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# What did Prop 64 promise? What's been delivered?

Scott Chipman • 11.05.2019

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# What did Prop 64 Promise?

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## What does Prop 64 do?

Primarily defines the supply chain for a legal marijuana market-place

Establishes 2 tax rates

Declares local control

Defines penalties

Allows home grows, advertising & pot within 1000' of kids

Allows "release" for all incarnated for marijuana crimes

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## Prop 64 Messaging Campaign

Social Justice

War on drug has failed

Protect Kids

Tax Revenue

Get rid of black market

Free up law enforcement time

Reduce traffic accidents

No one has ever died from marijuana

Prohibition hasn't worked

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## 5 Fatal Flaws of Prop 64 & 2 sneaky caveats

1 - Allows unlicensed, untaxed, unregulated home grows

3 - No law enforcement identified, structured or funded

2 - Allows advertising & promotion in all media

4 - Penalties identified in Prop 64 = non-detering levels & cannot be increased

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## Penalty & fine structure - non-detering

**\$100, \$250 or \$500 (maximum)** - laws for possession (11357), cultivation (11358), possession for sale (11359) **including sale to minors** and Transportation (11360) are infractions, no jail time is required and violators with prior infractions may see (but aren't mandated) jail time not to exceed 6 months.

**\$2000 (up to)** - "Fraudulent reports" (34016.d)

**\$30,000 (up to)** - "failure to maintain records" (926160)

**Hours (drug ed & community service)** - underage use/possession or sales (at discretion of court) - drug ed and counseling required must be free and available for up to 30 days

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## 5 Fatal Flaws of Prop 64 & 2 sneaky caveats

5 - All previous felons allowed into the marijuana industry – rape, murder, tax fraud, selling to minors, using minors to sell

### Sneakies

“Unreasonably impractical” clause

Reduction in tax rates (and possibly completely eliminated) allowed in cultivation (2019) & all other sections (2020)

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## Prop 64 - Nothing like the repeal of prohibition

### Repeal of alcohol prohibition

No felons allowed

“Tied house” clause

No unlicensed production

Very limited advertising

Massive Law enforcement that continues today (ATF)

### Recreational Marijuana

All felons allowed

Supply chain separation - work arounds now, gone in 2023

Wide spread unlicensed production

Unlimited advertising

No Law Enforcement

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## Everything worked in favor of Prop 64

No understanding of current MJ law

Massive \$ on Pro-pot side

Skewed ballot language

No media coverage of anti-legalization messages

No voter understanding of the Prop 64 bill

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## Marijuana in California

**1975** – SB 95 - Decriminalization - small possession

**1996** – **Prop** 215 - Compassionate Care Act (use for seriously ill and dying - not a criminal offense)

**2000** – SB 36 - Crime prevention Act – possession is non-incarcerable (cannot be put in jail for possession)/may have to go to rehab

**2004** – AB 420 – established voluntary MMJ Card system, primary caregiver definition, doctor “recommendation”

**2010** – SB 1449 - Small possession = Infraction (Gov. Schwarzenegger)

**2015** – AB 243, SB643, AB 266 = MMRSA (Medical Marijuana Regulation & Safety Act)

**2016** - **Prop** 64 - Adult Use of Marijuana Act (AUMA)

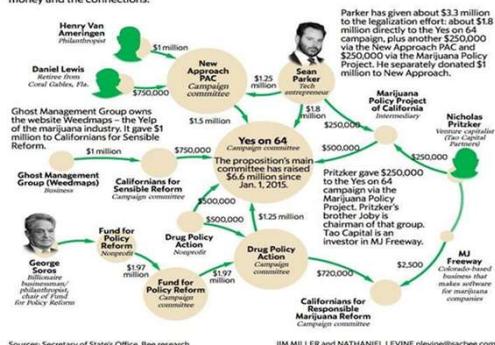
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## Massive money on Pro-side

### THE PROPOSITION 64 MONEY TRAIL

A web of campaign committees, nonprofits and wealthy individuals has given millions to the campaign to legalize marijuana in California. Many of the donors have ties to the marijuana industry, and the main yes-on-64 campaign committee has raised almost \$6.6 million. A look at the money and the connections.



**\$35M-53M for Prop 64**

**\$1.1M against Prop 64**

- Led by Police Chiefs Association
- Earned media strategy
- No social media strategy

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## Ballot language skewed

**PROP 64 MARIJUANA LEGALIZATION. INITIATIVE STATUTE.**

**SUMMARY**  
Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation. Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation. Fiscal Impact: Additional tax revenues ranging from high hundreds of millions of dollars to over \$1 billion annually, mostly dedicated to specific purposes. Reduced criminal justice costs of tens of millions of dollars annually.

