



Berkeley City Council  
Health, Life Enrichment, Equity & Community Committee

**To:** Honorable Mayor and Members of the City Council

**From:** Health, Life Enrichment, Equity & Community Committee

**Subject:** De-Prioritizing the enforcement of laws imposing criminal penalties for Entheogenic/Psychedelic plants and fungi for personal use

**RECOMMENDATION**

Approve the Resolution presented and passed with a qualified positive recommendation at the June 12, 2023 meeting of the Health, Life Enrichment, Equity & Community Committee (Attachment 1), in lieu of the Resolutions provided in the originally referred item and by the Community Health Commission.

**POLICY COMMITTEE RECOMMENDATION**

On June 12, 2023, the Health, Life Enrichment, Equity, & Community Committee adopted the following action: M/S/C (Humbert/Taplin) to send the item to Council with a qualified positive recommendation to approve the Resolution in the form and as amended by the committee. There is no “mark-up” of the CHC resolution because what the Committee decided to pass is a full rewrite. Vote: All Ayes.

**CURRENT SITUATION**

The Health, Life Enrichment, Equity & Community Committee (the “Health-Life Committee”) took public comment at its May 8, 2023 meeting and solicited feedback from community leaders, policy experts, and community stakeholders. In her role as Committee Chair, Councilmember Hahn synthesized input received at Committee and consulted with the Police Department, City staff, and subject matter experts to draft and propose a restated Resolution.

At their June 12, 2023 meeting, the Health-Life Committee considered the restated resolution, took testimony from subject matter experts, and accepted edits from Councilmembers. Minor amendments were made to the restated Resolution, and the

Committee voted unanimously to recommend the restated resolution to Council.  
(Attachment 1).

### BACKGROUND

On September 10, 2019, the City Council passed an item Authored by Councilmembers Robinson and Davila titled *Decriminalizing Entheogenic Plants* (Attachment 2) with instructions to:

“Refer to the Community Health Commission to consider the possibility of deprioritizing enforcement of laws relating to entheogenic plants and fungi by persons over 21 years of age. Consider potential health and community benefits and concerns, as well as possible policy variations with regard to possession, use, growing/production, and sales; quantities involved; use while driving; use during pregnancy and other possible ‘special circumstances considerations.’”

The Community Health Commission reviewed the referral, accepted public comment and engaged in their process of policy review. On November 29, 2022 the Community Health Commission passed an updated item titled *Responsible Psychedelic Drug Policy Reform in Berkeley* (Attachment 3).

The Commission’s Referral Response was submitted by the City Manager and referred by the Agenda Committee at their April 10, 2023 for review by the Health-Life Committee. The Health-Life Committee took action to send a qualified positive recommendation to the City Council to approve the fully restated Resolution unanimously approved by the Committee.

### FINANCIAL IMPLICATIONS

Minimal. No significant impact.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No significant impact.

### CONTACT PERSON

Councilmember Sophie Hahn, Chair of the Health-Life Committee 510-981-7150

### ATTACHMENTS

1. Resolution passed by the Health, Life Enrichment, Equity & Community Committee
2. Decriminalizing Entheogenic Plants: 9/10/2019 City Council Referral from Councilmembers Robinson and Davila
3. Community Health Commission Referral Response from 11/29/22

RESOLUTION NO. ##,###-N.S.

RESOLUTION DE-PRIORITIZING THE ENFORCEMENT OF LAWS IMPOSING CRIMINAL PENALTIES FOR ENTHEOGENIC/PSYCHEDELIC PLANTS AND FUNGI AND THEIR BIOSYNTHESIZED COMPOUNDS FOR PERSONAL USE

WHEREAS, entheogens, also known as “psychedelic drugs” or “psychedelics,” are a subset of compounds that are considered to exert psychoactive and physiological effects and are reported to induce extra-ordinary, altered states of consciousness involving changes in thought, feeling, and perception; and

WHEREAS, individuals and groups are known to use entheogens in a wide variety of ways including for recreational, medical, therapeutic, spiritual, and religious purposes; and

WHEREAS, entheogenic plants and fungi have a long history of use in some indigenous societies, with this use typically occurring within intentional, structured, time-tested ceremonial containers that include the guidance of trained practitioners, integration practices, and occur within cultural contexts that differ significantly from contemporary American society; and

WHEREAS, in recent years, there has been a resurgence of scientific research into the use of psychedelic-assisted psychotherapies for treating mental health conditions such as depression and substance abuse, with some studies showing promising preliminary evidence<sup>15</sup> for therapeutic benefits, in controlled clinical settings; and

WHEREAS, while psychedelic therapies have not been approved by the FDA, the federal government, through the Substance Abuse and Mental Health Services Administration, has stated that it is “exploring the prospect of establishing a Federal Task Force to monitor and address the numerous complex issues associated with emerging substances;” and

WHEREAS, there is a long history of public health authorities implementing harm reduction efforts to mitigate risks associated with use of both legal and illegal drugs, to improve the physical, mental, and social well-being of drug users, and in recent years public health authorities have increasingly focused on harm reduction approaches to drug use, with, for example, the Centers for Disease Control launching a harm reduction campaign to address the fentanyl crisis, and the City of Berkeley Public Health Division maintaining a longstanding partnership with Needle Exchange Emergency Distribution (NEED); and

WHEREAS, given this public health precedent, it would be appropriate for the City of Berkeley Public Health Division to support a harm reduction effort for entheogenic/psychedelic drug use in the Berkeley community; and

WHEREAS, while the possession, production, and transfer of psychedelic substances are illegal at the federal level in the United States, arrests and prosecutions for engaging in psychedelic drug offenses are usually grounded in state law, with enforcement occurring at the local level; and

WHEREAS, several local jurisdictions have de-prioritized the enforcement of laws prohibiting psychedelic-drug-related activities such as possession and production of psychedelic drugs for personal use; and

WHEREAS, there are criminal justice concerns associated with investigating, arresting, and incarcerating people for personal use of entheogens/psychedelics, and it is important to balance criminal justice concerns with public health concerns when crafting just and responsible policy; and

WHEREAS, in order to balance these concerns and avoid the development of gray and illicit markets, the City of Berkeley should only de-prioritize the enforcement of laws imposing criminal penalties for the possession of plant or fungus biosynthesized psychedelics for personal use (except Peyote) and laws imposing criminal penalties for the cultivation, processing, and preparation of psychedelic-drug-containing plants and fungi for personal use (except Peyote), while maintaining enforcement of laws prohibiting the possession of psychedelic drugs produced through artificial synthesis and enforcement of laws prohibiting the transfer of all categories of psychedelic drugs; and

WHEREAS “plant or fungus-biosynthesized psychedelic drugs” for purposes of this resolution means drugs that were produced by plants or fungi through biosynthesis, rather than produced in a laboratory through artificial synthesis, and “psychedelic-containing plants and fungi” refers to plants and fungi, living or not, that contain psychedelic drugs that the plants or fungi have themselves produced through biosynthesis; and

WHEREAS, “personal use of plant or fungus biosynthesized psychedelic drugs” for purposes of this resolution means an individual self-ingesting or self-administering plant or fungus biosynthesized psychedelic drugs; and

WHEREAS, “possession of plant or fungus biosynthesized psychedelic drugs for personal use” for purposes of this resolution means an individual possessing plant or fungus biosynthesized psychedelic drugs for the purpose of being ingested or self-administered by that same individual, and not by any other person or people; and

WHEREAS, “cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use” for purposes of this resolution means an individual cultivating, processing, and preparing any of these plants and fungi for the purpose of the resulting material being self-ingested or self-administered by that same individual, and not by any other person or people; and

WHEREAS, an individual can produce their own personal use plant or fungus-biosynthesized entheogenic/psychedelic drugs through home cultivation without engaging with illicit markets or sources; and

WHEREAS, the City Council wishes to enable Berkeley Public Health Division staff to engage with reputable experts developing harm reduction strategies that can be disseminated within Berkeley; and

WHEREAS, the City of Berkeley should de-emphasize expending City resources to assist in the enforcement of laws imposing criminal penalties for the possession of plant or fungus biosynthesized psychedelic drugs for personal use, and for the cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it shall be the policy of the City of Berkeley to de-emphasize the use of City funds and resources to assist in the enforcement of laws imposing criminal penalties for the possession of plant- or fungus-

biosynthesized psychedelic drugs for personal use and for the cultivation, processing, and preparation of psychedelic-drug-containing plants and fungi for personal use. This de-prioritization policy does not apply to the mescaline-containing cactus Peyote (*Lophophora williamsii*), or to mescaline that was biosynthesized by the Peyote cactus, due to sustainability and poaching concerns raised by the National Council of Native American Churches and the Indigenous Peyote Conservation Initiative, who have released a statement requesting that decriminalization policies not include this species.

BE IT FURTHER RESOLVED that this resolution does not authorize or enable any of the following activities: giving away, sharing, distributing, transferring, dispensing, or administering of plant or fungus biosynthesized or other psychedelic drugs to another individual.

