strategy aligns with scientific evidence demonstrating the harm reduction and public health benefits of decriminalization. This approach is consistent with the way in which states have acted as "laboratories of democracy" in areas like cannabis reform—implementing new policies in a nimble manner that can then drive federal policy once lawmakers and researchers have time to examine the results of legal reform at the state level.

Recommendations:

- States should remove criminal penalties for simple possession and use of psychedelics and leave enforcement of the CSA to the Drug Enforcement Agency (DEA).
- Define simple possession as the possession of small amounts of psychedelics for individual consumption without intent to distribute, consistent with federal law—Title 21 of the United States Code § 844.

- Establish clear quantity thresholds to distinguish simple possession from distribution. Federal law does not define personal use amounts; therefore, states should develop evidence-based thresholds that account for variations in potency, carrier mediums, and formulation differences. Vague standards should be avoided to ensure consistent enforcement and limit reliance on law enforcement discretion. These limits should be updated regularly based on emerging data to prevent over-criminalization.
- The minimum legal age for psychedelic possession should align with alcohol, tobacco, and/or cannabis laws. Harm reduction and non-punitive measures should address underage use of these substances.
- Collaborate with medical and community organizations to create training programs for clinicians, law enforcement, and youth. Public education campaigns should emphasize Indigenous ties to psychedelics to foster respect and culturally informed engagement.
- Redirect resources from psychedelic-related offenses to public health initiatives. Prioritize interventions like testing kits, safe use guidelines, crisis hotlines, and peer support programs to reduce stigma and encourage open discussions about psychedelic use.
- Implement automatic expungement of past convictions for simple possession of psychedelics, including cases where individuals were inappropriately charged for distribution. Provide restorative justice initiatives and public campaigns to assist those affected by flawed drug policies.
- Incorporate Indigenous perspectives into policymaking to ensure ethical and inclusive reforms. Balanced policies should prioritize preventing exploitation, honoring Indigenous contributions, and integrating partnerships with Indigenous leaders into decision-making.
- Establish metrics to assess criminal justice and public health impacts. Gather real-world data on psychedelic use to address research gaps from controlled trials and guide evidence-based policies and effective regulations.

Conclusion

The Schedule I classification of psychedelics is contradicted by robust evidence showing they have a low risk of serious harm, minimal potential for problematic use, and considerable medical utility. This classification has resulted in inordinately harsh and inequitably distributed legal consequences. D4DPR therefore advocates for the cohesive state-level decriminalization of psychedelic personal use and possession for adults. Decriminalization is an immediate practical step toward addressing inconsistencies in current drug statutes while allowing the federal government to retain jurisdiction over their legal status and enforcement. This approach builds a more equitable and rational drug policy by prioritizing public health, reducing incarceration, and lessening financial burdens on the criminal justice system. The criminalization of psychedelics provides no measurable benefit to public welfare and disproportionately harms individuals and communities. By aligning with scientific evidence and advancing social justice, psychedelic decriminalization sets the foundation for a more sensible and compassionate approach to drug policy reform.

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