**WHAT YOUR VOTE MEANS**

**YES** A YES vote on this measure means: Adults 21 years of age or older could legally grow, possess, and use marijuana for nonmedical purposes, with certain restrictions. The state would regulate nonmedical marijuana businesses and tax the growing and selling of medical and nonmedical marijuana. Most of the revenue from such taxes would support youth programs, environmental protection, and law enforcement.

**NO** A NO vote on this measure means: Growing, possessing, or using marijuana for nonmedical purposes would remain illegal. It would still be legal to grow, possess, or use marijuana for medical purposes.

No evidence of that much revenue - all legal states revenue in 2016 (and today) have fallen way short of projections & there is no mention of the increasing costs that come with legalization

Not a real or existing issue - it's made up

Prop 64 does not prioritize these

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# What has been delivered?

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## How did I (we) get here?

San Diego is a model

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## **Prop 64**

**How was pot legalized?**

**Media**

**Billionaires**

**Bad information/the ballot language**

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**But Marijuana  
Is Medicine  
Isn't It?**



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**Medi Pot Ad –  
hey,  
whatever it  
takes to sell,  
right?**



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**Medi Pot  
Recommendation**

**—  
What, no  
doctor exam?  
I'm shocked!**

**Arnold's a bad boy.**



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**Bertha Madras - Harvard brain biologist with over 30 years studying marijuana and the brain.**

**“In reality, there is no such thing as “medical marijuana”; that is, there is not a particular type of marijuana used for medicinal purposes, let alone for a specific, proven medical purpose. Physician recommendations for medicinal use of smoked marijuana (obtainable in a dispensary) are not grounded in systematic, evidence-based research, which is the hallmark of our system.”—Bertha Madras**

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**After over 16 Months of “Legal” Pot In California  
Is Anything Working?**

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## **It Was About Social Justice**

- **Most of the sellers/business people are white men.**
- **There is still a disproportionate number of ethnic and poor being arrested for pot related crimes.**
- **In many cities the pot businesses, like liquor stores, are in minority and poorer communities. Rich neighborhoods typically mobilize and keep them out.**

[Legal marijuana made big promises on racial equity — and fell short - nbcnews.com](#)

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- There is more product demand as the drug has become more normalized in society.
- There is more advertising and more users influencing others to use.
- Many in the “permitted” pot industry actually run parallel black market pot drug dealing business.

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## **The Environment Will Be Protected**

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- **There are over 50,000 illegal pot grows in Northern California alone - many in national forests.**
- **The state produces about 10 times more than we consume**
- **There is so much illegal growing going on that Governor Newsome (the state's chief proponent of pot legalization) recently asked for federal help in enforcing laws related to pot in these forests.**

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## **The Marijuana Will Be Tracked From Seed to Sale**

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- **Any tracking is done via pen and paper. State system was not running yet.**
- **Pot dealers are on their “honor” to record honestly.**

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## **At Least We Will Be Collecting a Lot of Taxes:**

- Voters were promised \$1 billion per year in tax revenues.
- Tax revenues are much lower than promised and the majority of those collected go to the state pot bureaucracy.
- The \$288 million in taxes collected last year represent less than two tenths of one percent of the annual \$209 billion state budget.
- Prop 64 allows pot taxes to go to 0% if the industry can't compete with the black market. The legislature has been considering it.

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## **But, Who is Counting the Costs?**

What is the cost of:

- Addiction and treatment?
- Pot impaired driving deaths and crashes?
- Hospitalizations
- Impacts to babies and long range health impacts.
- The state has no incentive to track or report costs.

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## **But, Who is Counting the Costs?**

- **Addiction and treatment?**
- **Pot impaired driving deaths and crashes?**
- **Hospitalizations**
- **Impacts to babies and long range health impacts.**
- **The state has no incentive to track or report costs.**
- **A study in Colorado indicated the cost of legalization is over \$4.50 for every \$1.00 in tax revenue.**

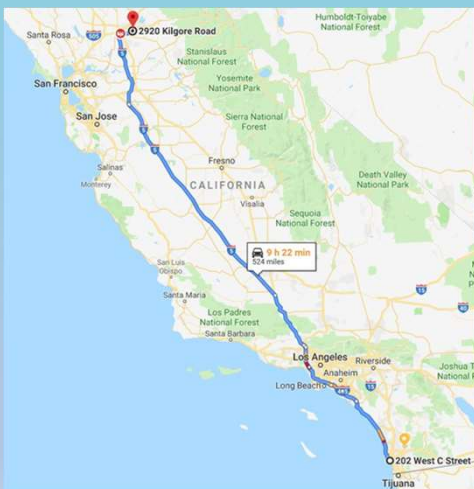
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## **Cities and Towns Would Be Allowed to Opt Out**