BE IT FURTHER RESOLVED that the City of Berkeley declares its support for a transparent, comprehensive public conversation about the potential to open access to psychedelic drugs in ways that might be safe, beneficial, ethical, and equitable, and urges the California State Legislature to take part in this conversation and consider passing legislation that addresses the relevant issues.

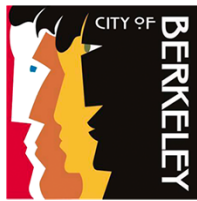
BE IT FURTHER RESOLVED that the City Council hereby enables the Public Health Division to make themselves available to academic and other reputable institutions to discuss opportunities for resources addressing use of psychedelics to be made available to the Berkeley community.

BE IT FURTHER RESOLVED that any organization or individual who may collaborate with the City to provide resources addressing use of psychedelics shall not, through their work with the City, facilitate access to psychedelic drugs or psychedelic administration sessions.

BE IT FURTHER RESOLVED that the City Council hereby enables the Public Health Division to make themselves available to academic and other reputable institutions to potentially assist in a strategy for collecting and analyzing public health data on psychedelic use in Berkeley.

BE IT FURTHER RESOLVED that the City of Berkeley encourages other public health departments and authorities, including at state and federal levels, to explore implementing psychedelic harm reduction and public health data collection efforts.

BE IT FURTHER RESOLVED that this resolution does not rely upon nor accept as fact assertions made in materials submitted with the original item or in the Community Health Commission Referral Response.



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
DISTRICT 7

CONSENT CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Rigel Robinson and Cheryl Davila  
Subject: Decriminalizing Entheogenic Plants

RECOMMENDATION

Refer to the Community Health Commission for feedback regarding the aAdoption of a Resolution decriminalizing Entheogenic Plants and Fungi such as mushrooms, cacti, iboga containing plants, and/or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines, by restricting any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults age 21 and over.

POLICY COMMITTEE RECOMMENDATION

On July 17, 2019, the Public Safety Committee adopted the following action: M/S/C (Robinson/Wengraf) to send the item to the full Council with a Qualified Positive Recommendation that the author revise the report to refer the item to the Community Health Commission for further discussion. Vote: All Ayes.

BACKGROUND

Currently, Psilocybe mushrooms, peyote, and other hallucinogens are classified as schedule 1 drugs in the United States. This categorization indicates that there is “no currently accepted medical use [for them] and a high potential for abuse.” However, the federal drug schedule does not align with current medical research or scientific consensus; this is evident when considering that marijuana, which has been used for years by over 900,000 Californians in the legitimate treatment of mental and physical health conditions, is still a schedule 1 substance. In recent years numerous studies have provided promising evidence for the usefulness of Entheogenic Plants in treating addiction, depression, recidivism, trauma, post-traumatic stress symptoms, chronic depression, severe anxiety, end-of-life anxiety, grief, diabetes, cluster headaches, and other conditions. This research comes at a crucial time when addiction and mental health issues such as veteran suicides are becoming an increasingly pressing problem (Cox, Billy). Many of these therapies are even able to improve psychological health in patients whose conditions are extremely treatment-resistant, making them a vital innovation for numerous struggling citizens.

Restrictions on natural psychedelics are not internationally consistent. The official position of the United Nations is that “No plants are currently controlled under the

Conventions. Preparations made from plants containing those active ingredients are also not under international control... Examples of such plants or plant material include ayahuasca, a preparation made from plants indigenous to the Amazon basin of South America, mainly a jungle vine (*Banisteriopsis caapi*) and another tryptamine-rich plant (*Psychotria viridis*) containing a number of psychoactive alkaloids, including DMT; the peyote cactus (*Lophophora williamsii*), containing mescaline; *Psilocybe* mushrooms, which contain psilocybin and psilocin; and iboga (*Tabernanthe iboga*), a plant that contains ibogaine and is native to the western part of Central Africa.” Additionally, different Entheogenic plants are decriminalized or legalized in various countries, such as Brazil, Jamaica, Portugal, Gabon, New Zealand, South Africa, Mexico, Costa Rica, and the Netherlands. In particular, Portugal’s decriminalization of all drugs in 2001 decreased addiction and drug-related deaths without leading to a significant increase in drug usage, and can be used as an informative model for how to effectively treat drug issues in society (Felix, Sonia et. al).

In the U.S., Denver voters recently passed Initiative 301 decriminalizing *Psilocybin*-containing mushrooms, and Oakland recently passed a resolution similar to this proposal decriminalizing involvement with and usage of Entheogenic Plants. In New Mexico, the cultivation of mushrooms is not prohibited by law as a result of the 2005 court case *State v. Pratt*. Certain groups also have explicit permission to use Entheogenic Plants for ceremonial and sacramental use under the Religious Freedom Restoration Act of 1993 and various court decisions, including *O Centro Espírita Beneficente União do Vegetal* (ayahuasca), the Church of the Holy Light of the Queen (ayahuasca), and the Native American Church (peyote).

In October of 2018, the FDA granted breakthrough therapy designation to psilocybin, acknowledging that it shows promise for treating resistant conditions such as depression and allowing more involved study. Internationally, investment is growing quickly in research companies focusing on psychedelic therapies for mental health such as that being done by Compass, which supports scientific and academic research into such therapies (Farr, Christina). This signals a paradigm shift in the way the global community regards the medical viability of psychedelics, as well as a promising future for further federal and international deregulation. Domestically Similarly, New York, Vermont, and Iowa have all proposed bills in the past four years allowing further research on Ibogaine as an addiction treatment, demonstrating that American attitudes towards psychedelics as therapeutic medicines are evolving nationwide as well.

Though currently illegal in the U.S., Entheogenic Plants are increasingly showing promise in clinical research for treating myriad serious conditions. Recent research on *Psilocybin* for depression shows that it significantly reduces symptoms, and has promise for treating alcohol and drug addiction as well as general and end of life anxiety. Mushrooms have also historically been used to facilitate beneficial personal and spiritual growth: a John Hopkins study on neurotypical participants revealed that over 75% of the respondents considered their psilocybin experience to be among the top five most meaningful experiences of their lives. Mushrooms are also fairly low risk, with no noted addictive properties and direct overdose practically impossible, and a



2000 study by the Center for Assessment and Monitoring of New Drugs concluded that the risk to public order, individual health, and public health was low.

Other Entheogens are also showing promise for the treatment of various health issues. Ibogaine, the active ingredient in Iboga, is already used with medical supervision in countries like Mexico as an opioid addiction treatment, and a 2016 study (Brown, Thomas Kingsley and Alper, Kenneth) found that withdrawal symptoms and opioid use were significantly lessened in addicts that underwent ibogaine therapy. Ayahuasca can have profound impacts on mental outlook and hopefulness, and a 2013 study (Thomas, Gerald et. al) showed that usage significantly reduced tobacco, alcohol, and cocaine dependence as well. Peyote has been used without harm in Native American religious ceremonies for decades, and research (Halpern, John H. et. al) has shown that such usage did not result in neurophysiological impairment. Anecdotally, peyote use is associated with reduced rates of alcoholism in Native American populations, providing a promising avenue for further research into the use of peyote in treating alcohol abuse. Other promising directions for Entheogenic Plants as medicinal aids include the treatment and amelioration of cluster headaches, recidivism and intimate partner violence, diabetes, grief, and PTSD.

Unfortunately, laboratory produced compounds based on Entheogens are not yet a viable treatment for those suffering from physical and mental conditions. Furthermore, if and when they do become available they are likely to be prohibitively expensive--synthetic psilocybin can range from \$7,000-10,000 per gram--raising concerns about access and equity for low income and uninsured populations. Decriminalizing the use, possession, cultivation, distribution, and transportation of Entheogens allows individuals rather than the pharmaceutical establishment to control their interaction with these powerful psychedelics, empowering and bonding communities as a result.

In this process, the organization Decriminalize Nature ([decriminalizenature.org](http://decriminalizenature.org)) has worked with Oakland, and now Berkeley, to further the movement to decriminalize natural Entheogens. Their mission is to enable every person to decide on their own how to engage with traditional Entheogenic Plants, and help restore the connection between nature, individuals, and communities in the process. It is intended that this resolution empowers Berkeley residents to be able to grow their own entheogens, share them with their community, and choose the appropriate setting for their intentions instead of having to rely exclusively on the medical establishment, which is slow to adapt and difficult to navigate for many. As this national conversation on entheogens grows, it is essential to influence the debate and take a stand now for disenfranchised communities who may be left out of the dominant model by opening a way for individual and community access.

#### FINANCIAL IMPLICATIONS

Adoption of the resolution may slightly reduce ongoing City expenditures associated with the enforcement of criminal penalties relating to Entheogenic Plant usage by adults. Some staff time to implement the resolution.

#### ENVIRONMENTAL SUSTAINABILITY



Small to none, although allowing personal cultivation of peyote specifically could help to counteract its current classification as a vulnerable endangered plant, contributing to long-term ecological sustainability.

