

American University Washington College of Law

# Digital Commons @ American University Washington College of Law

---

Articles in Law Reviews & Other Academic Journals

Scholarship & Research

---

2021

## Foreword

Fernando R. Laguarda

Follow this and additional works at: [https://digitalcommons.wcl.american.edu/facsch\\_lawrev](https://digitalcommons.wcl.american.edu/facsch_lawrev)



Part of the [Law and Politics Commons](#), and the [Legislation Commons](#)

---

**FOREWORD****AUTHORED BY: FERNANDO R. LAGUARDA<sup>1</sup>**

It was an honor to be asked to write this introduction to the *American University Legislation & Policy Brief* annual publication. *AULPB* was launched in 2008 with help from then-Professor Jamie Raskin as the Legislation and Policy Roundtable, becoming a fully-fledged publication in 2011. Today, the *AULPB* plays a vital role in the intellectual life of the Washington College of Law, serving as the central forum for scholarship on topics at the intersection of law and public policy. In the past three years, *AULPB* has also organized symposia focusing on cutting edge topics elevated by bipartisan dialogue. I was privileged to work closely with the *AULPB* editorial boards in my time at WCL, bringing the publication into the Program on Law and Government. *AULPB* editors and staff participate extensively in Law and Government programming, help to organize events through the Law and Government Society, and make connections beyond the classroom to the faculty and many leading practitioners that make WCL such a vibrant place to study law.

Today, in addition to its own blog, *AULPB* manages [www.OversightProject.org](http://www.OversightProject.org), which features student and practitioner content focusing on the federal oversight and accountability community. The blog is connected to a course on advanced topics in federal government oversight, a unique opportunity for students to learn about an area of practice that has received a great deal of coverage in recent years. Ensuring the vitality of these open, bipartisan forums for student scholarship, debate, analysis and criticism makes *AULPB* an essential part of the WCL community. And that community extends beyond campus. Many of *AULPB*'s former staff and editorial board members have gone on to careers in government, industry, and alumni still play a key role in soliciting new content, mentoring staff, and giving back -- in keeping with the finest traditions of the Washington College of Law.

This past year could be called the year of the COVID-19 pandemic. Nothing inside or outside the university has been untouched, and law and public policy will be dealing with the implications for years (if not decades) to come. The articles for this year's publication all wrestle with issues in this light. "The Intersection of Reducing Recidivism and Spurring Inclusive Economic Recovery," by Scott Astrada and Israel Nery, addresses the challenges faced when citizens return to communities ravaged by the pandemic. There is a policy opportunity to provide resources and support for re-entry, and this article analyzes initiatives that have documented success, especially when it comes to communities of color and at risk-communities. In the best tradition of the *AULPB*, the authors propose solutions that aim to support reentry, drive labor force recovery, and promote economic expansion.

In "The Cannabis Conundrum: Constitutional & Policy Concerns in Taxation of the Marijuana Industry," Beckett Cantley and Geoffrey Dietrich review how the cannabis industry has expanded over the last few years. Despite a general shift in medical, legal, and public opinion

---

<sup>1</sup> Fernando Laguarda is former Faculty Director of the Program on Law and Government at American University Washington College of Law, where he taught Antitrust, Public Law, Oversight & Accountability, Legislation, and Legal Ethics (2016-2021). He received his A.B. cum laude in Government from Harvard College and his J.D. cum laude from Georgetown University Law Center.

supporting the full legalization of marijuana, legislation still lags far behind. The article discusses the evolution of public support for marijuana legalization, state and federal approaches to cannabis regulation, and the constitutionality of taxation of the industry under both the Sixteenth and Eighth Amendments, concluding with an argument for legislation removing marijuana from the purview of the Internal Revenue Code. The cannabis industry will provide an important case study for how business regulation is capable of changing in the post-pandemic environment.

Finally, “Breaking Up the Jones: Using Antitrust Law to Solve the California Housing Crisis,” by Aneesa Ahmed, analyzes the housing crisis that has emerged in California and the impact of homeowners’ associations obstructing the development of affordable housing by manipulating the processes through which new construction is approved by the state. The author argues that government officials interested in alleviating the critical housing shortage could apply antitrust law to homeowner collective action because they are sham petitions that violate the Sherman Act. Housing has emerged as one of the most important challenges once communities have been vaccinated against COVID-19. This article shines a light on the role that dysfunctional markets might play in exacerbating that challenge.

The staff and editorial board of the *AULPB* are to be commended for continuing to publish student scholarship that addresses important law and public policy topics and for this annual publication, which elevates more substantive scholarship for consideration by a wider public. The role of the law is to provide a mechanism for solving problems and advancing justice, ideally one that builds upon and reinforces shared values -- and *AULPB* is helping do both by providing a platform for spirited engagement with complex issues. Moreover, it is doing that without shying away from promoting solutions for consideration and debate. Tackling hard problems and taking risks by offering concrete solutions is what we want lawyers to do at the intersection of law and public policy. And this is an effort led entirely by students, reflecting their priorities, showcasing their skills, and highlighting their interests. Ultimately, that is what has made my association with the *AULPB* such a highlight of my connection with the WCL community. I wish them continued success and thank you for your interest in and support of their work.

Best Regards,

Fernando R. Laguarda