- **Local control is being undermined by delivery services.**
- **AB 1356 would required any city or county whose citizens voted over 50% for prop 64 to allow commercial pot operations. The bill is inactive now but Assembly Ting promises to bring it back next year.**

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## Closest Bureau of Cannabis Control Office 524 Miles – 9.5 Hours Driving



- No BCC office or personnel in San Diego
- Complaints are not addressed in a timely manner
- No follow up with complaining party
- **BCC is understaffed per** California Department of Consumer Affairs Performance Audit

Source:

[http://www.dof.ca.gov/Programs/OSAE/documents/Bureau\\_of\\_Cannabis\\_Control\\_Performance\\_Audit.pdf](http://www.dof.ca.gov/Programs/OSAE/documents/Bureau_of_Cannabis_Control_Performance_Audit.pdf)

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## California Department of Consumer Affairs Performance Audit of BCC

- Excerpts from Executive Summary...
- One headquarters office, one field office [Eureka, CA], and only 75 of the 219 authorized positions filled
- As of January 31, 2019, the Bureau has filled 75 (35 percent) of its positions with a majority of the filled positions being within the Licensing Unit.
- The Bureau's Ability to Monitor Licensees is Impacted by Staff Vacancies and Unopened Field Offices

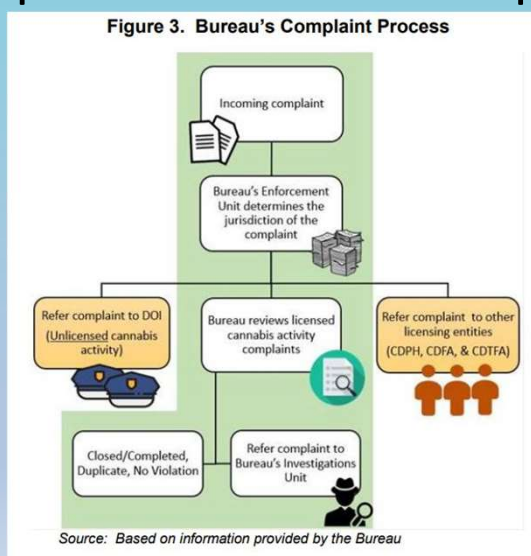
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## California Department of Consumer Affairs Performance Audit of BCC

- Of a total of 68 authorized Enforcement Unit positions, only 15 have been filled and only one field office has been opened as of January 31, 2019.
- With the existing number of Enforcement Unit staff and only one field office, the Bureau's ability to process complaints, perform inspections and investigations, and review and inspect testing laboratories is severely impacted.

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## BCC Complaint Process No Follow Up or Contact with Reporting Party



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# San Diego Reader Website Digital Archive September 19, 2019

- Violations of State Laws:
- No State License numbers in ads
  - Violation by businesses and Reader
- Ads for free products
- Some illegal businesses open 24 hours a day
- 7 unpermitted businesses competing with 1 City permitted business
- Reader in lobby of City Hall and other city

Source: [https://www.flipsnack.com/scngprinting/sd\\_reader\\_dmag\\_091919/full-view.html](https://www.flipsnack.com/scngprinting/sd_reader_dmag_091919/full-view.html)

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## State Law Violations by San Diego Reader

- **Section 26151, California Business and Professions Code**  
(a) (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number.
- (2) A **technology platform** shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.
- **Section 17200, California Business and Professions Code**
- As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising...
- The San Diego Reader is profiting from advertisements of unpermitted marijuana businesses.
- **Code Enforcement does not investigate these types of violations**

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## Marijuana Production Facility (MPF) at 3379 National Avenue, San Diego

- **Project Number 585635**
- In 2017 the Development Services Department issued 37 tax certificates to owners of marijuana production facilities to sunset in 2019. They did this without regard to where these facilities would be located.
- In September 2017, Ordinance No. O-20859 was introduced to regulate the marijuana industry including commercial cultivation, distribution, storage and production facilities.
- The regulations in Section 113.022 stated that these facilities were to be separated from sensitive receptors that included: 1,000 feet from protected uses such as schools and churches and 100 feet from a residential zone.
- ***MPFs with an approved Zoning Use Certificate and a Business Tax Certificate issued before January 31, 2017, have 24 months from date of final passage of the MPF regulations to either cease use or obtain required permits.***

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## Marijuana Production Facility (MPF) at 3379 National Avenue, San Diego

