

# DECRIMINALIZATION OF MARIHUANA

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HEARINGS  
BEFORE THE  
SELECT COMMITTEE ON  
NARCOTICS ABUSE AND CONTROL  
HOUSE OF REPRESENTATIVES  
NINETY-FIFTH CONGRESS  
FIRST SESSION

MARCH 14, 15, AND 16, 1977

Printed for the use of the  
Select Committee on Narcotics Abuse and Control

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95th Congress; 1st Session

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(II)

# CONTENTS

	Page
Introduction-----	vii
Monday, March 14, 1977-----	2
Testimony of Peter Bourne, M.D., Director-Designate, Office of Drug Abuse Policy; accompanied by Peter Bensinger, Administrator, Drug Enforcement Administration; Vernon Acree, Commis- sioner, U.S. Customs Service, Treasury Department; Mathen Falco, Special Assistant and Senior Adviser to the Secretary of State on Narcotics Matters; Robert L. DuPont, M.D., Director, National Institute on Drug Abuse; Bertram Brown, M.D., Director, National Institute of Mental Health; Benjamin Civiletti, Assistant Attorney General, Criminal Division, Department of Justice-----	4
Prepared statement of Vernon Acree, Commissioner of Customs, U.S. Customs Service-----	7
Foreign laws pertaining to possession of marihuana-----	17
Barristers' Club of San Francisco report on the Sacramento citation- diversion program-----	52
Medical studies with reference to current State penalties and prac- tices related to marihuana-----	58
Testimony of Edward M. Davis, chief, Los Angeles Police Department-----	82
Prepared statement of Edward M. Davis, chief, Los Angeles Police Department-----	88
Written questions from Congressman Skubitz and the replies re- ceived-----	103
Testimony of Hon. Richard Gordon Hatcher, mayor of Gary, Ind-----	110
Testimony of Joseph L. Turner, chief investigator, Alaska State Troopers; Dr. Jerome H. Jaffe, professor of psychiatry, Columbia University; and Dr. Henry Brill, Islip, N.Y-----	123
Prepared statement of Joseph L. Turner, chief investigator, Alaska State Troopers-----	126
Prepared statement of Dr. Jerome H. Jaffe, professor of psychiatry, Columbia University-----	190
Prepared statement of Dr. Henry Brill, Islip, N.Y-----	196
Tuesday, March 15, 1977-----	213
Testimony of Hon. Edward I. Koch, U.S. Congressman from New York-----	214
Prepared statement of Hon. Edward I. Koch, U.S. Congressman from New York-----	216
Testimony of Hon. Jacob K. Javits, U.S. Senator from New York-----	218
Prepared statement of Hon. Jacob K. Javits, U.S. Senator from New York-----	221
Testimony of Hon. Yvonne Brathwaite Burke, U.S. Congresswoman from California-----	223
Prepared statement of Hon. Yvonne Brathwaite Burke, U.S. Con- gresswoman from California-----	226
Federal research poll showing reduction in marihuana use-----	230
Submissions for the record from Senator Jacob K. Javits-----	236
Testimony of Brooksley Elizabeth Landau, American Bar Association-----	291
Prepared statement of Brooksley Elizabeth Landau, American Bar Association-----	293
Testimony of Jerome Hornblass, commissioner, Addiction Services Agency, New York City-----	294
Prepared statement of Jerome Hornblass, commissioner, Addiction Services Agency, New York City-----	298

# IV

Tuesday, March 15, 1977—Continued

Testimony of Jay A. Miller, associate director, Washington office, American Civil Liberties Union.....	Page 305
Prepared statement of Jay A. Miller, ACLU.....	307
Report of American Bar Association.....	320
Testimony of Keith Stroup, Esq., national director, National Organization for the Reform of Marijuana Laws.....	333
Prepared statement of Keith Stroup, Esq., national director, NORML.....	340
Testimony of Lester Grinspoon, M.D., associate professor of psychiatry, Harvard Medical School.....	364
Prepared statement of Lester Grinspoon, M.D., associate professor of psychiatry, Harvard Medical School.....	367
Testimony of Burton Joseph, executive director, Playboy Foundation, Inc.....	384
Prepared statement of Burton Joseph, executive director, Playboy Foundation.....	386
Playboy magazine interview of Keith Stroup (excerpts).....	395
Submission for record from Science magazine.....	398
Biometrics Research Institute and School of Public Health, Columbia University article.....	398
Wednesday, March 16, 1977.....	415
Telegram from Robert Blake.....	416
Testimony of Ramon Adame, director, Aliviane, El Paso, Tex.....	418
Prepared statement of Ramon Adame, director, Aliviane, El Paso, Tex.....	421
Testimony of Robert W. Baird, M.D., director of the Haven Clinic, New York City.....	423
Prepared statement of Robert W. Baird, M.D., director of the Haven Clinic, New York City.....	430
Testimony of Robert Whalen, on behalf of Hon. Meldrim Thomson, Jr., Governor of the State of New Hampshire.....	443
Testimony of Hon. Stephen Kafoury, Senator from the State of Oregon.....	444
Prepared statement of Hon. Stephen Kafoury, Senator from the State of Oregon.....	446
Testimony of Richard A. Davis, director, Oregon Department of Human Resources.....	451
Testimony of Eugene Hollingsworth, chief, Bureau of Investigation and Narcotic Enforcement, Department of Justice for the State of California.....	456
Prepared statement of Eugene Hollingsworth, chief, Bureau of Investigation and Narcotic Enforcement, Department of Justice for the State of California.....	459
Testimony of Mr. Mylio S. Kraja, director, National Legislative Commission, the American Legion; accompanied by Phillip Riggins.....	476
Testimony of Charles Sevilla, public defender, State of California.....	482
Testimony of Herbert A. Raskin, M.D., American Medical Association; accompanied by Harry N. Peterson.....	484
Prepared statement of Herbert A. Raskin, M.D., American Medical Association.....	487
Testimony of John J. Bellizzi, executive director, International Narcotics Enforcement Officers Association.....	489
Prepared statement of John J. Bellizzi, executive director, International Narcotics Enforcement Officers Association.....	491
Testimony of Gabriel G. Nahas, M.D., Ph. D., College of Physicians and Surgeons, Columbia University, New York City.....	497
Prepared statement of Gabriel G. Nahas, M.D., Ph. D., Columbia University, New York City.....	504
Testimony of John C. Datt, director, Washington office, American Farm Bureau.....	518
A bill establishing the Sacramento plan.....	524
Submission from Mr. Sevilla.....	529