CONTACT PERSON

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Courtney Baldwin, Intern for District 7, [cbaldwin@cityofberkeley.info](mailto:cbaldwin@cityofberkeley.info)

Attachments:

1: Resolution

2: References

RESOLUTION NO. ##,###-N.S.

RESOLUTION SUPPORTING ENTHEOGENIC PLANT PRACTICES AND  
DECLARING THAT THE INVESTIGATION AND ARREST OF INDIVIDUALS  
INVOLVED WITH THE ADULT USE OF ENTHEOGENIC PLANTS ON THE FEDERAL  
SCHEDULE 1 LIST BE AMONGST THE LOWEST PRIORITY FOR THE CITY OF  
BERKELEY

WHEREAS, Entheogenic Plants, based on the term "entheogen", were originally conceived by Ott, Ruck, and other colleagues from a working group of anthropologists and ethnobotanists in 1979; ~~and defined herein as to include~~ the full spectrum of plants, fungi, and natural materials ~~deserving reverence and respect from the perspective of the individual and the collective~~, that can inspire personal and spiritual well-being<sup>1</sup>, can benefit psychological<sup>2</sup> and physical<sup>3</sup> wellness, and can reestablish human's inalienable and direct relationship to nature; and

WHEREAS, substance abuse<sup>4</sup>, addiction, recidivism<sup>5</sup>, trauma, post-traumatic stress symptoms, chronic depression, severe anxiety<sup>6</sup>, end-of-life anxiety, grief<sup>7</sup>, diabetes<sup>8</sup>, cluster headaches<sup>9</sup>, and other conditions are plaguing our community and that the use of Entheogenic Plants has been shown to be potentially beneficial to the health and well-being of individuals and communities in addressing these afflictions via scientific and clinical studies and within continuing traditional practices, which can catalyze profound experiences of personal and spiritual growth; and

WHEREAS, practices with Entheogenic Plants have long existed and have been considered to be sacred to human cultures and human interrelationships with nature for thousands of years<sup>10</sup>, and continue to be enhanced and improved to this day by religious and spiritual leaders, practicing professionals, mentors, and healers throughout the world, many of whom have been forced underground; and

WHEREAS, those seeking to improve their health and well-being through the use of Entheogenic Plants use them in fear of arrest and prosecution; and

WHEREAS, the Entheogenic Plant practices of certain groups are already explicitly protected in the U.S. under the doctrine of religious freedom -- the Native American

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<sup>1</sup> See Entheogens for Personal and Spiritual Growth

<sup>2</sup> See Entheogens and Psychological Wellness

<sup>3</sup> See Entheogens and Physical Wellness

<sup>4</sup> See Entheogens and Substance Abuse

<sup>5</sup> See Entheogens and Recidivism

<sup>6</sup> See Entheogens and Anxiety

<sup>7</sup> See Entheogens and Grief

<sup>8</sup> See Ayahwasca and Diabetes

<sup>9</sup> See Entheogens and Cluster Headaches

<sup>10</sup> See Historical Use of Entheogens

Church's use of peyote and the use of ayahuasca by two other churches, a Santo Daime congregation and the Uniao do Vegetal; and

WHEREAS, The United Nations considers Entheogenic Plant material used for ritual purposes as excluded from Schedule 1 substances; and

WHEREAS, Entheogenic plants containing ibogaine, for example, have been shown to alleviate treatment resistant cases of opiate and methamphetamine addiction even when other treatments have been ineffective<sup>11</sup>. In addition, ibogaine is reported to be beneficial for addiction therapy related to specific work-related PTSD encountered by first responders such as EMT, police, and firefighters, as well as military veterans; and

WHEREAS, Entheogenic Plants or combinations of plants such as ayahuasca that contain forms of DMT, a naturally occurring compound in the human body that is listed as a Schedule 1 substance, can lead to experiences that are reported as mystical or experientially similar to near death experiences,<sup>12</sup> and that can be demonstrably beneficial in treating addiction<sup>13</sup>, depression<sup>14</sup>, and PTSD<sup>15</sup>, and ~~in that some have found to catalyzing-catalyze~~ profound experiences of personal<sup>16</sup> and spiritual<sup>17</sup> growth; and

WHEREAS, Entheogenic cacti that contain phenethylamine compounds such as mescaline can be beneficial in healing drug and alcohol addiction<sup>18</sup> and for individual spiritual growth<sup>19</sup>, and have been utilized in sacred initiation and community healing by diverse religious and cultural traditions for millennia and continuing use as religious sacraments in modern times; and

WHEREAS, psilocybin, naturally occurring in Entheogenic mushrooms, can alleviate end-of-life anxiety for hospice and terminal cancer patients<sup>20</sup>, can reduce prison recidivism<sup>21</sup>, and can effectively treat substance abuse, depression<sup>22</sup>, cluster headaches<sup>23</sup>; and

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<sup>11</sup> See [Iboga/Ibogaine for Addiction Therapy](#)

<sup>12</sup> See [Ayahuasca Experience Similar to Near-Death Experience](#)

<sup>13</sup> See [Ayahuasca for Addiction Therapy](#)

<sup>14</sup> See [Ayahuasca and Depression](#)

<sup>15</sup> See [Ayahuasca and PTSD](#)

<sup>16</sup> See [Ayahuasca and Personal Growth](#)

<sup>17</sup> See [Ayahuasca and Spiritual Growth](#)

<sup>18</sup> See [Peyote for treatment of alcohol and drug dependence](#)

<sup>19</sup> See [Peyote](#)

<sup>20</sup> See [Psilocybin for End-of-Life Anxiety](#)

<sup>21</sup> See [Entheogens and Reduced Recidivism](#)

<sup>22</sup> See [Psilocybin and Treatment-Resistant Depression](#)

<sup>23</sup> See [Psilocybin and Cluster Headaches](#)

~~WHEREAS, a Johns Hopkins University study on "healthy normals" found that psilocybin can occasion mystical-type experiences, which were considered one of the top five most meaningful experiences in a subject's life for over 75% of their subjects within the first year after the study, and found continuing positive life-style changes after a 14-month follow-up; and~~

~~WHEREAS, the following principles, when adhered to, help to ensure safe and responsible use of entheogenic plants:~~

- ~~1. **Entheogens are not for everyone.** Knowledgeable clinicians caution that some people should not take entheogenic plants or fungi, including people with a personal or family history of schizophrenia or bipolar disorder or who are taking certain medications or using other recreational drugs. See <https://adf.org.au/drug-facts/psychedelics/> for more information.~~
- ~~2. **Always conduct thorough research before using entheogens or other drugs.** Side effects, interactions, and long term consequences are possible with any drug, including but not limited to permanent brain and personality changes.~~
- ~~3. **If someone has a serious condition like major depression or PTSD, they would do well to get serious, professional help before using an entheogen** and to ask that caregiver's advice. Some counselors and therapists are glad to work with a client before and after an entheogenic journey.~~
- ~~4. **Unless you have expert guidance, it's best to start with small amounts,** using more only after you become familiar with the material and the terrain.~~
- ~~5. **Don't go solo.** Have at least one trusted friend (called sitter, guide, or facilitator) be with you, sober during the entire journey, and commit in advance to honor that person's instructions if he or she tells you not to do something. Entheogens can amplify the whole range of human emotions, including anxiety, which can sometimes lead to panic. Having a sitter gives you a certain comfort and mental freedom, and can help keep things safe.~~
- ~~6. **Reverence reduces risks and can help lead to positive outcomes.** In cultures that have long used entheogenic substances beneficially, that use is approached with great respect, not haphazardly, and for life-enhancing purposes.~~

~~;~~ and

WHEREAS, the City of Berkeley wishes to declare its desire not to expend City resources in any investigation, detention, arrest, or prosecution arising out of alleged violations of state and federal law regarding the use of Entheogenic Plants.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Mayor and City Council hereby declare that it shall be the policy of the City of Berkeley

that no department, agency, board, commission, officer or employee of the city, including without limitation, Berkeley Police Department personnel, shall use any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults of at least 21 years of age. For the purposes of this resolution, Entheogenic Plants are defined as plants and natural sources such as mushrooms, cacti, iboga containing plants and/or extracted combinations of plants similar to ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines.

BE IT FURTHER RESOLVED that this resolution does not authorize or enable any of the following activities: commercial sales or manufacturing of these plants and fungi, possessing or distributing these materials in schools, driving under the influence of these materials; or public disturbance.

BE IT FURTHER RESOLVED that the Council urges all those who decide to use entheogenic plants to consult their doctor beforehand and take the utmost medical precaution when doing so, and that no part of this resolution constitutes medical advice or a recommendation or endorsement of any drug or product.

BE IT FURTHER RESOLVED that the City Council directs the City Manager to work with the City's lobbyists to support the decriminalization of all Entheogenic Plants and plant-based compounds that are listed on the Federal Controlled Substances Schedule 1.