- The Cycle Issues review for the 3279 National Avenue Marijuana Production Facility indicates that this facility is
- **Less than 1,000 feet from Rodriguez Elementary School**
- **Less than 1,000 feet from Iglesia Puerto Seguro Church**
- **Within 100 feet of a Residential Zone**
- **LDR Planning recommended denial of the application.**

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## California Business and Professions Code

- 26152.
- A licensee shall not do any of the following:
- (g) Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

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Child symbol notes Billboard is within 500 feet of Edison Elementary School (Approximately 348 feet away) at 4077 35th Street, San Diego

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Complaint filed with State Bureau of Cannabis Control on March, 14, 2019. Billboard remained in place for at least 79 days (March 14th—May 31st). Billboard removed sometime later, between May 31st and June 11, 2019.

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4488 University Avenue—SDRC Marijuana Billboard  
779 Feet to Rosa Parks Elementary School at 4510 Landis St.



4587 University Avenue  
814 Feet to Rosa Parks Elementary



3870 Euclid Avenue  
825 Feet to Euclid Elementary School  
972 Feet to Euclid Child Development

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Out of County Marijuana Delivery Service ads in City. Who Gets the Tax Revenue from Sales?  
Who Regulates this Marijuana Business?



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## City of San Diego Beach Smoking and Vaping Ban Plus State Ban on Public Consumption of Marijuana

- **San Diego Municipal Code §43.1002 Prohibitions**
- (g) It is unlawful to smoke or vape in a public park or public beach, on a boardwalk, seawall, City-owned fishing pier,...
- **State of California Business and Professions Code 11362.3**
  - (a) Section 11362.1 does not permit any person to:
    - (1) Smoke or ingest cannabis or cannabis products in a public place, except in accordance with Section 26200 of the Business and Professions Code.
    - (2) Smoke cannabis or cannabis products in a location where smoking tobacco is prohibited.
- **Conditional Use Permit Requirements for Marijuana Outlets:**
- Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies.

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## City Permitted Marijuana Business Advertisement with Lighter, Vape & Products



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## Violation State Law and BCC Rules Sign Spinner City Permitted Marijuana Business



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## Marijuana Advertisements on Vehicles by City and State Licensed Marijuana Businesses

- Violation of State Laws and Bureau of Cannabis Control Rules
- **BCC Regulation Section 5040(b) became effective in January, 2019**
- **“the Bureau has determined that the use of mobile advertisements is not appropriate as it cannot assure that advertising or marketing remains placed in locations where the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older.”**
- The Bureau further observed that **“[b]ecause vehicles are mobile and not considered permanent structures, it would be difficult for licensees to demonstrate that at least 71.6% of their viewing audience is at least 21 years of age or older.”**
- Based on the administrative record for **the Bureau’s regulations, section 5040(b) of the Bureau’s regulations intended to prohibit mobile forms of advertising to assure compliance with the advertising provisions of MAUCRSA.**
- **Both the State and local jurisdictions have the authority to address unauthorized commercial cannabis activity.**
- **Many violations in San Diego – No Enforcement...**

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## City Permitted Marijuana Business & Vehicle Advertisement Parked at Tierrasanta Library



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## City Permitted Marijuana Business & Vehicle Advertisement at Farb Middle School



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## City Permitted Marijuana Business with Marijuana Ads on Vehicles



Source: Instagram "Cannabus\_sd"

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## City Permitted Marijuana Business with Marijuana Ads on Vehicles



Source: Instagram "Canna.cruiser Urbn Leaf"

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## City Permitted Marijuana Business & Vehicle Advertisement at PB YMCA & Middle School



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## City Permitted Marijuana Business & Vehicle Advertisements



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## Ocean Beach Marijuana Advertisements City Permitted Marijuana Businesses



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## Mobile Marijuana Advertisements by City Permitted Marijuana Business



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## State Licensed Marijuana Business and Vehicle Ad in Mission Valley. SF Bay Area Business



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## Advertising and Marketing

- **26151 California Business and Professions Code**
- (a) (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number.
- **26153 California Business and Professions Code**
- A licensee shall not give away any amount of cannabis or cannabis products, or any **cannabis accessories**, as part of a business promotion or other commercial activity.

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## Advertising and Marketing Giveaways San Diego Permitted Marijuana Business



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## Churches, Youth Oriented and Treatment Facilities Were to Be Protected

The San Diego  
**Union-Tribune.**

Several marijuana businesses were approved near San Diego churches, despite laws against it.

<https://www.sandiegouniontribune.com/communities/san-diego/story/2019-08-16/several-marijuana-businesses-were-approved-near-san-diego-churches-despite-laws-against-it>

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## Why Does It Matter?

