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Invited Testimony of Doug Turetsky
To the Public Forum held by State Senator Liz Krueger and Assembly Member Peoples-Stokes
On Evaluating New York's Marijuana Taxation and Regulation Legislation
In a Changing National Climate
December 17, 2014

Good afternoon State Senator Krueger and Assembly Member Peoples-Stokes. I am Doug Turetsky, chief of staff and communications director for the New York City Independent Budget Office. I am joined by Julie Anna Golebiewski, an IBO senior economist. Thank you for the invitation to address this public forum.

IBO was invited to testify today because our most recent edition of [*Budget Options for New York City*](#) included for the first time an estimation of potential revenue for the city from the legalization of marijuana. Let me note up front that IBO neither supports nor rejects the idea of legalization of cannabis. This is consistent with our approach to the more than 90 other measures contained in the budget options volume. We outline the pros and cons of implementing each of the initiatives contained in the volume along with our estimate of their fiscal impact.

In determining what to include in the annual budget options volume we do take political feasibility into account. The inclusion in this year's report of our estimate of the potential revenue from marijuana legalization is an acknowledgment of an ongoing change in public perception. The discussion of legalization has shifted from political third rail to real world consideration. This change is clearly reflected in the legalization of marijuana in Colorado and Washington and recent votes for legalization in Alaska; Oregon; and Washington, DC. Locally, the de Blasio Administration's decision to issue summonses rather than arrest individuals found with relatively small amounts of marijuana is another indication of the change.

If marijuana was legalized, regulated, and taxed in New York, we estimate this would initially generate about \$25 million in city sales tax revenue, with the potential to increase in future years. This is considerably less than former City Comptroller Liu estimated last year, so I will explain the basis of our approach and some key differences between our estimates.

The bill introduced in the New York State Legislature would levy a \$50 per ounce state excise tax (about 15 percent of the current average street price) and allow localities to impose an additional 5 percent excise tax along with their regular sales tax on retail sales. We assumed New York City would only levy its existing 4.5 percent sales tax on retail sales. We made this assumption after considering two factors: the experience in Colorado, where recreational sales have been legal since January, and the effect of New York's heavy taxes on the sale of cigarettes.

To date, Colorado's tax revenue from retail sales has been less than expected. Well before legalizing recreational sales Colorado had created a legal medical marijuana market, one that is now well-established and relatively

easy to access, with numerous outlets across much of the state. When Colorado implemented recreational sales, it included an additional 10 percent special retail sales tax on these purchases, pushing the cost to purchase through a recreational outlet well above the cost of purchasing through a medical supplier. As a result, many marijuana users who had a medical card had a substantial price incentive to continue purchasing from medical suppliers rather than from recreational retailers.

New York's nascent system for medical marijuana sales pales in comparison to Colorado's. But what New York does already have is a large and well-entrenched black market for cannabis. If taxes push sale prices to an extreme, many users may decide to continue to buy on the black market rather than switch to the legal and regulated market. This is where the experience with cigarette sales figures into our assumptions.

New York State has the highest cigarette taxes in the nation. According to a Tax Foundation report issued earlier this year, about 56 percent of cigarette sales in the state are under the counter —also the highest rate in the nation. Not surprisingly, there is evidence that the market for illegal cigarette sales has grown with the hike in taxes as smokers sought to evade the higher costs.

After looking at what has occurred in so far in Colorado along with New York's own experience in taxing cigarette sales, we thought it made sense to assume the city would levy only its standard retail sales tax. We also assumed that the city's well-established black market for marijuana sales would not just disappear with legalization and that many consumers would continue to buy from them to evade the additional cost of state and local taxes.

In contrast, the report from the Comptroller's office assumed the city would impose local marijuana excise and sales taxes. The report also appears to assume higher levels of consumption and that more consumers will shift to legal, regulated, and taxed sales than IBO expects.

To its credit, the Comptroller's report also took a broader look at the budget-related effects of legalization than we did. The report presented a preliminary estimate of the fiscal impact statewide from legalization and considered not just potential tax revenue but also savings. The savings derive from avoided police, judicial, and correctional spending from marijuana-related arrests and incarcerations. Indirect revenues also would be realized from taxes on salaries from the jobs created in starting a new retail market.

As the Comptroller's report indicates, the potential fiscal impact from legalization is broader than just the sales tax revenue the city could collect from recreational sales. Our estimate of \$25 million just from sales tax revenue is cautious and may be on the lower end of the probable range. But as with many public policy decisions, revenue alone is not the sole test of whether to move forward. There is a human toll involved with current policies. Consider that over a recent 10-year period more than 350,000 New York City residents were arrested for possession of small amounts of marijuana and that blacks and Latinos are arrested at far greater rates than whites. Such factors may be equally or even more important than any calculations of the fiscal effects of legalizing marijuana.