BE IT FURTHER RESOLVED that the City Council hereby declare that it shall be the policy of the City of Berkeley that the investigation and arrest of adult persons for planting, cultivating, purchasing, transporting, distributing, engaging in practices with, and/or possessing Entheogenic Plants or plant compounds on the Federal Schedule 1 list shall be amongst the lowest law enforcement priority for the City of Berkeley.

BE IT FURTHER RESOLVED that the City Council call upon the Alameda County District Attorney to cease prosecution of persons involved in the use of Entheogenic Plants or plant-based compounds on the Federal Schedule 1 List.

~~BE IT FURTHER RESOLVED that the City Council directs the City Manager to return to Council and present an assessment of community impacts and benefits within a year of passage of this resolution.~~

BE IT FURTHER RESOLVED that if any provision of this resolution is declared by a court of competent jurisdiction to be contrary to any statute regulation or judicial decision or its applicability to any agency person or circumstances is held invalid the validity of the remainder of this resolution and its applicability to any other agency person or circumstance shall not be affected.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to Alameda County Supervisor Keith Carson, Assemblymember Buffy Wicks, State Senator Nancy Skinner, Congresswoman Barbara Lee, Senator Dianne Feinstein, and Senator Kamala Harris, and that the Berkeley City Council formally requests that they take action to decriminalize Entheogenic plants through their respective legislative bodies.

## References

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### Entheogens for Personal and Spiritual Growth

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ACTION CALENDAR  
December 13th, 2022

To: Honorable Mayor and Members of the City Council  
From: Community Health Commission  
Submitted by: Andy Katz, Chairperson, Community Health Commission  
Subject: Responsible Psychedelic Drug Policy Reform in Berkeley

RECOMMENDATION

Adopt a Resolution that refers to the City Manager to work with external organizations to provide psychedelic harm reduction, education, and support resources to the Berkeley Community, refers to the City Manager work with City Departments and external organizations to create, and return to the City Council with, a policy for collecting public health data on psychedelic drug use in the City, and deprioritizes the enforcement of laws that impose criminal penalties for the possession of psychedelic drugs for personal use (with the exception of Peyote), and laws that impose criminal penalties for the cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use (with the exception of Peyote).

SUMMARY

- The purpose of this report is to make a recommendation to the City Council regarding psychedelic drug policy reform in the City.
- Public perceptions of psychedelic drugs have dramatically shifted in the past few years, with mainstream media outlets reporting enthusiastically about the beneficial potential of psychedelic drug use (sometimes touting the substances as miracle cures or magic bullets), psychedelic drug policy reforms being proposed and often passed in various jurisdictions throughout the United States, billions of dollars of investment pouring into the psychedelic space, a trend towards increasing use of psychedelic drugs within the population, and a wave of interest in receiving psychedelic treatments. Given these rapid changes, there is a need for the provision of unbiased, evidence-informed psychedelic harm reduction, education, and support resources to the public, as well as for the collection of public health data on psychedelic drug use.
- This report recommends that the City Council adopt a resolution that refers to the City Manager to work with external organizations to provide psychedelic harm reduction, education, and support resources to the Berkeley Community, refers to the City Manager work with City Departments and external organizations to create, and return to the City Council with, a policy for collecting public health data on



psychedelic drug use in the City, and deprioritizes the enforcement of laws that impose criminal penalties for the possession of psychedelic drugs for personal use (with the exception of Peyote), and laws that impose criminal penalties for the cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use (with the exception of Peyote).

- This recommended action would help provide the needed resources to the Berkeley Community, create a policy for public health data collection regarding psychedelic drug use in the City (which is particularly important for policy-tracking going forward), and prevent the possibility of individuals facing criminalization for the personal use of the substances in the City. The recommended resolution would serve as an example or template for other jurisdictions to follow.
- Implementing the recommended action would only cost the City in terms of staff time, and in terms of resources such as the use of City webpages, community spaces such as libraries, etc. All of the psychedelic harm reduction, education, and support resources would be provided to the Berkeley community for free by external organizations who are working in collaboration with the City.
- No specific funding is required for implementing the recommended action.

### BACKGROUND

“Psychedelic drugs” (or “classical psychedelics”) are LSD, psilocybin, DMT, mescaline, and other compounds that exert similar psychoactive effects by stimulating a specific subtype of serotonin receptor (5-HT<sub>2A</sub>) on nerve cells in the brain and elsewhere in the body.

Although ketamine, MDMA, and ibogaine are often called “psychedelic drugs,” these substances produce different psychoactive (and physiological) effects through different pharmacological mechanisms of action, and are not considered “psychedelic drugs” in this resolution.

Psychedelic drugs can induce extra-ordinary, altered states of consciousness, involving significant changes in thought, feeling, and perception, with these psychoactive effects becoming more intense and unpredictable when the drugs are taken in higher doses. Psychedelic drug use has the potential to produce positive effects and beneficial outcomes (such as a sense of spiritual well-being, and improvements in the symptoms of mental health disorders), and to produce adverse effects and negative outcomes (such as intense confusion, fear, and panic, and even erratic behavior that can lead to harming oneself or others).

The acute effects and outcomes of psychedelic drug use are dependent in part on individual personality trait, medical health, and mental health factors. Psychedelic drug use can be beneficial for one person, but dangerous for another. Individuals with particular contraindications are known to face an increased likelihood of adverse effects and negative outcomes; for example, individuals who have a history of or predisposition

to psychotic disorders are at risk for triggering the onset of psychosis as a result of psychedelic drug ingestion.

The acute effects and the outcomes of psychedelic drug use are also extremely dependent on “container,” which is the particular context/conditions/circumstances within which the substance is used. “Container” includes the user’s “Set,” which in addition to the user’s personality traits and health conditions, is all of the expectations, intentions, emotions, beliefs, etc. that the user brings to the situation, and the “Setting,” which is the physical, interpersonal, social, cultural, etc. environment, or external conditions, within which the use occurs (including what the sitter, guide, facilitator, therapist, etc. brings into the situation, if they are present in the situation).

While there is still much to learn about the factors that contribute to how individuals react to psychedelic drugs and how these factors relate to acute effects and outcomes of use, it is clear that adverse effects and negative outcomes are significantly less likely to occur and beneficial effects and outcomes are more likely to occur when psychedelic drugs are used within containers that are intentional, structured, and include the support of trained, competent, and well-intentioned sitters, guides, facilitators, therapists, etc. It is also clear that adverse effects and negative outcomes are significantly more likely, and beneficial effects and outcomes less likely, when the drugs are used outside of these containers (for example, when the user decides to use the substance spontaneously without intentional preparation, when they are alone, in a chaotic or unpredictable environment, etc.).

The outcomes of psychedelic drug use are also dependent on “integration,” which refers to the process of unpacking and exploring the meaning of one’s psychedelic experience and applying it to one’s life, with integration being vital not only because it helps one fulfill the beneficial potential of one’s experience, but also because the absence of integration can create risks and lead to negative outcomes, such as in scenarios when trauma surfaces in the experience, but is not integrated afterwards.

A variety of plants and fungi contain psychedelic drugs, and many have been used for religious and medicinal purposes by indigenous groups for at least hundreds of years. A variety of species of psilocybin-containing fungi, the LSA-containing seeds of morning glory species (*ipomoea tricolor* and *turbina corymbosa*), Ayahuasca (a brew of DMT-containing and MAOI-containing plants, with the latter being included to allow the DMT to be absorbed through oral ingestion), and mescaline-containing cacti such as San Pedro (*echinopsis pachanoi*), Peruvian Torch (*echinopsis peruviana*), and Peyote (*lophophora williamsii*) all have well-documented histories of indigenous and syncretic traditional use in the Americas, and all continue to be used in a variety of traditional contexts to this day. This use often occurs (though not always) within highly intentional, structured, time-tested ceremonial containers that include the guidance of trained practitioners, followed by integration practices, and occurring within cultural contexts that differ quite significantly from that of contemporary American society.

Some religious groups with a history of traditional ceremonial use of psychedelic-containing plants and fungi have been granted religious-use protections in the United States, such as the Brazil-based Ayahuasca-using churches “Uniao do Vegetal” (UDV) and “Santo Daime,” and the Peyote-using Native American Church (NAC), which arose in the North American Southwest. Peyote currently only grows wild in South Texas, and the population is very fragile, which is why the National Council of Native American Churches and the Indigenous Peyote Conservation Initiative released a statement requesting that decriminalization and legalization policies do not include this species, to prevent the possibility of increased poaching threats to the wild population.