## Appendix:

Submission from Harry Toussaint Alexander, president, Washington chapter, National Association for the Advancement of Colored People.....	Page 537
A first report of the impact of California's new marihuana law (S.B. 95).....	539
Submission from University of California, Berkeley, Professor Hardin B. Jones.....	594
U.S. Labor Party statement.....	597
Statement of the Liberty Lobby.....	601
Statement of the National Grange.....	603
Submission from Playboy Enterprises, Inc.....	604
Statement of Willel W. G. Reitzer.....	614
Statement of Teen Haven.....	634



## INTRODUCTION

The Select Committee on Narcotics Abuse and Control was established on July 29, 1976, under H. Res. 1350, which reads as follows:

Resolution, *Resolved*, That (a) (1) there hereby is established in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of eighteen Members of the House.

(2) Members of the select committee shall be appointed by the Speaker of the House. One member of the select committee shall be designated by the Speaker to serve as chairman of the select committee.

(3) At least one member of the select committee shall be chosen from each of the following committees of the House: The Committee on Armed Services, the Committee on Government Operations, the Committee on International Relations, the Committee on Interstate and Foreign Commerce, the Committee on the Judiciary, the Committee on Merchant Marine and Fisheries, and the Committee on Ways and Means.

(4) Any vacancy occurring in the membership of the select committee shall be filled in the same manner as the original appointment.

(b) The chairman of the select committee may establish such subcommittees of the select committee as he considers appropriate. Any such subcommittee shall be composed of not less than four members of the select committee.

Sec. 2. The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of narcotics abuse and control, including, but not limited to, international trafficking, enforcement, prevention, narcotics-related violations of the Internal Revenue Code of 1954, international treaties, organized crime, drug abuse in the Armed Forces of the United States, treatment and rehabilitation, and the approach of the criminal justice system with respect to narcotics law violations and crimes related to drug abuse; and

(2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting narcotics abuse or control.

Sec. 3. (a) For purposes of this resolution, the select committee, or any subcommittee thereof authorized by the select committee, may sit and act at such times and places as it considers appropriate whether the House is sitting, has recessed, or has adjourned.

(b) For purposes of this resolution, the select committee, or any subcommittee thereof authorized by the select committee to hold hearings, may hold such hearings, and may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents, and other exhibits and materials, as it considers necessary. Subpoenas may be issued under the signature of the chairman of the select committee or any member of the select committee designated by him, and may be served by any person designated by such chairman or member.

(c) A majority of the members of the select committee shall constitute a quorum for the transaction of business, except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony. The chairman of the select committee, or any member of the select committee designated by him, may administer oaths of affirmations to any witness.

(d) The select committee and any subcommittee thereof and its staff may conduct field investigations or inspections. Members of the staff of the select committee may engage in such travel as may be necessary to conduct investigations relating to the purposes of this resolution.

## VIII

Sec. 4. The select committee may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, and clerical and stenographic assistants as it considers necessary to carry out the purposes of this resolution. The select committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee, other than expenses in connection with meetings of the select committee or any subcommittee thereof held in the District of Columbia.

Sec. 5. The provisions of clause 2(g) (1) of rule XI of the rules of the House shall apply to the select committee.

Sec. 6. (a) The select committee shall report to the House with respect to the results of any investigation conducted by the select committee, or any subcommittee thereof, under section 3(d).

(b) The select committee shall submit an annual report to the House which shall include a summary of the activities of the select committee during the calendar year to which such report applies.

(c) Any report of the select committee under this section which is submitted during a period in which the house is not in session shall be filed with the Clerk of the House.



## DECRIMINALIZATION OF MARIHUANA

MONDAY, MARCH 14, 1977

HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,  
*Washington, D.C.*

The Select Committee met at 10 a.m., in room 2141 of the Rayburn House Office Building (Hon. Lester L. Wolff) presiding.

Present: Representatives Paul G. Rogers, E (Kika) de la Garza, James R. Mann, Herman Badillo, Fortney H. (Pete) Stark, James H. Scheuer, Glenn English, J. Herbert Burke, Robin L. Beard, Benjamin A. Gilman, and Joe Skubitz.

Staff present: Joseph L. Nellis, chief counsel; William G. Lawrence, chief of staff; staff members Donna Alvarado, Alma Bachrach, Sam Baptista, Mathilde Bosley, Rosemarie Brooks, Elliott Brown, Jeannine Courtney, Ellsworth Dory, Mary Anne Ezzell, Fred Flott, Carol Moyer, Paul Snyder, Tom Vogel, Lou Williams, and Leo Zani.

Mr. Wolff. The Select Committee today begins 3 days of hearings involving a significant public issue, the pros and cons of the proposal to decriminalize the use and possession of small amounts of marihuana under Federal law, particularly the Controlled Substances Act of 1970.

We should make clear at the outset that our committee is not engaged in legislative hearings. Our purpose is to examine the methodology of decriminalization as it has operated in California, Oregon, and six other States which have adopted decriminalization laws and to give both proponents and opponents of this proposal, both in and out of Government, an opportunity to be heard.

We are advised there are still some 200 persons incarcerated in various State and Federal institutions serving terms for possession and/or sale of small amounts of marihuana. The committee will examine the situation, and make appropriate recommendations to the standing committees of the House of Representatives.

