Regulatory Options for State Cannabis Legalization:
What Prevention Needs to Know

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KEY TOPICS

- Status of cannabis legalization in the US

- Regulatory options for cannabis legalization, including those from other policy fields

- Public health implications of regulations adapted from the commercial alcohol model

- Identifying best practices for alcohol model-based regulations

- Considering cultural implications of legalization

FEDERAL MARIJUANA LAWS

- The **Controlled Substance Act (CSA)** prohibits the possession, use, sale, and distribution of marijuana in the United States

- State legalization does not change this

- Various Department of Justice (DOJ) memos have provided states with differing guidance

DEPARTMENT OF JUSTICE GUIDANCE 2009 - 2018

October 2009
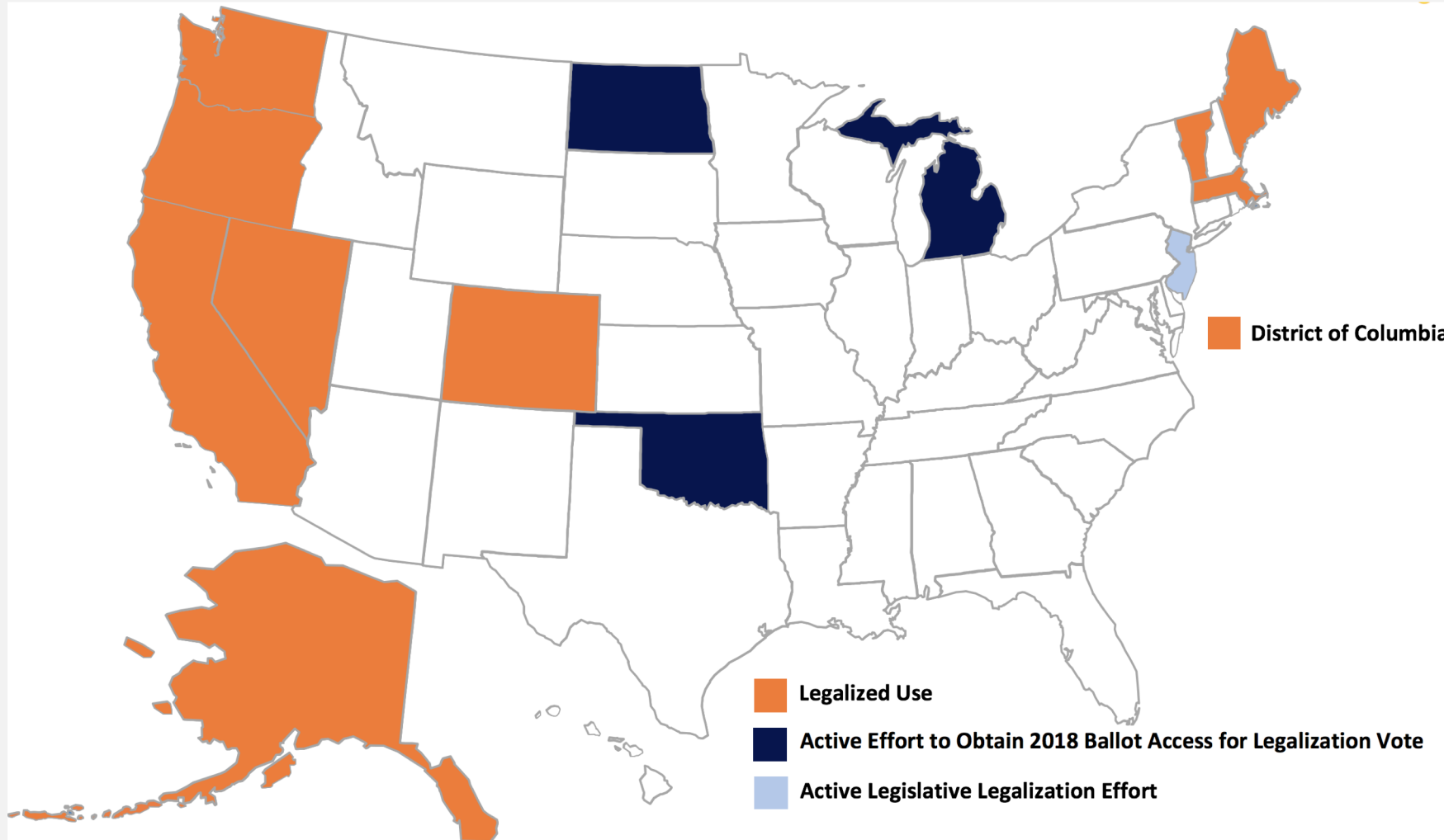Ogden memo

August 2013
2nd Cole Memo
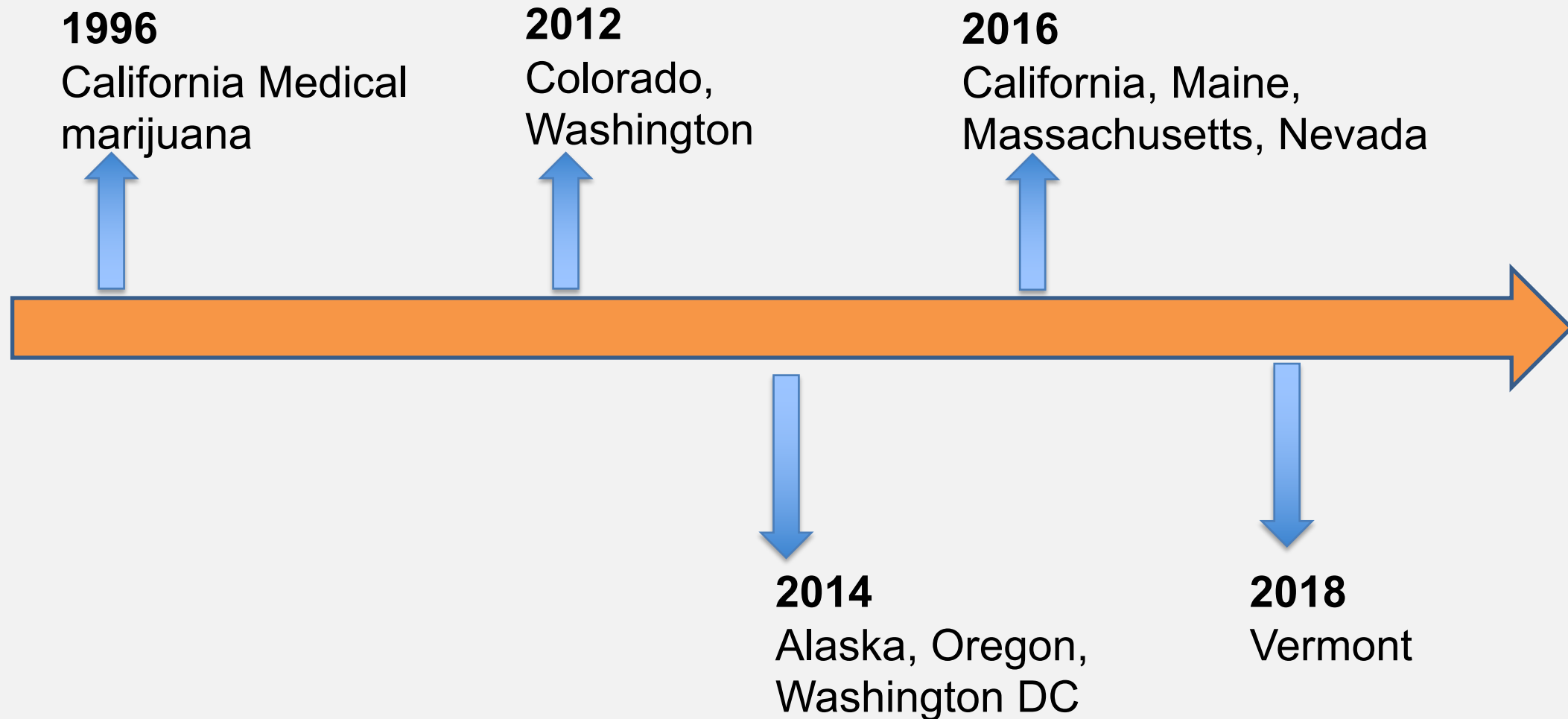
June 2011
1st Cole memo