The history of psychedelic drug use in Western society is closely tied to the discovery and proliferation of LSD (lysergic acid diethylamide). The Swiss scientist Albert Hoffman accidentally discovered the psychoactive effects of the substance in 1943, in his work for Sandoz Laboratories. Following Hoffman’s discovery, Sandoz Laboratories believed that LSD had potential for clinical applications, and encouraged researchers to experiment with the substance to explore its potential. For about 15 years, LSD was the focus of extensive research and testing, but this first wave of scientific experimentation was derailed when LSD began to gain popularity among countercultural groups, and utopian-minded psychedelic-drug-use-evangelicals such as Timothy Leary began to publicly call for widespread use of the substance (and other psychedelics). As the use of LSD became more visible, associated with countercultural and activist movements, associated with recreational use, and associated with adverse reactions such as psychosis and erratic behavior, jurisdictions moved to ban the substance. In 1970, the federal government of the United States moved to classify LSD as Schedule 1, which is a category of controlled substances that supposedly have been found to have “a high potential for abuse,” “no currently accepted medical use in treatment,” and “a lack of accepted safety for use under medical supervision.” Other psychedelic drugs such as psilocybin, DMT, and mescaline, were also classified as Schedule 1 controlled substances along with LSD. For a long time after this, psychedelic drugs and psychedelic drug use became a stigmatized topic in much of Western society, and legal research ceased for many years. After psychedelic drugs became illegal and stigmatized, use of the substances continued underground, including in the context of underground psychedelic-assisted therapy, psychedelic ceremonies, and other psychedelic practices.

While the discovery and proliferation of LSD was incredibly important to the history of psychedelic drug use in Western society (especially in that first wave from 1943 to 1970), it is important to note that Western interest in psilocybin-containing mushrooms and the traditional ceremonial use of psychedelics was invigorated by Gordon Wasson’s 1957 Time article documenting his visit to the Mazatec curandera Maria Sabina, who used psilocybin-containing mushrooms in her practice. This article ultimately led to a flood of tourists visiting Maria Sabina’s village and other areas of Mexico, seeking to experience psilocybin-containing mushrooms, which was not Maria Sabina’s intention in

sharing her knowledge with Wasson. The unwanted attention created severe problems for Maria Sabina, for her community, and for other curanderos and indigenous communities who traditionally used psilocybin-containing mushrooms. In the 1960s, however, psilocybin-containing mushrooms were not used by Westerners at anywhere near the same rate that LSD was used. LSD was being produced in massive amounts in (eventually illicit) laboratories, and was easily transported and distributed (largely because an active dose of LSD is a miniscule amount of material). Techniques for cultivating psilocybin-containing mushrooms were not developed or available until the 1970s, and foraging for the mushrooms could not create enough of a supply to in any way compete with LSD. Things have changed, however. A survey study that investigated contemporary psychedelic drug use found that psilocybin-containing mushroom use accounted for half of all psychedelic drug use reported by participants.

Legal scientific research into psychedelic drugs in the United States started up again in the 1990s when Rick Strassman was able to successfully secure approval to conduct experiments with DMT on human subjects. DMT is an endogenous compound (meaning it occurs naturally in the human body), so it was much easier to convince the appropriate authorities that this substance was worthy of scientific study (compared to LSD or other non-endogenous psychedelic drugs). Although Strassman eventually stopped his DMT research before he fully completed the project, his work was crucial to putting the gears in motion again for legal psychedelic research. After Strassman's successful securing of approval for his DMT research, "the door was open for further human experimentation with psychedelic drugs," because the FDA was now "more willing to accept protocols for psychedelic research."

In the 2000s and onward, a number of research teams began to increasingly study the therapeutic applications of psychedelic drugs, primarily psilocybin, showing promising initial results. This generated more scientific and medical interest in psilocybin and psychedelics in general, leading to more and more studies being approved, funded, and conducted. This new wave of psychedelic research was fueled in part by the availability of new tools and models for studying the pharmacology and neuroscience of psychedelic drugs, as well as by the development of new ways to collect and analyze quantifiable data about research subjects' psychedelic experiences.

In the past several years, the resurgence of psychedelic research has only accelerated. There has been an explosion of research into the use of psychedelic-assisted psychotherapies for treating mental health conditions such as major depressive disorder and substance use disorder, with a number of studies showing promising preliminary evidence for therapeutic benefits when screened, prepared patients are administered with the substances within structured, clinical containers, with the support of trained therapists, and with integration following the administration sessions. These promising preliminary findings led the FDA to issue "breakthrough therapy" designations to psilocybin-assisted treatments, expediting the process of review and approval. While psychedelic therapies have not yet been demonstrated to be safe and effective

treatments for any health condition, and have not yet been approved by the FDA, this year, the federal government created an interagency task force to study and address issues related to the projected approval, rollout, and regulation of psychedelic medicine in the United States, with the goal of creating a “framework for the responsible, accountable, safe, and ethical deployment of psychedelic therapies for mental health disorders when the FDA approves their use.”

While psychedelic drug use has been highly stigmatized in Western society, especially since the beginning of the Drug War in the United States, public perceptions have dramatically shifted in the past few years, with mainstream media outlets reporting enthusiastically about the beneficial potential of psychedelic drug use, psychedelic drug policy reforms being proposed and often passed in various jurisdictions throughout the United States, billions of dollars of investment pouring into the psychedelic space, first from a small number of wealthy psychedelic-enthusiasts, and now increasingly from commercial/industry/venture capital interests, a trend towards increasing use of psychedelic drugs within the population, and a wave of interest in receiving psychedelic treatments. This wave of interest in receiving psychedelic treatments has been referred to as the “Michael Pollan Effect” (in reference to the social and cultural impact of Pollan’s book and docuseries) and is evidenced by the massive increase in the number of individuals seeking to participate in the limited number of active or recruiting psychedelic clinical trials.

David B. Yaden and some other researchers in the psychedelic research field have argued that we have become trapped in a “psychedelic hype bubble” that is “driven largely by media and industry interests.” They note that the term “bubble” is “often applied to something of value that has become overvalued in popular perception,” typically when a “rapid increase in extreme visibility and expectations” leads to “a peak of inflated expectations,” which is then followed by “an equally steep decline in which highly inflated expectations are dashed.” Yaden et al. argue that psychedelics are “currently cresting” the peak of inflated expectations, citing the observation that “in the past few years, a disturbingly large number of [mainstream media] articles have touted psychedelics as a cure or miracle drug.”

It is important to remain aware of the possibility that we are indeed in the midst of a “psychedelic hype bubble,” and of the fact that psychedelic research, and our understanding of psychedelic drugs and psychedelic practices, are still in the early stages. Psychedelic drugs are clearly very powerful tools, and contemporary American society is only beginning to understand how they work, what they are capable of, and how to use them safely, beneficially, and ethically. Psychedelics and psychedelic practices may be beneficial for some people in some contexts, and not for others in other contexts, and we must be careful about allowing expectations of the substances’ universal beneficial potential and safety to become excessively inflated.



Psychedelic drug reform policies are, in part, public health policies. In order to craft evidence-based public health policies regarding psychedelic drug use, we must look to the available scientific research into the individual and public health outcomes of psychedelic drug use, and seek accurate, comprehensive public health data, and avoid basing policy decisions on rapidly-shifting, media-influenced (and possibly, at this time, overly-enthusiastic) public perceptions of the substances' safety and efficacy. However, we must consider public perceptions of the substances when evaluating the potential need for the provision of psychedelic harm reduction, education, and other support resources. Furthermore, we must consider long-term equitable access concerns in our psychedelic public health policy decision-making.

Psychedelic drug reform policies are also, in part, criminal justice policies. In order to craft appropriate criminal justice policies regarding psychedelic drug use, we must take into account a number of issues, such as the current laws, the actual enforcement situation on the ground in the jurisdiction in question and its criminalization consequences for members of the community, the human rights concerns that are at stake, the actual consequences (particularly unintended consequences) of psychedelic drug reform policies in other jurisdictions, and the various (public health) trade-offs involved in different policy options.

#### RATIONALE FOR RECOMMENDATION

This resolution deprioritizes the enforcement of laws imposing criminal penalties for the possession of psychedelic drugs for personal use (with the exception of Peyote), and laws imposing criminal penalties for the cultivation, processing, and preparation of plants and fungi containing psychedelic drugs for personal use (with the exception of Peyote). This resolution DOES NOT deprioritize the enforcement of laws against giving away, sharing, distributing, transferring, dispensing, or administering of psychedelic drugs to other people, and does not authorize these activities in any way.

The decision to limit deprioritization to possession of psychedelic drugs for personal use, and cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use was motivated by examining the trade-offs involved in the different policy options.

Deprioritizing the enforcement of laws against possession of psychedelic drugs for personal use in Berkeley would prevent individuals from being investigated, arrested, prosecuted, or imprisoned for engaging in this activity in Berkeley. According to reports from BPD sources (BPD was unable to provide data after a request was sent), the police department very, very rarely investigates or arrests individuals for offenses involving psychedelic drugs, and when this does occur, it is virtually always for commercial distribution, rather than possession for personal use, or cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use. This suggests that very few people face the risk of criminal consequences for offenses

involving psychedelic drugs in Berkeley, with the main risk being to those who sell the substances.