I would like each witness who is to appear before us during the next 3 days to appreciate that the committee does not wish to ensnare its present effort in an inconclusive debate over whether or not marihuana is more or less harmful than alcohol, whether the sale of marihuana should be legalized, and whether or not it should be readily available to anyone who wants to use the substance. Rather, we hope the testimony will focus on whether public attitudes toward decriminalization have changed and, if so, whether these changes are based upon sound public policy reasons. We will inquire into the cost-benefit ratio of decriminalization as it concerns public health, the criminal justice system, and the effect on the States of any serious movement toward decriminalization by the Federal Government.

We trust our witnesses and the public at large will understand that no drug use is, or should be condoned or promoted, by this committee. That is not our intention. The issue here is reduction of penalty, not promotion of use, even though some may logically contend that increase<sup>1</sup> use would be a natural result of decriminalization.

At the same time we give thought to what has transpired in California, Oregon, and other States which have now experienced up to 3 years of decriminalization, we intend also to consider the views of those responsible persons who are opposed to Federal decriminalization.

There are, in reality, only three possible options open on this subject: one, to continue criminal penalties; two, to decriminalize the user; or, three, to legalize the use of marihuana.

We will hear witnesses deliver, first, a brief résumé of the current state of knowledge concerning the effects of marihuana use on human health and performance; second, a brief history of the origin of marihuana laws in the United States; third, a brief review of current knowledge available as to whether the use of marihuana leads to the use of hard drugs, particularly heroin; and fourth, a brief review of the results of public opinion polls and other known public attitudes concerning criminal penalties for the use of small amounts of marihuana.

Some of the issues we hope to discuss with witnesses are Federal: does present Federal law discourage the use of marihuana? Would decriminalization confer social and financial benefits to the public at large? What effect would decriminalization have upon youth? Would crime rates be unaffected or would they increase or decrease with decriminalization? What is the attitude of witnesses toward President Carter's view of the subject, which would maintain an official policy of continuing criminal sanctions against commercial traffickers? Would retention of criminal sanctions coupled with a police moratorium against enforcement be a satisfactory solution?

As recently as 1967, marihuana was generally classified with narcotics like heroin. Under Federal law the penalty was quite harsh. Some Federal offenses carried 5 to 20 years imprisonment for a first offense and from 10 to 40 years for a second offense [Public Law 83-728 (1956)]. It was not until 1966 that offenders under these severe laws could be paroled.

Change began in 1968, when Alaska, California, and Vermont reduced penalties for simple possession. In 1969 and 1970 more States followed suit. By 1970, 33 States had some type of discretionary provision to prosecute or sentence simple possession as misdemeanors instead of felonies. In 1969, Nebraska made the first offense a misdemeanor punishable by only 7 days in jail.

At the end of 1970, the Congress enacted the Controlled Substance Act, which repealed all prior Federal legislation, including the Marihuana Tax Act. This new act reduced Federal penalties not only for simple possession but also for distribution by providing a maximum 5 years imprisonment and a fine of not more than \$15,000 for a first offense and double that for a second offense. Probation and parole were again made available. The act also provided for a conditional discharge, in which a first offender found guilty of simple possession may be placed on probation for up to 1 year without a guilty verdict.

This legislation also established the National Commission on Marihuana. The Commission, in 1972, issued its report recommending that marihuana possession in small amounts did not constitute the basis for a criminal charge. It also recommended changes in State laws so that the possession of marihuana for personal, private use would no longer constitute an offense.

Since 1972, many States have abandoned mandatory felony penalties for possession and have reduced possession offenses to the misdemeanor level. As I previously noted, Oregon began the decriminalization movement by enacting legislation in 1973 that provided that possession of less than 1 ounce was a violation punishable solely by fine of not more than \$100. In 1975, California adopted the Oregon plan. To date, the following additional States have moved toward amelioration of marihuana penalties: Minnesota, South Dakota, Colorado, Ohio, Vermont, and Maine.

Proponents of decriminalization claim that the case which law enforcement officers have made against marihuana has fallen apart. Opponents contend that those who state marihuana is harmless do not know what they are talking about.

It is clear that these changes in State law are the result of increasing use of marihuana by a large number of middle-class persons. In the 1960's, it was largely associated with the young and the drug subculture of that period. It is estimated that 36 million Americans have tried marihuana. Nearly 15 million use it regularly. "Regularly" is defined as more than once a week. The largest percentage of those who have used it is in the age group 18 to 25. The majority of this group, 53 percent, have used it sometime, one-fourth of that sample within the last month. These statistics are taken from the Department of Health, Education, and Welfare's Sixth Annual Report to the Congress on Marihuana and Health.

The primary objective of the committee in holding these hearings at this time is to develop a record to enable the standing committees having legislative jurisdiction over this issue to begin deliberations. Accordingly, I will ask each witness to state his or her qualifications and position, either pro or con, in advance of testimony.

Each witness has been requested to provide the committee copies of his or her prepared statement. I would appreciate it if each of the witnesses would summarize their prepared statement, with the understanding that the full text will appear in the record. Without objection, the full text will appear in the record.

Any individual or organization desiring to submit statements or materials for the record is welcome to do so. If you will give this material to a member of the committee staff, it will be inserted in the record.

We have a very distinguished panel of witnesses before us this morning. Before calling upon our witnesses, I should like you all, if you would please, to stand so that you can be sworn.

[Witnesses sworn.]

Mr. WOLFF. Our first witness today is Dr. Peter Bourne, of the White House Office of Drug Abuse Policy.

Please proceed.

TESTIMONY OF PETER BOURNE, M.D., DIRECTOR-DESIGNATE,  
OFFICE OF DRUG ABUSE POLICY, ACCOMPANIED BY PETER  
BENSINGER, ADMINISTRATOR, DEA; VERNON ACREE, COMMIS-  
SIONER, U.S. CUSTOMS SERVICE, TREASURY DEPARTMENT;  
MATHEA FALCO, SPECIAL ASSISTANT AND SENIOR ADVISER TO  
THE SECRETARY OF STATE ON NARCOTICS MATTERS; ROBERT L.  
DuPONT, DIRECTOR, NIDA; BERTRAM BROWN, DIRECTOR, NIMH;  
BENJAMIN CIVILETTI, ASSISTANT ATTORNEY GENERAL, CRIM-  
INAL DIVISION, DEPARTMENT OF JUSTICE

Dr. BOURNE. Mr. Chairman members of the committee: I am very happy to appear before you today on behalf of the administration. I would like to introduce my colleagues sitting at the table with me beginning on my far right.