January 2018:
Sessions Memo

THE STATE OF STATE LEGALIZATION

District of Columbia

Legalized Use

Active Effort to Obtain 2018 Ballot Access for Legalization Vote

Active Legislative Legalization Effort

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STATE LEGALIZATION TIMELINE (ENACTED)

1996
California Medical marijuana

2012
Colorado, Washington

2016
California, Maine, Massachusetts, Nevada

2014
Alaska, Oregon, Washington DC

2018
Vermont

EARLY LESSONS FROM STATES

- Early examples are mostly outliers

- Full assessment of effects likely to take a generation

- Legalization generally is approved via ballot initiatives (pushed by industry)

- Regulatory systems tend to follow a commercial for-profit (alcohol-style) structure

YOUTH USE & LEGALIZATION

- It is too early to understand the impacts of legalization on youth use

- Youth perception of harm is declining

- Continued/modified data collection is important

GOALS AND REGULATORY STRUCTURE

The balance of legalization goals shapes regulatory choices and the definition of "success"

- Justice reform
- Libertarian principles
- Tax revenue
- Public health

The system should serve the goals and reflect the culture.
Stakeholders will have different goals.

REGULATORY STRUCTURES

- Grow & Gift (No Sales)
- Co-ops & Collectives
- Non-Profit/For-Benefit Organizations
- Government Monopoly
- Decriminalization + Sales
- Commercial For-Profit
  - Alcohol
  - Tobacco

GROW & GIFT (NO SALES)

- Personal cultivation only
- No sales & no profit
- User access to marijuana without a "market"
    - Social justice
    - Works with legalization or decriminalization
- Cons:
    - Enforcement
    - Unregulated black market with no tax revenue

CO-OPS & COLLECTIVES

- Users join, grow, share, and trade within a co-op (a non-profit membership group)
- Generally paired with decriminalization, not legalization
- Decreases the black market without commercializing marijuana – public health pros
- Cons:
  - Difficult to enforce and regulate
  - Not currently used in the US

NON-PROFIT / FOR-BENEFIT ORGANIZATIONS

- Tax revenue, regulation, and public health benefits
    - o Non-Profit Organizations:
        - Sales with tax revenue
        - Mission-oriented "do-gooders"
    - o For-Benefit Corporations:
        - Do-gooder for-profit
        - Decisions made based on mission (e.g., public health) and profit
- Cons: Unusual?

GOVERNMENT MONOPOLY

- Government is the only entity allowed to do at least one of the following:
  - o Cultivation
  - o Processing
  - o Retail sales

- Regulatory control far easier, including for advertising
  - o Doesn't necessarily address public health concerns
  - o Examples: state retail monopolies on alcohol, state lotteries

- Cons:
  - o State government in direct, obvious conflict with federal laws

DECRIMINALIZATION + SALES

- Dutch coffee shops
- Decriminalization with toleration of limited sales
- Cultivation remains illegal
- "Almost legal" in the front door
- Large suppliers are still prosecuted
- Cons:
  - Continued criminal involvement
  - Inconsistency/confusion

COMMERCIAL FOR-PROFIT MARKETS

- Private, For-Profit Control Over:
  o Cultivation
  o Processing
  o Retail Sales