Given that very, very few (if any) people are already subject to investigation or arrest in Berkeley for possession of psychedelic drugs for personal use, this policy option would probably not have significant concrete criminal justice consequences for members of the Berkeley community, although it would prevent the highly unlikely (and blatantly unjust) scenario in which someone was indeed investigated and/or arrested for possession of psychedelic drugs for personal use in Berkeley. However, this policy option sends a symbolic message about the importance of decriminalizing possession of psychedelic drugs for personal use, particularly to jurisdictions where individuals actually do face a significant risk of criminalization for this activity.

The deprioritization of investigation and enforcement of laws against giving away, sharing, or distributing psychedelic drugs to other individuals has, in jurisdictions such as Oakland, CA, demonstrably led to the emergence of unregulated gray markets for psychedelic drugs. In these gray markets, we see enterprising entrepreneurs opening commercial operations such as delivery services (advertised with fliers and posters), storefront dispensaries, pop-ups, and outdoor market booths, sometimes asking for “suggested donations,” and sometimes not bothering at all with the pretense that they are merely “giving away” the substances. For example, at least one convenience store in Oakland is now openly offering psilocybin mushroom chocolate bars for sale. This deprioritization policy has also demonstrably opened access to unregulated facilitated psychedelic dosing sessions (with practitioners and groups accepting payment for their services), including one-on-one psychedelic-assisted practices and group practices such as ceremonies (often with public-facing websites and other promotional materials). It is important to carefully consider the implications and potential public health consequences of opening this kind of access to the substances at this time.

While there is much we do not know yet about the individual and public health consequences of psychedelic drug use, we do know that these are very powerful psychoactive substances (far more powerful than cannabis) that can present serious risks, especially for some individuals, and when used in different circumstances. While many of these risks can be mitigated when use occurs within an intentional, supportive, guided “container,” there is still much to learn about how specific individual and container factors are connected to safety and benefit, and about how to create safe and beneficial containers for different individuals, and for different purposes (e.g. treating depression, PTSD, etc.). Additionally, the use of psychedelic drugs under the guidance or supervision of another person places the user in a highly vulnerable position in which they are susceptible to (conscious or unconscious) manipulation, exploitation, and abuse at the hands of their sitter, facilitator, guide, therapist, etc. Without having effective safeguards in place, opening unregulated access to psychedelic drugs and psychedelic services would create a dangerous situation, particularly for individuals with contraindications, and individuals who are members of vulnerable populations.



While there is a body of promising scientific research into the potential therapeutic applications of psychedelic drugs, the findings from this research are still quite limited and preliminary. However, psychedelic drugs are increasingly perceived by the public as being safe and effective “medicines,” despite the current lack of FDA approval, and despite the large gaps in our scientific knowledge about the substances’ risk/benefit profiles and long-term effects (for different individuals and populations, when used in different contexts, and when used in the treatment of different health conditions). Governments have public health imperatives to develop and implement policies that fully acknowledge these complex (and rapidly-changing) circumstances. Policies must be developed and implemented with the understanding that psychedelic drug policy reform involves unique issues that are not present when considering (for example) methamphetamine or fentanyl policy reform, in part because these other substances, unlike psychedelics, are generally perceived by the public as being dangerous, addictive, recreational drugs, rather than as safe and effective “medicines” that will supposedly be the magic-bullet solution to the mental health crisis.

Because psychedelic drugs are increasingly promoted as being actively beneficial substances with great therapeutic, medical, or even spiritual and societal value, this is generating significant and unique demand for psychedelic drugs and psychedelic services. Deprioritizing the enforcement of laws against giving away, sharing, distributing, transferring, dispensing, or administering of psychedelic drugs to other people opens the door for individuals and groups to provide an unregulated supply to meet this demand. Some of these individuals and groups, even those with entirely good intentions, would likely end up presenting or marketing their goods and services in ways that are not accurate or evidence-based, and that make misleading or unfounded claims about the safety and efficacy of what they are providing. This situation, again, would be dangerous, particularly for individuals with contraindications, and for vulnerable populations (such as severely depressed people who are desperate for a solution to their suffering).

We carefully considered issues related to long-term equitable access to psychedelic drugs and psychedelic services in our policy-making decision process. One often-raised concern is that if local jurisdictions and states do not decriminalize (or even legalize) the unrestricted giving away, sharing, or administering of psychedelic drugs right now, that future regulatory frameworks will inevitably become overly-restrictive, and shaped by corporate interests, making access expensive and inequitable.

In response to this concern, we argue that immediately opening unregulated gray markets for psychedelic drugs and psychedelic services, at least without first establishing a robust and widely-accessible safety/harm reduction/education/support scaffolding, represents inequitable public health policy. For example, if unregulated gray market access was opened without any safeguards in place, individuals who have more time, education, experience, skills, resources, etc. to conduct their own research/educate themselves (e.g. about using psychedelics within a safe container,

about contraindications, about detecting red flags that may indicate abusive guides, etc.) would likely be able to make safer and more beneficial decisions about using the substances, about selecting a guide, etc. These individuals would presumably be more likely to experience positive outcomes and less likely to experience negative outcomes from accessing psychedelic drugs or psychedelic services, which is an inequitable situation (and vulnerable populations in particular would be subject to inequitable levels of risk). This is one of the reasons it is necessary to include a safety scaffolding in psychedelic drug policy, and to fully establish this safety scaffolding before opening widespread access.

Furthermore, we are optimistic that a transparent, comprehensive public conversation about the issues, with the participation of representatives of different communities and impacted groups, a variety of interdisciplinary experts, etc. will lead to the development and implementation of psychedelic drug reform policies that promote equitable access to psychedelic drugs and psychedelic services (whatever those policies may ultimately look like). We are optimistic that the people of the State of California, either through their representatives in the legislature or through ballot initiatives, will in the (probably near) future approve psychedelic drug policies that create access that is equitable, safe, beneficial, and ethical. We can learn from mistakes with cannabis legalization, and work to prevent corporate and other commercial interests from shaping psychedelic policy decisions towards their own interests.

Moving on from public health concerns, we identified and analyzed several criminal justice concerns that may provide reasons in favor of deprioritizing the enforcement of laws against giving away, sharing, distributing, transferring, dispensing, or administering of psychedelic drugs to other people in the City of Berkeley. One criminal justice reason to select this policy option would be to prevent individuals from being investigated, arrested, prosecuted, and incarcerated for engaging in these activities in Berkeley. However, as stated previously, very few people are investigated or arrested in Berkeley for offenses involving psychedelic drugs, with the rare cases involving the sale of the substances. Therefore, including giving away, sharing, etc. in our deprioritization policy would not have a significant impact on keeping individuals from being criminalized for the psychedelic-involved activities they are already engaging in, because these individuals are not currently at significant risk for investigation or arrest in Berkeley. If we did include giving away, sharing, etc. in our deprioritization policy, we would, however, be actively opening the gates for a widely-accessible, but completely unregulated gray market to emerge in Berkeley. We see the need to avoid this unintended consequence (and its public health implications) as outweighing the criminal justice value of deprioritizing enforcement of laws against giving away, sharing, etc. of psychedelic drugs.

Another relevant criminal justice concern we considered is the imperative to respect and protect the right to religious freedom. It has been argued that the right to religious freedom entails that every individual has the right to use psychedelics in religious

practices, particularly in community with others, free from government restriction or interference. If this is the case, then this would provide reason to deprioritize enforcement of laws against giving away, sharing, distributing, transferring, dispensing, or administering of psychedelic drugs to other people *within the context of religious practices*.

We decided that while the right to religious freedom may entail that every individual has the right to use psychedelic drugs in religious practices, including in community with others, there are many problems involved in identifying “religious practices” and distinguishing them from other activities, such that it would be intractably difficult to write a religious use protection into the resolution without creating many ambiguities and easily-exploited loopholes (for commercial activity, insincere religious practice, etc.). Additionally, deprioritizing enforcement of laws against possession of psychedelic drugs for personal use would allow individuals to engage in psychedelic religious practices in community with others, as long as everyone brought their own substances to these gatherings. Furthermore, because psychedelic practices involve the use of powerful drugs that place users in highly vulnerable positions in which they are susceptible to (conscious or unconscious) manipulation, exploitation, and abuse, we are concerned that our attempts to specifically open the door for religious use any further at this time would open the door to these dangers, particularly when charismatic leaders and guru-figures are involved in the psychedelic practices.

When making the decision to omit giving away, sharing, distributing, transferring, dispensing, or administering of psychedelic drugs to other people from the resolution’s deprioritization policy, we considered the public health concerns along with the criminal justice concerns. We determined that the public health reasons to refrain from opening unregulated gray-market access at this time (at least without first fully establishing a robust safety scaffolding) outweigh the criminal justice reasons in favor of deprioritizing enforcement of laws against giving away, sharing, administering, etc. of psychedelic drugs to other people.