Mr. Benjamin Civiletti, Assistant Attorney General in charge of the Criminal Division of the Justice Department.

On his left, Mr. Vernon Acree, Commissioner of Customs.

Ms. Mathea Falco, Senior Adviser on Narcotic Matters to the Secretary of State.

On my immediate left, Dr. Robert DuPont, Director of the National Institute on Drug Abuse.

To his left Mr. Peter Bensinger, Administrator, Drug Enforcement Administration.

And, on his left, Dr. Bertram Brown, the Director of the National Institute of Mental Health.

Mr. Chairman, I have a brief statement that I would like to read. It is very brief.

I would then like to ask each of my colleagues if they wish to add a brief comment themselves to that statement.

We will then be delighted to answer any questions that you might have.

Mr. WOLFF. Please proceed.

Dr. BOURNE. I would like to start by saying that President Carter is deeply concerned about the problem of drug abuse. Our position is to discourage the abuse of all drugs, including alcohol and tobacco, as a national policy. At the same time, we believe that the mechanism for discouragement should not be more damaging to the individual than the drugs themselves. We will continue to discourage marihuana use, but we feel criminal penalties that brand otherwise law-abiding people for life are neither an effective nor an appropriate deterrent.

The steadily increasing use of marihuana over the last 10 years has been a matter of major public concern. Despite harsh penalties in many States, vigorous drug education programs, and considerable media attention, as many as 35 million Americans have tried marihuana.

Research to date indicates that while marihuana intoxication seems to carry with it the same hazards as alcohol with respect to the operation of automobiles, it is not physically addicting and in infrequent or moderate use, probably does not pose an immediate substantial health hazard to the individual.

Ten years ago we knew virtually nothing about marihuana. Now the annual budget for research on marihuana at the National Institute of Drug Abuse is \$4 million. Each year we are learning more. It is, however, clear that substantial additional research needs to be done and one cannot say with absolute certainty that additional studies may not demonstrate serious potential health hazards or that serious problems may not arise from chronic use.

Discussion and debate has continued for many years at all levels of government, yet there is a lack of consensus. Major efforts to assess the health hazards of marihuana use, its intoxicating effects, and the equity and rationale of criminal penalties for the individual abuser have been conducted. Yet, we still do not fully understand the deterrent effects of various sanctions taken against those who possess marihuana for their personal use.

In October of 1973, Oregon became the first State to decriminalize the use of marihuana. Subsequent studies in 1974 and 1975 showed that there was no appreciable increase in the use of marihuana in the State. A followup study in 1976 indicated the usage had risen, but remained below the average of other west coast States.

It is the position of the administration that it should be left to the individual States to determine whether they wish to decriminalize their laws for the possession of small amounts of marihuana for personal use and that the Federal Government should not seek in any way to influence that decision.

However, we do feel that to maintain the option entirely in the hands of the State, the Federal law, which is now rarely enforced with regard to simple possession, should be decriminalized along the lines suggested in the bill recently submitted to the Congress.

It is important to distinguish between decriminalization and legalization. Reduction of the penalties for simple possession of small amounts of marihuana, making it a civil offense with a fine rather than a jail sentence, seems to have been an effective and appropriate approach in many States. The offender receives a citation and no permanent criminal record.

We have seen in the past where criminal penalties have resulted in otherwise law-abiding young people spending time in prison and incurring permanent damage to their careers and their ability to enter professions. This causes far greater harm to their lives than any effect the drug would have had and the penalties are counter-productive.

Legalization of marihuana, rather than decriminalization, would be totally inappropriate and would only serve to encourage the use of the drug when we seek to deter it and open the door to a broad-scale commercialization. In addition, legalization would violate the 1961 Single Convention of which the United States is a signatory, while decriminalization would not.

We remain, at the same time, firmly committed to the vigorous prosecution of those who traffic in marihuana and other drugs.

In closing, I would like to emphasize that it is the firm commitment of this administration to discourage drug abuse of all kinds. We will be working very hard to do this through a combined pro-

gram of international initiatives, humane treatment and prevention programs, and vigorous law enforcement efforts.

We, at the Federal level, have determined that scarce criminal justice resources can best be used to immobilize major drug traffickers and not focus on street users.

This same issue is appropriate for each State in our Union and each State should have complete autonomy to make such a determination.

Thank you.

Mr. WOLFF. Thank you.

You say you would like to ask those people who are accompanying you to make their own individual statements?

Dr. BOURNE. If they wish.

Mr. CIVILETTI. I have no comment, Mr. Chairman.

Mr. ACREE. Mr. Chairman, I am appearing today to represent the Customs Service and Department of the Treasury.

Perhaps to give the committee some background from our point of view I would like to make a few brief remarks.

As the Nation's civilian border protection force against the introduction of all contraband including narcotics, we have had a long-standing involvement in the enforcement effort against smuggling of marihuana and hashish, a marihuana derivative.

At this time the Customs Service does face, and the Nation faces a substantial level of smuggling of marihuana and hashish as well as other narcotics.

Although there is little hard data available, estimates of domestic marihuana use indicate the figure is probably 8 to 10 million pounds a year.

Expenditures for this vast amount of marihuana are now estimated at about \$5 billion. A substantial illicit profit for all levels in the trafficking process.

Probably about \$1 billion of this total actually leaves the country to finance the purchase of these substances in foreign countries.

For Customs, the volume of narcotics coming in has produced a difficult enforcement effort along our borders, including land, sea, and air, and we face at the border all levels of marihuana smuggling, ranging from the personal use violator to the professional smuggler concerned with shipments of several tons.