Thank you for the invitation to be here today and we will gladly answer any questions.



Evaluating New York's Marijuana Taxation and Regulation Legislation in a Changing National Climate
Public Forum
December 17th, 2014

Thank you for inviting BOOM!Health to participate in this public hearing regarding the Marijuana Regulation and Taxation Act.

BOOM!Health is a non-profit organization in the heart of the South Bronx, NY that supports program participants on their journey towards wellness and self-sufficiency through our service and advocacy model that works to actively remove barriers to accessing primary medical care, as well as HIV and viral hepatitis prevention. Services are provided out of our Harm Reduction Center, Prevention Center, and Central Office. Our new Wellness Center, scheduled to open in Spring 2015, will consolidate our Prevention Center and Central Office into a newly renovated center located in Melrose and feature a similar model to the Harm Reduction Center but with a focus on reaching LGBT Bronx residents through co-located primary care.

Operational since 1995 as CitiWide Harm Reduction, services at the three-story BOOM!Health Harm Reduction Center located in the Mott Haven section of the Bronx focuses on low-threshold engagement that addresses the safety and wellness of active drug users which includes a syringe exchange program and NYS certified Opioid prevention and reversal program. Last year, we provided more than 350 opioid reversal trainings and reversed 12 opioid overdoses. In 2011, BOOM!Health's Harm Reduction Center co-located a Federally Qualified Health Center (FQHC) and NYS OMH Article 31 behavioral health program run by community partner, HELP/PSI, and a community-based pharmacy operated by Evers Pharmacy (now BOOM!Pharmacy), and integrated these services into its nationally recognized comprehensive treatment model to improve health outcomes primarily for African-American and Latino Injection Drug Users. We are also grateful that the Harm Reduction Center is located in New York City Council Speaker Melissa Mark-Viverito's district, who came out in November in full support of marijuana legalization.

We serve over 12,000 participants annually. 40% are Black/African-American, 55% Latino/Hispanic, and 5% Caucasian, and all of our participants live below the poverty line. In an annual survey conducted among our participants, of our surveyed Prevention Center participants, 44% reported using marijuana daily. At our Harm Reduction Center, 41.1% of participants reported marijuana use in the last year with 14% reporting daily use.

We are here to both support New York State's efforts to legalize, regulate, and tax the sale and production of marijuana and provide recommendations to ensure communities of color that have been devastated by prohibition and the War on Drugs are represented in this critical

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discussion. We believe that the Marijuana Regulation and Taxation Act is a crucial step in the right direction for three reasons. First, decriminalizing marijuana in New York would begin undoing the disastrous effects of criminalization to communities of color in the Bronx and beyond. Second, taxing and regulating marijuana would provide a great economic boost to some of the city's poorest neighborhoods, many of which are located in the Bronx. Third, ensuring accessibility of marijuana would support various public health efforts that will both save lives and save money. We will outline each point and provide recommendations that should be integrated into the proposed legislation.

First, taxing and regulating marijuana in New York would begin undoing the disastrous effects of criminalization on communities of color in the Bronx and beyond. New York City leads the world in marijuana arrests. According to the New York State Division of Criminal Justice Services (DCJS) Computerized Criminal History system, there are 80 marijuana-related arrests a day in New York City. The Mott Haven neighborhood in the Bronx has one of the highest arrest rates in the city, where our Harm Reduction Center is located. Young African Americans and Latinos have been arrested disproportionately, and the decades of marijuana prohibition and war on drugs has caused incalculable damage to the lives, families, and neighborhood infrastructure that have been unjustly targeted, particularly in the Bronx.

While decriminalizing marijuana sales would go a long way in correcting decades of over-policing, if any marijuana services - recreational or medicinal - are not accessible by low-income individuals, the proposed legislation will not succeed in its proposed goals. For folks who have already been criminalized by current punitive laws or who currently seek marijuana through the illegal market, there must be a pathway that allows for the legal access of marijuana without barriers, penalties, or further criminalization.

Second, taxing and regulating marijuana could provide a great economic boost to some of the city's poorest neighborhoods, many of which are located in the Bronx.