- Licensed, Taxed & Regulated
  o Vertical Integration
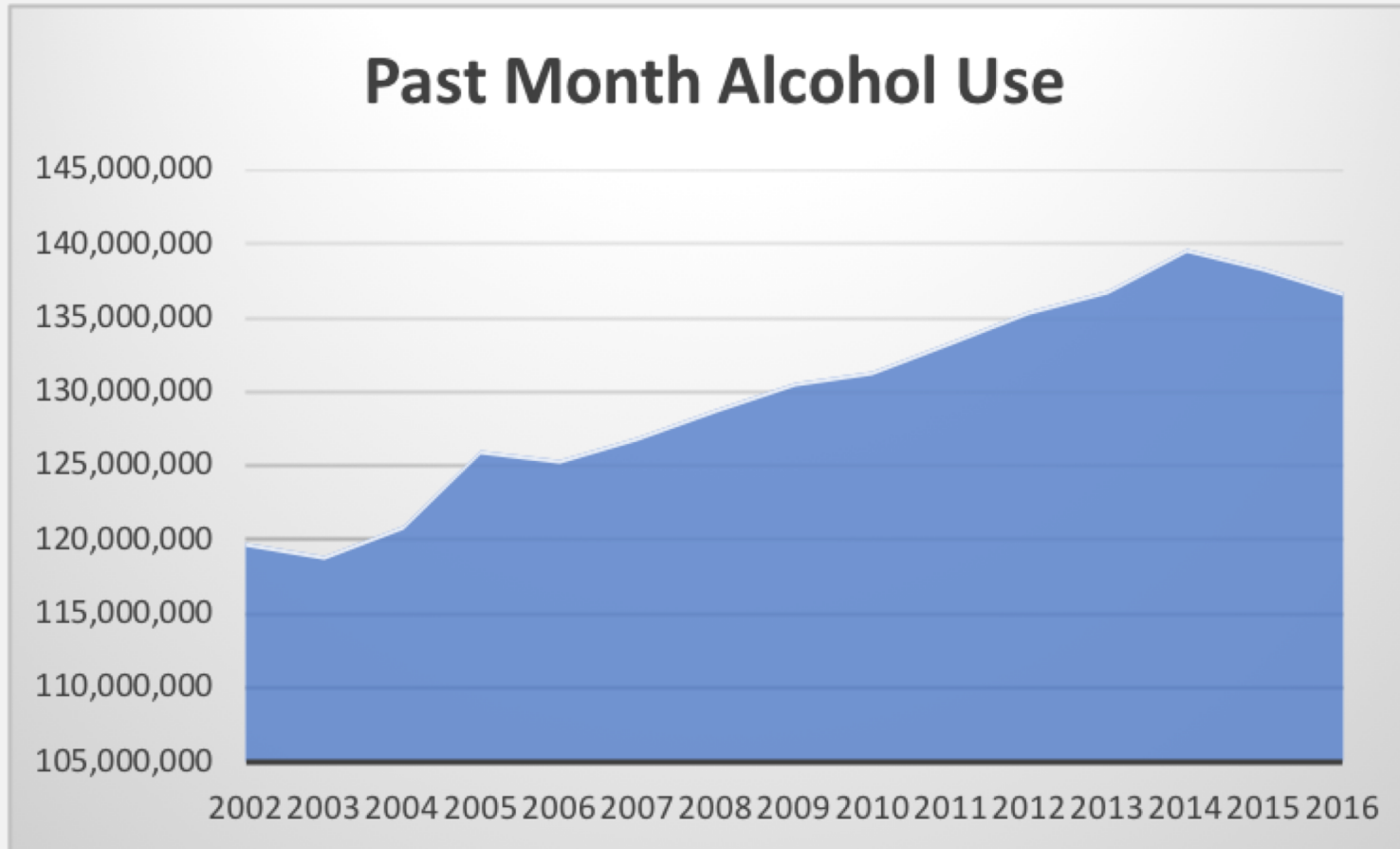
- Alcohol Model

- Tobacco Model

FOR-PROFIT: ALCOHOL VS. TOBACCO MODELS

- Alcohol model seeks to limit specific types of use
  - Limits use by youth, limits use by adults at work or behind the wheel
  - Industry has more voice in how they are regulated (capture)