In fiscal year 1976, for example, there were more than 18,000 seizures and some 5,000 arrests connected with marihuana smuggling attempts.

As a byproduct of more intensive enforcement efforts against hazardous drugs, seizures of marihuana and hashish increase dramatically each year.

Marihuana seizures last year reached 795,000 pounds; up 63 percent from the previous year.

For the committee's information, in the first 5 months of this fiscal year we seized 489,676 pounds, up 34 percent over the comparable period in the preceding fiscal year.

I might mention, too, that along our ocean borders, particularly the southeast Atlantic, the Gulf and southern Pacific coasts, a massive marihuana smuggling situation does prevail.

In addition to smuggling by private yachts, which has been growing for several years, we now face hovering vessels lying off the coast outside the continental limits and delivering marihuana and other drugs to smaller vessels.

A recent seizure of a single hovering vessel produced 52 tons of marihuana.

I give the committee that brief background and information to give a perspective as to the volume of marihuana and hashish smuggling that we are forced to cope with, and I think necessarily needs to be considered in the totality of your review, Mr. Chairman.

Mr. WOLFF. Thank you, Mr. Acree.

Your complete statement will be inserted into the record.

[Mr. Acree's prepared statement follows:]

PREPARED STATEMENT OF VERNON D. ACREE, COMMISSIONER OF CUSTOMS,  
U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

Mr. Chairman, members of the Committee, I am appearing today to represent the U.S. Customs Service, U.S. Customs, created by Congress in 1789, is the agency of Government charged with the responsibility for guarding our nation's borders against the smuggling of contraband. We operate from some 300 ports of entry, as well as maintain a presence along the land, sea and air borders, including Hawaii and Alaska as well as Puerto Rico and the U.S. Virgin Islands.

As the nation's civilian border protection force against the introduction of all contraband, including narcotics, we have had a long-standing involvement in the enforcement effort against smuggling of marihuana and hashish, a derivative of the marihuana plant. Since virtually all of the marihuana used domestically is smuggled across our borders, any revision of current Federal law or policy will have an impact on our enforcement effort. My statement will discuss the possible impact as well as provide an overview of the current Customs enforcement effort.

Your review of Federal policy, as you know, comes at the culmination of a decade of rising use and smuggling of marihuana. According to numerous studies, more than 22 million Americans have tried marihuana, with 13 million of these estimated as regular users. Unquestionably, marihuana has become one of the most popular drugs of abuse.

To meet the needs of this growing demand, a substantial smuggling of marihuana and hashish is now ongoing. Although there is little "hard" data available, a number of estimates of domestic marihuana use have been made. At the high end of the scale is a 17 million pound estimate to meet this demand. Considering the full range of such estimates, a good middle ground figure is probably 8-10 million pounds. Expenditures for this vast quantity of marihuana are now estimated at about \$5 billion, with substantial illicit profits for all trafficking levels. Probably about a billion dollars of this total actually leaves the country to finance the purchase of these substances in foreign countries and much of the remainder becomes the seed money for other illegal domestic activities. In fact, the availability of such large and illicit profits, especially the untaxed status of these profits, has proven a magnet for attracting criminal elements to organize the supply side of this "industry."

Supporting this sizeable "industry" is a hidden infrastructure for efficiently assuring a continuing flow from foreign producer, across our borders, and ultimately to the domestic user. In contrast to other forms of narcotics smuggling, shipments of marihuana are bulky, requiring vehicles or other forms of transport to move the material across the border. Only a well-organized operation, which epitomizes the bulk of the smuggling activity, can achieve the level of success required to make it profitable.

At the base of this vast flow of marihuana entering the domestic market is the importer/wholesaler, the group at which the Customs enforcement effort is directed. Although a relatively small group, perhaps some 20,000 individuals, it is the mainstay of the marihuana traffic, including among its members professional smugglers, criminals involved in all forms of illegal activities, and others who are already wanted as fugitives.

Information from arrest records tend to confirm that many of the smugglers have a criminal background predating their involvement with marihuana. The opportunities for illicit profit have brought these individuals into the trafficking of marihuana. And, in turn, profits from marihuana sales support other illegal activities. In some instances, the criminal activities of this group and the retail level distributors extends to street and other types of crime to obtain the funds required to purchase supplies of marihuana.

For Customs, this has produced a difficult enforcement effort along our borders, including land, sea and air. Customs faces, at the border, all levels of marihuana smuggling, ranging from the personal use violator to the professional smuggler concerned with shipments of several tons. In FY 1976, for example, there were more than 18,717 seizures and over 5,000 arrests connected with marihuana smuggling attempts. Major smuggling rings operating internationally are well organized and well financed. An indication of the investment smugglers are willing to undertake, as well as the profit potential, is the increased use being made of aircraft and vessels to bring marihuana into the country. Today, according to recent analysis, a significant portion of domestic consumption is met through these smuggling modes.

At this time, Customs is facing a massive increase in the smuggling of all types of narcotics and drugs, including marihuana and hashish. Some 6-8 tons of heroin from Mexico are estimated to be reaching our domestic markets. In FY 1976, seizures of heroin rose 220%, cocaine was up 41%, and other dangerous drugs were up 85%. As a by-product of Customs more intensive enforcement efforts against "hard" drugs, seizures of marihuana and hashish also increased dramatically. Marihuana seizures last year reached 759,360 pounds, up 63% from the previous year. Hashish seizures reached 13,437 pounds in FY 1976, an increase of 295%. Large amounts of marihuana continue to flow across our borders, particularly in recent years by air and sea. Extensive smuggling across our air borders is being carried out by private aircraft. Current estimates indicate some 4,000 to 6,000 illegal smuggling flights are crossing our Southern borders each year—an average of about 10 to 16 flights per day. This estimate, based on radar identification and tracking, is reasonably precise.