According to the latest version of the proposed legislation, a small percentage of proceeds from the excise tax that would be levied on sales of marijuana would go to "the department of labor for apprenticeship and job training programs, with preference given to programs targeting census tracts with a poverty rate of at least one and one quarter times the New York state unemployment rate." This would directly benefit many neighborhoods in the Bronx and BOOM!Health participants. Our Harm Reduction Center is located in the zip code 10451, which is the poorest zip code in the entire state and has one of the highest unemployment rates in the state. We recommend a greater percentage of revenue be earmarked towards developing the infrastructure of poor neighborhoods, including education, social services, healthcare and prevention services, that have been targeted by the war on drugs, but in order to maximize this opportunity, New York must look at what Washington and Colorado have experienced in generating revenue from marijuana sales.

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According to a report from Moody's from September 2014, Washington state's new recreational marijuana market is more expensive than black market and medicinal marijuana, and dispensaries are not widely available. This has resulted in lower than expected tax revenue and the continued use of illegal markets. Additionally, of the 334 marijuana store licenses available, Washington has only issued 24, and the state has not licensed enough growers. Similarly, Colorado has adjusted revenue targets down due to similar issues: medical and black market marijuana services continue to be cheaper than marijuana available through the recreational market.

Although we are currently awaiting the announcement of regulations for New York's medicinal marijuana system through the Compassionate Care Act, we must not repeat the mistakes made in Colorado and Washington. New York's legislation must ensure that dispensaries are widely available across the state with an emphasis on low-income communities of color that have been disproportionately targeted by decades of prohibition and criminalization. As seen by Colorado's and Washington's below target tax revenue, an accessible market will be key to generating maximum revenue and ensuring access to legal marijuana services. And, since there are more people of color in New York State than there are whites in Washington and more the entire population of Colorado, these mistakes would be magnified if repeated in New York.

BOOM!Health's service delivery model, which overwhelmingly serves people of color, emphasizes eliminating every possible barrier so that the most vulnerable, low-income New Yorkers in the Bronx can access critical health and prevention services. Working with community based organizations like BOOM!Health can ensure that the proposed legislation maximizes its effectiveness and reach. A network of eligible community based non-profits should even be able to run marijuana dispensaries.

Third, taxing and regulating marijuana would support various public health efforts that will both save lives and save money. There is a tremendous opportunity in this discussion to link all marijuana services - not just medicinal - to New York's public health infrastructure. For those who choose to use recreational marijuana, harm reduction based health care, drug treatment, and social services should also be made available. While marijuana users have a variety of reasons for administering the drug, establishing the link between marijuana and public health ensures that there is an access point for all New Yorkers to seek additional health care and social support should it become necessary.

Additionally, making marijuana services available would help address other public health concerns. For example, so-called synthetic cannabis, also known as K2, is a growing concern for low-income communities that cannot afford illegal marijuana. In our 2014 annual participant survey, 7% of those surveyed at our Prevention Center reported using K2 daily. At our Harm Reduction Center, 15.3% of participants reported K2 use in the last year, with 6% reporting daily

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use, all numbers that show K2 use is growing among our participants. Despite being illegal, participants can easily purchase K2 at local shops across the Bronx. And while there is little research about the side effects of K2, we have seen participants suffer overdoses, withdrawal, and other health problems that some participants have compared to heroin use. In a recent new story from CNN, reports show that K2 use can even be fatal.

Also, according to the August 2014 issue of the Journal of the American Medical Association, states that have legal and accessible marijuana services are also seeing lower annual opioid overdose death rates, both from prescription pain killers and illicit drugs such as heroin. Since the Bronx has some of the highest rates of opioid overdoses in the state, ensuring accessible marijuana services could reduce these rates as well.

Finally, the Compassionate Care Act, which provides strict regulations for medicinal marijuana services in New York, acknowledges that many medical conditions could benefit from administering marijuana. For people living with HIV/AIDS, medical marijuana has been found especially effective at treating neuropathic pain, nausea, and weight loss, which are common side effects to anti-retrovirals, and research indicates that marijuana use can help increase adherence to anti-retrovirals and improve viral suppression rates.

In conclusion, New York has unfortunately been the leader in criminalizing and impoverishing people of color due to marijuana prohibition. But now, we are at a moment where we can be the leaders in developing a model of recreational marijuana that generates significant tax revenue, ensures access to low-income communities of color across the state, and rectifies decades of criminalization by rebuilding and investing in needed infrastructure to those that most need it. BOOM!Health is willing to actively participate in ensuring that the legislation and implementation of recreational marijuana services in the state serves all New Yorkers including the most vulnerable, and we urge that all discussions of marijuana services keep central health, wellness, and safety for all, and the specific needs of low-income communities of color, who have the most to lose if we restrict access to affordable medicinal and recreational marijuana.