- Tobacco model actively discourages all use
  - Goal of "…reducing the number of people who start to use tobacco products [and] encouraging more people to stop using" – FDA's Center for Tobacco Products
  - Industry has less voice in how they are regulated

ALCOHOL MARKET SIZE (12+)


Past Month Alcohol Use

PREVENTION WITHIN THE "ALCOHOL MODEL"

- Liability laws
- Enforcement of minimum legal drinking age (MLDA)
- Stricter blood alcohol content requirements for driving
- National campaigns to reduce underage drinking
- Higher MLDA linked to lower rates of problem alcohol use and reduced consequences of use
- *Taxes – youth are price sensitive (so is everyone else)*
- *Stringent advertising regulations*

CIGARETTE MARKET SIZE (12+)

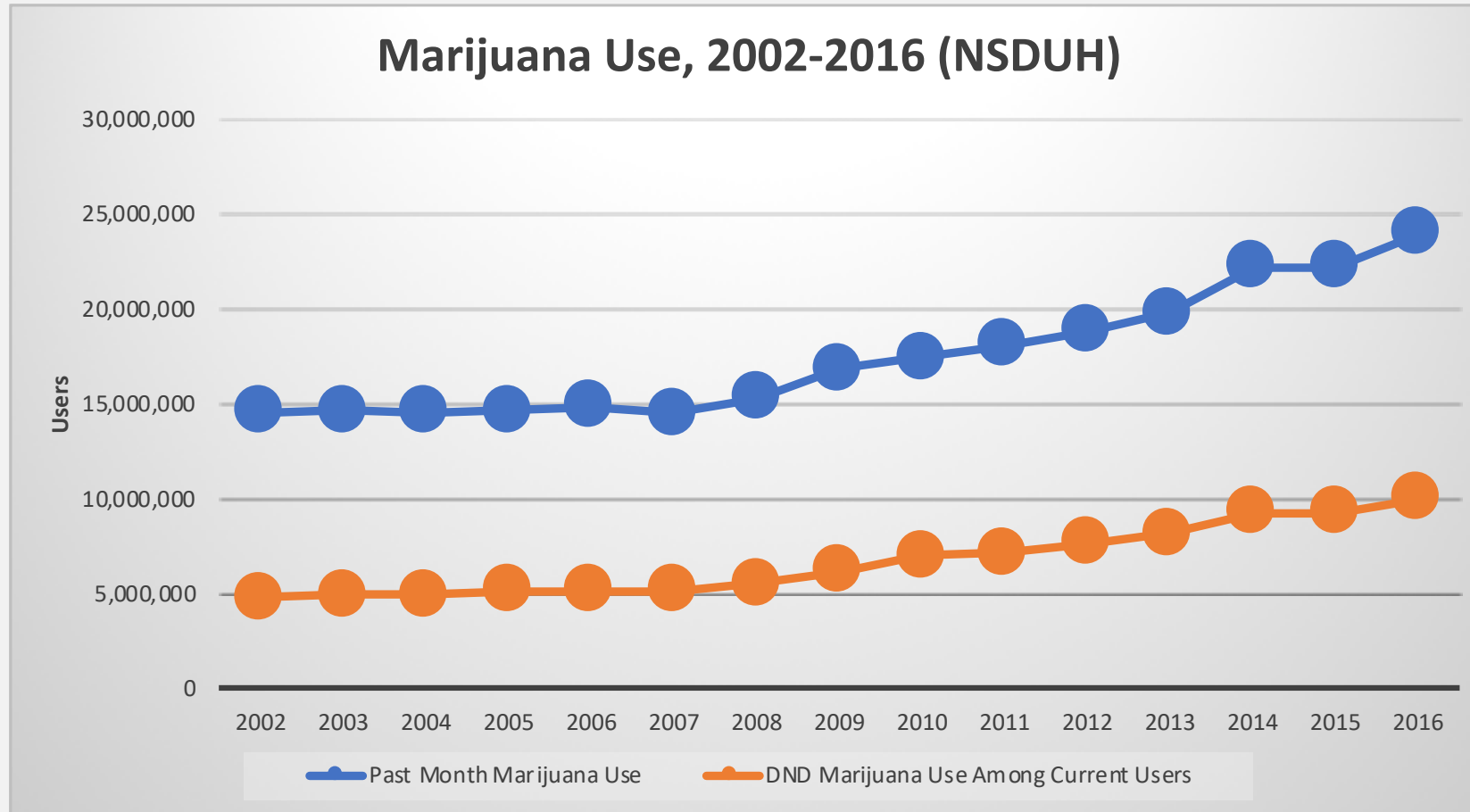Past Month Cigarette Use, 2002-2016 (NSDUH)
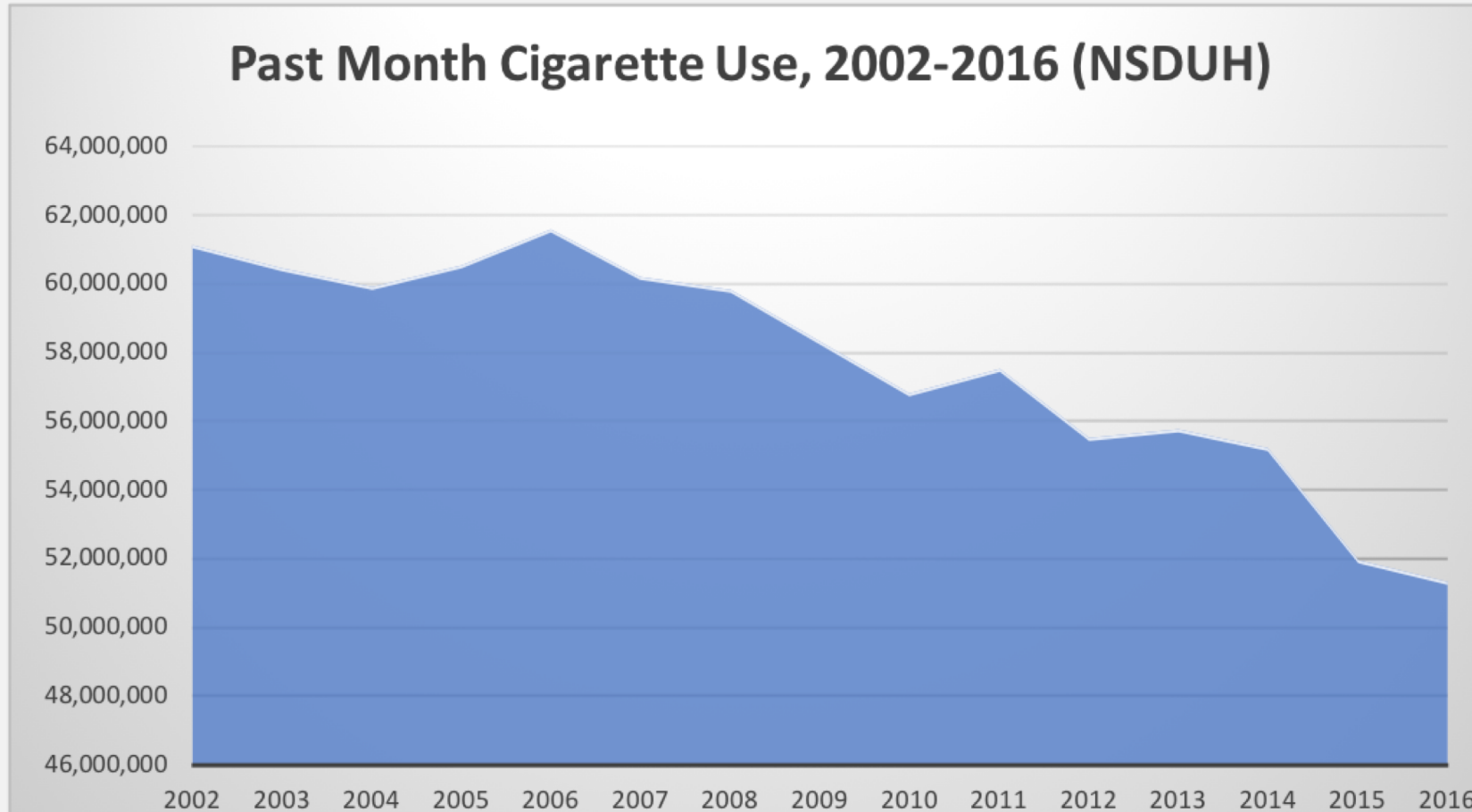
CIGARETTE TAXES: AN EXAMPLE