Along our ocean borders, particularly the Southeast Atlantic, Gulf and Southern Pacific coasts, a similar smuggling situation exists. In addition to smuggling by private yachts, which had been growing for several years, we now face hovering vessels cruising along the coast outside the continental limit, and delivering marihuana and other drugs to smaller vessels. A recent seizure of a hovering vessel produced 52 tons of marihuana with a street value of \$25 million. From October through December 1976, Customs seized an additional \$101,577,000 worth of marihuana. These figures do not reflect any so-called user seizures, but only those from groups that are obviously well-organized and well-financed. It is the big operator that Customs is going after, and I am pleased to report we are increasingly successful in these operations.

Although the comments on marihuana are also pertinent to hashish, there are basic differences in the methods of smuggling and in the potency of the drugs. Hashish involves a more controlled smuggling operation. A significant portion of the 13,437 pounds seized in FY 1976 resulted from only a few seizures. The drug itself comes from the secretion of the flower of the cannabis plant and like marihuana is processed by drying. A further refinement is hashish oil, produced by repeated extraction to yield a liquid. A drop or two of this oil on a cigarette is equal to the psychoactive effect of an entire marihuana cigarette. Customs has had to contend with increasing amounts of hashish oil smuggling. The drug in this form is difficult to detect, especially when mixed into other types of liquid shipments.

My remarks to follow will be primarily concerned with decriminalization of personal use amounts, rather than full legalization of the sale and use of marihuana. Since legalization can take numerous forms, none of which have been explicitly detailed, no meaningful impact assessment is possible at this time. However, based on our experience, if some excise, duty or other restraint is placed on importation, then the current professional smuggling groups will probably continue their illegal activities. Customs will still have to deploy resources to interdict the smuggling of marihuana and hashish.

Any proposal for decriminalization must consider the statutory framework within which the Customs enforcement effort operates as well as the impact upon the border interdiction operation. Customs currently enforces several



statutes which impose criminal penalties for the importation of marihuana into the United States. Under 18 U.S.C. 545, it is unlawful to fraudulently and knowingly import or bring into the United States any merchandise contrary to law. The importation of any quantity of marihuana is not permitted except under certain circumstances. The penalty for violation of this section is a fine of not more than \$10,000 or imprisonment of not more than five years, or both.

Under the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq), it is unlawful to import a controlled substance into the United States without a registration issued by the Drug Enforcement Administration. Marihuana is presently listed as a controlled substance, thereby requiring any prospective importer of any quantity to obtain a license. The penalty for violation of this statute is imprisonment of not more than 15 years, or a fine of not more than \$25,000, or both.

Any decriminalization for possession of small quantities of marihuana within the United States would have no impact upon the continuing effect of these statutes since they govern the *importation*, not possession, of the drug. Both statutes treat violations as felonies regardless of the amount seized from the criminal defendant. Therefore, the possibility would exist that felony prosecutions for the importation of small amounts of marihuana would continue despite the decriminalization for simple possession of small quantities. Amendments to these sections would be required to avoid such a result.

Even if these statutes were amended to allow the importation of small quantities for personal use, Customs would still be required to seize such quantities unless they were specifically exempted as controlled substances. All substances on the schedule are subject to summary seizure. Furthermore, even if importation of small quantities of marihuana were removed from this restriction, Customs would treat it as regular merchandise and would be required to seize undeclared shipments under 18 U.S.C. 545 and violators would be subject to the felony provisions of that statute in the same manner as for gold, diamond or liquor smuggling. Therefore, if a comprehensive Federal policy is not implemented, it is conceivable that there still could be some liability for a felony prosecution for small quantities.

With regard to Customs enforcement operations, in contrast to domestic enforcement where decriminalization would probably reduce the heavy workload of state, local and Federal agencies, the border interdiction effort would be unaffected. Most significantly, the illicit activities of the professional smuggler, the major focus of the Customs enforcement effort, will continue as before. We expect that resources directed towards those locations between the ports, including smuggling by air and sea, where the professional smuggler traditionally operates and which account for the greatest proportion of marihuana seized, will be maintained at current levels. Clearly, smuggling by the professional will not be diminished.

The workload of Customs officers at the ports-of-entry, where small seizures occur, would also not be reduced. Although Customs officers at these locations are primarily concerned with efforts to smuggle large amounts of narcotics, it is inevitable that numerous seizures of small, or user, amounts of marihuana will occur. If the act is no longer considered as criminal, then Customs officers will be processing administrative penalties rather than criminal statutes, still requiring the expenditure of valuable man-hours.

As an additional consideration in measuring impact, and to insert a word of caution, decriminalization may serve to increase the level of border smuggling. Without the threat of criminal prosecution, many who formerly feared involvement with marihuana may now become involved.

In addition to these potential impacts, Customs faces the problem of a lack of a consistent policy on prosecution of marihuana violations. A recent survey of our districts produced data showing prosecutions are determined based on different criteria depending upon location: ranging from case-by-case prosecution to prosecuting all marihuana violations. Most frequently the Federal prosecution criteria is the amount seized; here again, there is a wide variation, ranging from one pound up to 500 pounds.

As it now operates, when Federal prosecution is declined, Customs turns the offender over to local authorities for prosecution. Some local jurisdictions, however, are now refusing to prosecute because they regard it as a Federal problem, especially when no local residents are involved. Often, even relatively large quantity cases go unprosecuted.

As a result of this attitude regarding prosecution, Customs initiated on May 27, 1976, uniform mitigation procedures calling for the assessment of administrative penalties for unprosecuted marihuana violations. Essentially, the procedure delineates a series of escalating fines for increasing amounts of marihuana and hashish; for example, a violation of less than an ounce of marihuana receives a \$25 penalty, while a violation of between one to two pounds carries a penalty of \$100. Corresponding assessments, but for smaller amounts of hashish, are also included.

We have found that the administrative penalty is the most efficient means of dealing with the smuggler of small amounts of marihuana or hashish. A penalty will have the deterrent effect of making the ordinary user think before he smuggles again or tries it for the first time. Our enforcement priorities are directed against the smuggler/wholesaler, the controller of much of this vast illegal industry and the receiver of most of the illegal profits. Stopping this smuggler is the key to largely controlling the marihuana trafficking problem.