Thank you.

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PROP Statement on Marijuana Taxation and Regulation Act

Here are the principal reasons to support the legislative proposals to legalize and regulate the sale and possession of small amounts of marijuana:

- For years, at great human and fiscal cost to New Yorkers, arrests and summonses for marijuana sale and possession have been a major activity of the NYPD.
- A stark racial bias has marked these misguided NYPD practices - though whites use and sell marijuana at similar or higher rates than black or brown people, people of color make up 85 to 95% of the individuals arrested or ticketed for marijuana infractions.
- This legislation would achieve the laudable goal of removing the NYPD from the businesses of policing marijuana and of finally ending the criminalizing and harassment of people of color who use and sell marijuana.
- New York City would save millions of dollars annually in law enforcement resources, money which the city could then allocate to services and programs that would help improve the quality of life in our communities of color.
- The states of Colorado and Washington have shown that legalizing and regulating marijuana has the related benefits of saving funds and increasing revenue without leading to an increase in crime or hard drug use.

For those reasons and more, we at PROP urge the passage of the marijuana Taxation and Regulation Act. Also, we commend Senator Krueger and Assemblymember Peoples Stokes for their smart and brave steps of introducing this important and far reaching legislation.

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Evaluating New York's Marijuana Taxation and Regulation Legislation in a Changing National Climate

**Testimony of New York City Council Member Stephen Levin
December 17, 2014**

Good afternoon. My name is Stephen Levin and I am the New York City Council Member representing the 33rd District in Brooklyn. I want to begin my testimony by thanking Senator Krueger and Assemblymember Peoples-Stokes for holding this important forum and for the opportunity to speak this morning. I also want to thank you both for your incredible leadership on this issue. You have lead the charge for the legalization of marijuana in New York State - both legislatively and through your advocacy - I thank you for that, and the people of New York thank you, as well.

I come here today as the sponsor of the New York City Council resolution in support of Senator Krueger and Assemblymember Peoples-Stokes' State legislation. There are many experts in the room with us today so I will keep my testimony brief; nonetheless, I wanted to voice my support of this important legislation in light of the facts on the ground here in New York, as well as abroad in states that have already taken the step of legalization.

It should be clear to anyone who has researched this issue that there is a need for reform around marijuana laws not only here in New York, but throughout the country. On every count, marijuana laws here in New York and in most states are failing the public, and especially our black and Latino communities.

The numbers are staggering. Out of 28,644 marijuana possession arrests in New York City in 2013, 87% of arrests were of blacks and Latinos. Additionally, the number of marijuana arrests is on the rise. Nationally, marijuana arrests increased between 2001 and 2010 and account for 52 percent of all drug arrests in the United States. Marijuana possession arrests account for

46 percent of all drug arrests. These laws come at a great cost. In 2010 alone, states across the country spent \$3.6 billion enforcing marijuana possession laws.

Low level marijuana arrests impact an individual and their families throughout their life, put a strain on our criminal justice system, and are not where we should be placing our valuable resources. The current laws unfairly penalize young men of color and do not even begin to approach the type of sensible drug policy we need here in New York.

Thankfully, states like Washington State and Colorado have taken the important step of legalizing marijuana. While it still may be early to understand the full effects of these laws, the evidence thus far dispels many of the fears of those opposed to legalized marijuana for recreational use.

During the first 6 months of Colorado's legal retail cannabis market, we have seen many positive impacts. Legalized marijuana has bolstered the economy in Colorado and added needed tax revenue. After its first six months, Colorado has seen \$69,000,000 in retail marijuana sales, 10,000 people working in the marijuana industry, and \$10.8 million in tax revenue.

Additionally, the legal retail market in Colorado has not produced the negative public safety impacts that many opponents had feared. After its first six months, no Colorado stores were found selling to minors and survey data has actually found fewer high-school students self-reporting using cannabis in 2013 as compared to 2011. In addition, statewide data on traffic fatalities during the first seven-months of 2014 compared to the first seven-months of 2013 indicate that roadway fatalities have not been impacted by the allowance of retail cannabis sales.

I believe strongly that now is the time for New York to act on this very important issue and to pass the Marijuana Regulation and Taxation Act. New York needs to put an end to the racial disparity in marijuana arrests; New York needs to move forward to a system where we

stop spending millions of dollars on marijuana law enforcement and instead generate desperately needed tax revenue; New York needs sensible marijuana policy. I want to thank Senator Krueger and Assemblymember Peoples-Stokes again for their leadership and I will stand with you every step of the way until marijuana is legalized in New York.