An essential part of this resolution is referring to the City Manager to work with external organizations (including the Fireside Project) to provide accurate, evidence-informed, and widely-accessible psychedelic education, harm reduction, and other support resources to the Berkeley community. The goal here is to help individuals make informed and responsible decisions about using psychedelic drugs, and if they choose to use the drugs, to help them do so as safely and beneficially as possible. We are seeing this component of the resolution as being particularly important right now due to the marked shift in public perceptions of psychedelic drugs, and due to the increasing interest in and use of the substances (and unregulated gray market access in Oakland). We believe that the provision of psychedelic harm reduction, education, and support resources is essential for providing a “safety scaffolding” for psychedelic drug use within the City, and that this safety scaffolding must be fully in place before we can consider

opening widespread, unregulated access to psychedelic drugs and psychedelic services.

The final element of this resolution is referring to the City Manager to create, and return to the City Council with, a policy for collecting public health data regarding psychedelic drug use in the City. As of right now, the City of Berkeley has no policy for psychedelic drug use public health data collection, and no City department collects any of this data. There are extremely significant gaps in our knowledge of current patterns of psychedelic drug use and the public health outcomes of use generally, so improved data collection is needed to arrive at a better understanding of psychedelic drug use in the population and its effects on public health in the City, particularly for the purpose of preparing for policy tracking and for crafting evidence-based psychedelic public health policies in the future.

In creating the “safety scaffolding” and the public health data collection policy, we also aim to send a message to other jurisdictions about the necessity of including these elements in responsible psychedelic drug reform policies.

#### ALTERNATIVE ACTIONS CONSIDERED

- We considered the resolution that the advocacy group Decriminalize Nature proposed in 2019, which is very similar to the policy passed in Oakland, CA and a number of other jurisdictions. This proposed Berkeley resolution would have opened the door for the emergence of an unregulated gray market in Berkeley, without first establishing a safety scaffolding and a policy for public health data collection. For the reasons discussed in the above “rationale” section, we chose a different policy approach.
- We decided against the “no action” option because there is so much public interest in psychedelic drug use right now, and we believe that it is crucial for the City of Berkeley to address this topic in a responsible, public-health-focused manner.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

- Possession, cultivation, processing, and preparation of Peyote (*Lophophora williamsii*) for personal use is being omitted from this resolution’s deprioritization policy, in order to protect the sustainability of the endangered plant’s population in the Southwest. The National Council of Native American Churches and the Indigenous Peyote Conservation Initiative have asked for this plant to be excluded from psychedelic decriminalization and legalization proposals for this reason.

#### FISCAL IMPACTS OF RECOMMENDATION

- Adoption of this resolution may very, very slightly reduce City expenditures associated with enforcement of laws imposing criminal penalties for possession of psychedelic drugs for personal use, and laws imposing criminal penalties for

the cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use.

- Adoption of this resolution would decrease any present and future City expenditures associated with addressing adverse reactions to and negative health outcomes of psychedelic drug use, as a result of provision of psychedelic harm reduction, education, and support resources.
- Adoption of this resolution would require the use of City resources (including City staff time) to work with the external organizations to provide the psychedelic harm reduction, education, and support resources and to create and implement a public health data collection policy. However, because the City would be partnering with external organizations who would provide these resources (and collaborate in creating the data collection policy) for free, the costs to the City would be quite limited.

CITY MANAGER

The City Manager [TYPE ONE] concurs with / takes no position on the content and recommendations of the Commission's Report. [OR] Refer to the budget process.

CONTACT PERSON

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Attachments:

1: Resolution

2: References



RESOLUTION NO. ##,###-N.S.

RESOLUTION CALLING FOR THE PROVISION OF EVIDENCE-INFORMED PSYCHEDELIC HARM REDUCTION, EDUCATION, AND SUPPORT RESOURCES TO THE BERKELEY COMMUNITY, CALLING FOR THE CREATION OF A POLICY FOR COLLECTING PUBLIC HEALTH DATA ON PSYCHEDELIC DRUG USE IN THE CITY, AND DEPRIORITIZING THE ENFORCEMENT OF LAWS THAT IMPOSE CRIMINAL PENALTIES FOR THE POSSESSION OF PSYCHEDELIC DRUGS FOR PERSONAL USE AND LAWS THAT IMPOSE CRIMINAL PENALTIES FOR THE CULTIVATION, PROCESSING, AND PREPARATION OF PSYCHEDELIC-CONTAINING PLANTS AND FUNGI FOR PERSONAL USE

WHEREAS, “psychedelic drugs” (or “classical psychedelics”) are LSD, psilocybin, DMT, mescaline, and other compounds that exert similar psychoactive effects by stimulating a specific subtype of serotonin receptor (5-HT<sub>2A</sub>) on nerve cells in the brain and elsewhere in the body;<sup>1</sup> and

WHEREAS, psychedelic drugs can induce extra-ordinary, altered states of consciousness, involving significant changes in thought, feeling, and perception,<sup>1,2</sup> with these psychoactive effects becoming more intense and unpredictable when the drugs are taken in higher doses;<sup>1</sup> and

WHEREAS, psychedelic drugs have the potential to produce positive effects and beneficial outcomes (such as a sense of spiritual well-being, and improvements in the symptoms of mental health disorders),<sup>1-4</sup> and to produce adverse effects and negative outcomes (such as intense confusion, fear, and panic, and even erratic behavior that can lead to harming oneself or others),<sup>1-4</sup> and individuals with particular contraindications face an increased likelihood of adverse effects and negative outcomes, with those who have a history of or predisposition to psychotic disorders being at risk for triggering the onset of psychosis as a result of psychedelic drug use;<sup>4-5</sup> and

WHEREAS, the acute effects and the outcomes of psychedelic drug use are extremely dependent on “container,”<sup>1-6</sup> which is the particular context/conditions/circumstances within which the substance is used, including “Set” (the user’s expectations, intentions, mood, beliefs, medical and health conditions, etc.) and “Setting” (the physical, interpersonal, social, cultural, etc. environment within which the use occurs);<sup>1-6</sup> and

WHEREAS, while there is still much to learn about the factors that contribute to how individuals react to psychedelic drugs and how these factors relate to acute effects and outcomes of use,<sup>15</sup> it is clear that adverse effects and negative outcomes are significantly less likely to occur and beneficial effects and outcomes are more likely to occur when psychedelic drugs are used within containers that are intentional, structured, and include the support of trained, competent, and well-intentioned sitters, guides, facilitators, therapists, etc.,<sup>1-6</sup> and that adverse effects and negative outcomes are significantly more

likely, and beneficial effects and outcomes less likely, when the drugs are used outside of these containers (for example, when the user decides to use the substance spontaneously without intentional preparation, when they are alone, in a chaotic or unpredictable environment, etc.);<sup>1-6</sup> and

WHEREAS, the outcomes of psychedelic drug use are also dependent on “integration,” which refers to the process of unpacking and exploring the meaning of one’s psychedelic experience and applying it to one’s life,<sup>7</sup> with integration being vital not only because it helps one fulfill the beneficial potential of one’s experience, but also because the absence of integration can create risks and lead to negative outcomes, such as in scenarios when trauma surfaces in the experience, but is not integrated afterwards; and

WHEREAS, psychedelic-containing plants and fungi have a long history of traditional use in some indigenous societies,<sup>6,7</sup> with this use typically occurring within highly intentional, structured, time-tested ceremonial containers that include the guidance of trained practitioners, followed by integration practices, and occurring within cultural contexts that differ quite significantly from that of contemporary American society;<sup>6,7</sup> and

WHEREAS, in recent years, there has been resurgence of scientific research into the use of psychedelic-assisted psychotherapies for treating mental health conditions such as major depressive disorder and substance use disorder,<sup>8</sup> with a number of studies showing promising preliminary evidence<sup>15</sup> for therapeutic benefits when screened, prepared patients are administered with the substances within structured, clinical containers, with the support of trained therapists, and with integration following the administration sessions;<sup>8</sup> and

WHEREAS, at this time, while psychedelic therapies have not yet been demonstrated to be safe and effective treatments for any health condition, and have not yet been approved by the FDA,<sup>8,15</sup> the federal government has created an interagency task force to study and address issues related to the projected approval, rollout, and regulation of psychedelic medicine in the United States, with the goal of creating a “framework for the responsible, accountable, safe, and ethical deployment of psychedelic therapies for mental health disorders when the FDA approves their use;”<sup>9</sup> and

WHEREAS, while psychedelic drug use has been highly stigmatized in Western society, especially since the beginning of the Drug War in the United States, public perceptions have dramatically shifted in the past few years,<sup>8-12,15</sup> with mainstream media outlets reporting enthusiastically about the beneficial potential of psychedelic drug use (sometimes touting the substances as miracle cures or magic bullets),<sup>8,10-12,15</sup> psychedelic drug policy reforms being proposed and often passed in various jurisdictions throughout the United States,<sup>7,12,15</sup> billions of dollars of investment pouring into the psychedelic space, first from a small number of wealthy psychedelic-enthusiasts and now from commercial/industry/venture capital interests,<sup>10,15</sup> a trend towards increasing use of psychedelic drugs within the population,<sup>12,13</sup> and a wave of interest in receiving



psychedelic treatments,<sup>11</sup> which has been referred to as the “Michael Pollan Effect,”<sup>11</sup> and is evidenced by the massive increase in the number of individuals seeking to participate in the limited number of active or recruiting psychedelic clinical trials;<sup>11</sup> and