In establishing options for a Federal policy on marihuana, it is important, as I have described, that the impact on border interdiction be considered with all other significant factors. The all important control of the domestic supply rests with the small group of importer/distributors whose economic interests are furthered in direct relation to increasing demands or decreasing the effectiveness of border enforcement. Therefore, before a new Federal policy is established, I recommend that the impact upon the Federal border enforcement effort be carefully weighed.

Ms. FALCO. Mr. Chairman, I would be happy to answer any questions you may have about the international aspects of this proposal.

Let me just reiterate Dr. Bourne's earlier comment, that our international treaty obligations do not preclude adoption of decriminalization as it is being considered today.

The treaty requires simply that we maintain an official policy of discouragement.

Mr. WOLFF. It does preclude, however, legalization.

Ms. FALCO. Absolutely.

Thank you, Mr. Chairman.

Mr. WOLFF. Thank you, Dr. DuPont?

Dr. DuPont. I have no comment at this time, Mr. Chairman.

Mr. WOLFF. Mr. Bensinger?

Mr. BENSINGER. Mr. Chairman, I would, by way of reference, want the committee to have information on the enforcement arrest statistics which the Drug Enforcement Administration has initiated in the last 2 years which puts in perspective the Federal enforcement priorities from the standpoint of arrest.

In fiscal year—calendar year, pardon me, 1975, Drug Enforcement Administration was responsible for 7,249 arrests, of which 2,781 were for heroin violators.

Cocaine accounted for another 2,060 arrests, other narcotics, 32, cannabis, 1,238; hallucinogens, 416; stimulants, 593; depressants, 108; and other controlled substances, 21.

The class of violators varied from class 1 violators, 796, heads of major criminal organizations; class 2 for all drug categories, 678; and there were some 4,640 class 3 and 1,135 class 4 violators.

This is in calendar year 1975.

In 1976 the statistics for heroin arrests were 2,628; cocaine, 1,286; other narcotics, 15; cannabis, 768; hallucinogens, 327; stimulants, 462; depressants, 114; and other controlled substances, 11.

We saw a decrease in the total number of arrests made, but a significant improvement in the number of classes 1 and 2 arrests for 854 class 1's and 672 class 2's.

We saw a decrease in arrests for cannabis which would include hashish on a small percentage basis and marihuana in a significant manner. The type of arrest activities that the Federal Government and the Department of Justice is making deals in the major trafficking and international smuggling cases and literally tonnage quantities of marihuana.

The fact of the matter is the Federal Government, our agency, for all practical purposes, is not arresting individuals for the possession of marihuana.

Mr. WOLFF. Thank you, Mr. Bensinger.

Dr. Brown?

Dr. BROWN. Mr. Chairman, colleagues, this is an unusual occasion for me. For 4 years as Director of NIMH I was the point man, director of the lead agency for HEW on marihuana concerns prior to the creation of the Commission on Drug Abuse. For me, it is the feeling of an old pro who has been sitting on the bench and now once again is called into the game. Hence, I appreciate the request of the committee, and the support of Dr. Bourne and the new administration, that permits me to be here.

One minute to display memories, old trophies, as it were: First, the courageous statement of my predecessor, Stanley F. Yolles, who said before the Select Committee on Crime of the House of Representatives on October 15, 1969, "How long, O, Lord, how long, are we going to suggest new committees, new task forces, new commissions, in lieu of doing something?" It was the opening gun in the successful fight for decriminalization and for more research on marihuana.

The second is a headline in the Washington Post on May 18, 1971, the day after I testified before the Shafer Commission. The headline reads "NIMH Director, Narcotics Chief Clash Over Marihuana Penalties." I had proposed penalties for possession of marihuana should be "minimal or nonexistent, a fine like a parking ticket." The result was an attempt by the last President to fire me.

My position today has not changed, but the knowledge gained has strengthened it. I still think marihuana is a dangerous drug, particularly for preadolescents. We do not yet know the consequences of long-term use. We should decriminalize it so that the penalty is less harmful than the drug, but it should not be legalized.

I propose we have a 5- to 10-year moratorium before taking the momentous step of legalization. This will permit the millions of adolescents and young adults to come into full maturity and to influence the decision on behalf of their own children. I predict their response will be responsible and conservative.

Thank you.

Mr. WOLFF. Thank you very much.

I should like to pose a few questions to the panel.

First, if we take your views and that of the administration, it seems that the idea of decriminalizing solely possession and use of marihuana, but not the sale of marihuana, how do we resolve the anachronism of people not being prosecuted for casual use, but having to engage in a criminal transaction to obtain marihuana.

Someone suggested growing it in window boxes. That just does not seem to be the answer.

Dr. Bourne, would you like to ask any of your panel to speak to this subject?

Dr. DuPONT. I would be happy to comment on this issue, Mr. Chairman.

Mr. WOLFF. I think it was you, Dr. DuPont, that said something about growing it in window boxes, wasn't it?

Dr. DuPONT. The public reaction to my recent speech on marihuana compels me to rise to the bait you have now put before me, Mr. Chairman.

The policy that the administration is enunciating today is not one of permissiveness or even encouragement of marihuana use. Over the years I have found it is very difficult to communicate in this field, because the symbols, as the Shafer Commission pointed out, are so powerful.

The proposal here today is to reduce penalties for personal possession of small amounts of marihuana from a criminal misdemeanor to a civil fine. The proposal is not to permit or encourage use of marihuana. The individual who is seeking a source of marihuana must understand that the official Government policy is not a permissive one but that this proposal is simply removing criminal penalties for possession. It is not appropriate for the Government to provide a source of marihuana.

Now, with respect to the homegrown issue, as it has been called, or the growing in window boxes, as you said, it seems to me that felony penalties for cultivation of a few plants may be inappropriately severe penalties. That is what I suggested in my recent speech, which I would like to submit for the record. On the other hand, the removal of all penalties for growing marihuana appears to be a violation of our treaty obligations and, in any event it would be, I think, an unwise policy.