**This is a seriously dangerous drug contributing to or causing:**

- Addiction, depression, psychosis, schizophrenia, loss of memory, thoughts of suicide,
- Compromised motor skills, perception of space and time
- Amotivational syndrome, IQ loss, isolation
- Lung damage and poisoning, cancer, weakened immune system, birth defects, lower birth weights, negative genetic impacts on offspring of users.
- Downward social class mobility, anti-social behavior

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## The Drug Most Associated With a Child's Death

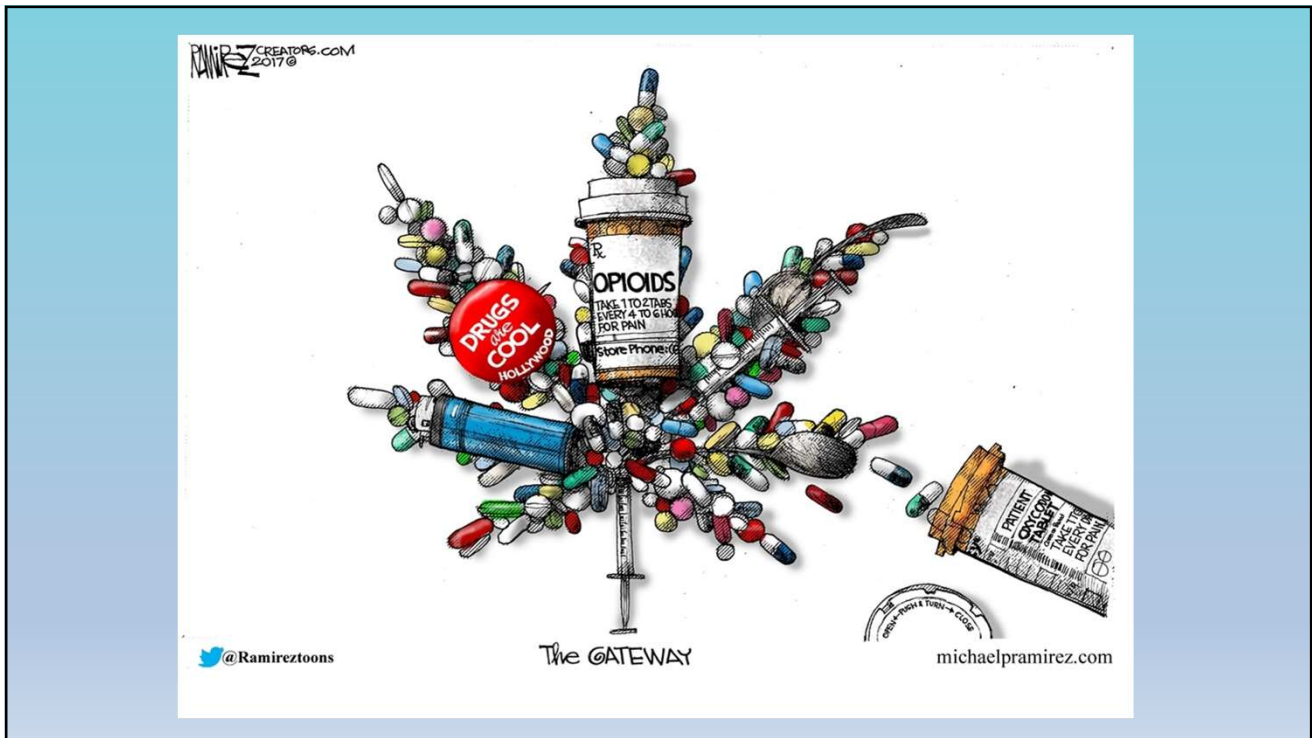
**Table 21. Substances found as a Direct or Contributing Factor to Child Deaths, Arizona, 2017**

Substance Used*	Number	Percent
Marijuana	62	46%
Alcohol	43	32%
Other (Includes Unknown, Non-Opioid Prescription, or other Illegal Drugs not Listed in this Table)	31	23%
Methamphetamine	32	24%
Opiate (Includes Opioid Prescription or Heroin)	24	18%
Cocaine	12	9%

\*More than one substance may have been identified for each death

Majority of substance use related deaths involved the child or the child's parent as the main user contributing to the death of the child. In 49% of substance use related deaths (n=67), the parent was misusing or abusing alcohol or drugs. Among substance use related deaths, where substance use was found as a direct or contributing factor to the child death, marijuana (46%, n=62) and alcohol (32%, n=43) were the most common substance identified. Other substance use related deaths include methamphetamine (24%, n=32) and opioids (18%, n=24).

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