- Every 10% increase in the price of cigarettes decreased demand 3% to 5% in 2000's

- More recently, every further 10% increase in price reduces demand by an average of 0.6%
  - Specifically among young adults age 18-24 the reduction is larger at 2.7%

- 30-day cigarette use among high school seniors declined from 28.3% to 9.7% (1992-2013)

MARIJUANA MARKET GROWING

Marijuana Use, 2002-2016 (NSDUH)

Legend: Past Month Marijuana Use — DND Marijuana Use Among Current Users

HEAVY USERS DRIVE THE MARKET

- Alcohol:
  - ~10% of users drink daily (constant since the 90's)
  - Heavy users (2+ per day) consume 80% of alcohol

- Marijuana
  - Those who use 100 or more days per year increased from 10% to 36% from 1992 to 2013 (680%) – now up to ~43%
  - Heaviest users consume 80% of marijuana

- Cigarettes
  - 66% of users are daily users

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SOCIAL COSTS OF ALCOHOL & TOBACCO

- Tobacco: **$300 billion** estimated annual social cost of tobacco-related illness (Surgeon General, 2014)

- Alcohol: **$249 billion** estimated annual social cost of alcohol (CDC, 2010)
  - 77% of the cost is the result of binge drinking

- Prescription opioid misuse: **$78.5 billion** – estimated annual social cost of prescription opioid misuse (CDC, 2013)

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SO WHAT?

Implications for Prevention

MARIJUANA LEGALIZATION: POLICY WITHOUT PUBLIC HEALTH AT THE TABLE

- 31% to 54% of policies in WA, CO, AK, and OR are consistent with public health best practices:

  - Industry influence (OR was the exception)
  - Age verification systems/merchant education (WA has unannounced checks)
  - Marketing and advertising mirror voluntary alcohol measures
  - Prevention messages are targeted (not population-level prevention)
  - Packaging and warning labels

(Barry & Glantz, 2018)

IMPLICATIONS FOR PUBLIC HEALTH

- **Youth report marijuana is easy to access:** mechanisms exist to reduce youth access to a retail market

- **Prevention works:** Addressing underage drinking reduced 12th grade use over time

- **Use best practices from other substances:** environmental, population-based strategies can help reduce youth use

- **Cultural considerations matter:** engaging in a process about how legalization will impact different populations is important

PREVENTION'S ROLE IN LEGALIZATION

- Join the discussion!
- Consider all the options
- Ensure effective data collection
- Review lessons learned from alcohol and tobacco prevention
- Plan for prevention funding
  - AK copied CO's education campaigns because they lacked funding for their own
- Sweat the implementation details

KEY TAKEAWAYS

- Not all regulatory systems are created equal

- Know the players driving legalization in your state (and their goals)

- Engage early, set the rules of the game

- Collect data and develop a feedback loop for the long-term

- Be prepared to maximize public health through any model

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RESOURCES

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Rolles, S. & Murkin, G. (2016). How to regulate cannabis: A practical guide. Second Edition. Transform Drug Policy Foundation: United Kingdom. http://www.tdpf.org.uk/resources/publications/how-regulate-cannabis-practical-guide

Rachel A. Barry, Stanton A. Glantz, "Marijuana Regulatory Frameworks in Four US States: An Analysis Against a Public Health Standard", American Journal of Public Health 108, no. 7 (July 1, 2018): pp. 914-923.

THANK YOU