WHEREAS, given the profile of use for this class of drug, and given recent shifts in public perception and policy, the City of Berkeley has a responsibility to make efforts, through collaborations with external organizations, to provide accurate, unbiased, evidence-informed, and widely-accessible psychedelic harm reduction, education, and other support resources to the Berkeley community, to help individuals make informed and responsible decisions about using psychedelic drugs, and if they choose to use the drugs, to help them do so safely and beneficially; and

WHEREAS, there are extremely significant gaps in our knowledge of current patterns of psychedelic drug use and the public health outcomes of use,<sup>12,14,15</sup> so improved data collection is needed to arrive at a better understanding of psychedelic drug use in the population and its effects on public health, particularly for the purpose of preparing for policy tracking and for crafting evidence-based psychedelic public health policies in the future; and

WHEREAS, while the possession of psychedelic drugs for personal use is illegal at the federal level in the United States, arrests and prosecutions for engaging in psychedelic drug offenses almost always follow state law, and laws and penalties vary widely between different states, with possession of psychedelic drugs for personal use being considered in California to be a misdemeanor, punishable by up to one year of imprisonment; and

WHEREAS, arresting, prosecuting, and incarcerating people for the possession of psychedelic drugs for personal use and for the cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use is unjust, needlessly harmful to individuals and communities, represents a waste of resources, and does not promote public health; and

WHEREAS, deprioritization of investigation and enforcement of laws against giving away, sharing, or distributing psychedelic drugs to other individuals has, in jurisdictions such as Oakland, CA, demonstrably led to the emergence of unregulated gray markets for psychedelic drugs, with enterprising entrepreneurs opening (sometimes “donation”-based) commercial operations such as delivery services, storefront dispensaries, pop-ups, and outdoor market booths, and now with at least one convenience store in Oakland openly offering psilocybin mushroom chocolate bars for sale; and

WHEREAS, the deprioritization of investigation and enforcement of laws against giving away, sharing, distributing, or administering psychedelic drugs to other individuals has, in jurisdictions such as Oakland, CA, demonstrably opened access to unregulated psychedelic administration/dosing sessions (with practitioners and groups soliciting payment for their services), including one-on-one psychedelic-assisted therapy and group

practices such as ceremonies (often with public-facing websites and other promotional materials), and while some of these practices appear to operate in ways that are largely safe, ethical, and responsible, others do not, and are not required to, operate by the same standards, guidelines, and procedures; and

WHEREAS, at this stage, given the present circumstances in our society, the City of Berkeley's perspective is that it is prudent public health policy to pass a psychedelic drug reform proposal that does not lead to the unintended consequences of the emergence of an unregulated gray market for psychedelic drugs and the opening of access to unregulated psychedelic administration/dosing sessions, without first fully establishing a robust psychedelic harm reduction, education, and support scaffolding, without first creating a policy for public health data collection on psychedelic drug use, and without having a transparent, comprehensive public conversation, involving a variety of interdisciplinary experts, representatives of different communities and impacted groups, etc., about opening access to psychedelic drugs in a way that is safe, beneficial, ethical, and equitable, including discussion of the potential role of religious, ceremonial, and traditional use protections, public education campaigns, harm reduction programs, possible regulatory frameworks, consumer and client protections, licensing or certification systems for therapists and facilitators etc.; and

WHEREAS, the City of Berkeley wishes to declare its desire to create a psychedelic education, harm reduction, and support scaffolding for the community, to create a policy for collecting public health data on psychedelic drug use within the community, and to not expend City resources to assist in the enforcement of laws imposing criminal penalties for the possession for personal use of psychedelic drugs, or for the cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use; and

WHEREAS, a foundational part of the psychedelic harm reduction infrastructure is the "Psychedelic Peer Support Line," operated by a Bay Area-based nonprofit organization called Fireside Project, which has provided free, confidential peer-to-peer emotional support by phone and text message to over 5,000 people during and after psychedelic experiences, and has averted thousands of emergency room visits and calls to 911, and it is imperative that every member of the Berkeley community become aware of the Psychedelic Peer Support Line before they take any psychedelic substance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Mayor and City Council hereby declare that it shall be the policy of the City of Berkeley that no department, agency, board, commission, officer, or employee of the city, including without limitation, Berkeley Police Department personnel, shall use any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the possession of psychedelic drugs for personal use, or laws imposing criminal penalties for the cultivation, processing, and preparation of psychedelic-drug-containing plants and fungi for personal use. For the purposes of this resolution, "psychedelic drugs" refers to

the “classical psychedelics” LSD, psilocybin, DMT, mescaline, and all other compounds that exert similar psychoactive effects through stimulation of the 5-HT<sub>2A</sub> receptor. This resolution’s deprioritization policy does not apply to the mescaline-containing cactus Peyote (*Lophophora williamsii*), due to sustainability and poaching concerns raised by the National Council of Native American Churches and the Indigenous Peyote Conservation Initiative, who have released a statement requesting that decriminalization policies do not include this species.

BE IT FURTHER RESOLVED that this resolution defines the “personal use of psychedelic drugs” as an individual ingesting or self-administering psychedelic drugs.

BE IT FURTHER RESOLVED that this resolution defines “possession of psychedelic drugs for personal use” as an individual possessing psychedelic drugs for the purpose of being ingested or self-administered by that same individual, and not by any other person or people.

BE IT FURTHER RESOLVED that this resolution defines the “cultivation, processing, and preparation of psychedelic-containing plants and fungi for personal use” as an individual cultivating, processing, and preparing any of these plants and fungi for the purpose of the resulting material being ingested or self-administered by that same individual, and not by any other person or people.

BE IT FURTHER RESOLVED that this resolution does not authorize or enable any of the following activities: giving away, sharing, distributing, transferring, dispensing, or administering of psychedelic drugs to another individual.

BE IT FURTHER RESOLVED that the City of Berkeley shall, in the future, consider adopting policy that deprioritizes enforcement of laws imposing criminal penalties for the possession of MDMA, ketamine, ibogaine, and other psychedelic-adjacent compounds for personal use.

BE IT FURTHER RESOLVED that the City of Berkeley declares its support for a transparent, comprehensive public conversation about opening access to psychedelic drugs and psychedelic administration/dosing sessions in a way that is safe, beneficial, ethical, and equitable, including discussion of the potential role of religious, ceremonial, and traditional use protections, public education campaigns, harm reduction programs, possible regulatory frameworks, consumer and client protections, licensing or certification systems for therapists and facilitators, etc., and that the City urges the California State Legislature to take part in this conversation, and consider passing legislation that addresses the relevant issues.

BE IT FURTHER RESOLVED that the City Council refers to the City Manager to work with external organizations such as non-profits and academic institutions to provide and promote unbiased, evidence-informed psychedelic harm-reduction, education, and

support resources to the Berkeley community, including but not limited to the harm reduction-based drug education curriculum for high school students, Safety First, educational materials, workshops and other resources such as those provided by Fireside Project, DanceSafe, and other organizations for adults generally, as well as for adults who use the drugs in relevant settings, such as within nightlife, at festivals, and the use of drug purity/adulteration checking technologies, etc.

BE IT FURTHER RESOLVED that the City Council refers to the City Manager to collaborate with the non-profit organization Fireside Project to ensure that every citizen of Berkeley becomes aware of the Psychedelic Peer Support Line before consuming psychedelic drugs. Such collaboration may include but is not limited to sharing the Psychedelic Peer Support Line's number - 62-FIRESIDE | 623-473-7433 - with law enforcement and other City employees who may come into contact with people who may use psychedelic drugs, posting this information on City websites; encouraging schools to share this information with their students, and encouraging business such as bars, clubs, concert halls, and nightlife venues to share this information with their customers.

BE IT FURTHER RESOLVED that any organization or individual who works with the City to provide psychedelic education, harm reduction, or support resources shall not, through their work with the City, actively facilitate access to psychedelic drugs or psychedelic administration sessions, while current State law is in place. If an organization or individual is found to be acting in violation of this provision of the resolution, the City shall review the partnership with the organization or individual, and consider ending the partnership, depending on circumstances of the violation.

BE IT FURTHER RESOLVED that the City Council refers to the City Manager to collaborate with the Public Health Department, other City Departments, and external organizations and individuals to create, and return to the City Council with, a policy for collecting public health data on psychedelic use in the City.

BE IT FURTHER RESOLVED that the City of Berkeley urges other local jurisdictions to pass proposals that would establish psychedelic education, harm reduction, and support scaffoldings for their communities, create policies for collecting public health data on psychedelic drug use within their communities, and deprioritize the enforcement of laws imposing criminal penalties for the possession of psychedelic drugs (except Peyote) for personal use, and for the cultivation, processing, and preparation of psychedelic-containing plants and fungi (except Peyote) for personal use.

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