The question is not whether penalties should be removed for growing marihuana. If that is the question, then the answer is no. But the question is what should be the penalty.

Mr. WOLFF. But, Dr. DuPont, how will people obtain marihuana legally?

Dr. DuPONT. I hope they don't get it, Mr. Chairman. That is my clear position.

Dr. BOURNE. Mr. Chairman, I think there is an important distinction to be made. We are not talking about people getting legal marihuana. This is still a prohibited substance. It is just that the deterrents are different.

We don't want to, in any way, be encouraging people to use marihuana. It is not legal marihuana that they will be using. And, therefore, we feel that continued prohibition, continued vigorous prosecution or trafficking, is completely consistent with this policy.

Mr. WOLFF. Is not reduction of penalties encouragement in itself, Dr. Bourne?

Dr. BOURNE. No, I don't think it is. I think the changes in the law experienced in Oregon and other States show this, in fact, is not the case.

We are not changing our attitude that we should deter the use of marihuana. And I think the findings that use has not gone up sig-

nificantly in those States which have decriminalized tends to support this.

Mr. WOLFF. I would like to ask the Assistant Attorney General, in a moment, how does he view this?

Can we have this double standard, if you will, the idea that criminal penalties would still remain for the supplier. Am I correct in that?

Dr. BOURNE. That's correct, for trafficking, yes.

Mr. WOLFF. Criminal penalty for the source and civil penalty for the use—

Mr. DE LA GARZA. Mr. Chairman, would you yield kindly?

Mr. WOLFF. Yes.

Mr. DE LA GARZA. From the testimony of the witness, I think we are confusing the word "decriminalizing."

Are you not stating, rather, that it should be made a misdemeanor rather than a felony?

Dr. BOURNE. No, we are not. What we are saying is, essentially, we are saying there should be a reduction in penalties so that it is no longer a criminal offense. An individual would receive a citation and fine similar to a traffic ticket, that it would not be a misdemeanor, would not be a criminal offense; there would be no permanent criminal record. But this relates only to possession of small amounts of marihuana for personal use.

Obviously, the dividing point and the amount that determines what is a legitimate amount for personal use is somewhat arbitrary, has been set differently by different States. But it is in the amount of just one or a few ounces.

But we are not talking about shifting from a felony to misdemeanor. We are talking about reducing the penalties so as to make it a civil offense and no longer a criminal offense.

Mr. DE LA GARZA. You are still losing me, because if it is a purely civil penalty, differentiated from a criminal, albeit a misdemeanor or felony, it is in an entirely different field. I don't see how you can separate large quantities of possession and smaller quantities of possession into a criminal and then a civil. Perhaps my law school definition doesn't jibe with yours.

Dr. BOURNE. I will let Mr. Civiletti address this issue.

Mr. CIVILETTI. Both questions are sound questions and direct questions, both on the law and on commonsense.

It was very difficult to pose a lesser penalty such as we are proposing, a civil penalty, on plain logic and then continue the absolute prohibitions against supply and trafficking. But we don't know, necessarily, that imposition of the civil penalty is going to increase use.

Second: We are not now effectively prosecuting, as either misdemeanors or in some other way, use of marihuana, nor do we, under any conceivable way, in the Federal Government have the resources to do so.

Third: Very strongly, we are not encouraging as a Government position the use and abuse of marihuana simply by, for small amounts of possession, imposing a civil penalty. We draw the distinction between legalization of use and still imposing that civil penalty.

Now, with regard to the Justice Department's position, heretofore we have proposed in the recodification of the criminal law to reduce the penalty from a 6-month, \$5,000 fine to a class C misdemeanor, which would be a reduced fine and reduced period of incarceration, keeping it in a criminal sanction category. We now believe, under the present state of the circumstances, that is, of the country and reported abuse of marihuana in the country, from a law enforcement point of view, it does not make a practical difference between a misdemeanor which is not enforced and a civil penalty. It does make a logical and legal difference. We think that difference is without significant enforcement meaning.

Mr. WOLFF. I have just one final question.

When I was in Mexico, and talked to both the Attorney General and President Echeverria, I asked for their cooperation relative to the curtailment of the growth of poppies and opium. They offered cooperation and agreed to help us with defoliation.

However, they have a severe marihuana abuse problem. And they said to us, we need your help in this problem, and "how can we face our people in saying we are going to cut off the supply of poppies and heroin when you are legalizing—they used the term 'legalizing'—marihuana in the United States." We wonder what effect a move such as we have here would have upon the international efforts.

Ms. FALCO. I think the important distinction is between legalization and decriminalization. I think that this distinction can be explained to other governments, like Mexico and a number of others, which perceive marihuana to be one of their major drug problems.

I think this will have to be done with the greatest care, so that the kind of misunderstanding that comes up even in our own press will not, in fact, come up with these other governments. I think that if they understand that our official policy continues to be one of extreme discouragement, and that the only change we are proposing is to recognize through the law a de facto marihuana decriminalization policy which has grown up during the last few years. This policy reflects the widely held view that the criminal justice system is not the appropriate way of dealing with people who smoke small amounts of marihuana and who do not cause harm to other people as a result of that smoking.

I would note also, Mr. Chairman, that in a number of other countries, including Mexico, there has been a trend toward reducing possession penalties. In Mexico, the marihuana possession law is less severe than ours, and, as I understand it, they have a policy of referring users to treatment rather than putting them in jail.

Mr. WOLFF. But they do have a policy of putting our small users in jail. [Laughter.]

Ms. FALCO. I understand that those people are often thought to be traffickers rather than small users. This is the important distinction in our own country as well. We must continue to pursue traffickers, whether the illicit substance is marihuana, cocaine, or heroin. We are required to do so under our international treaty obligations.

I think the Mexican Government will understand our position, and that we will continue to cooperate fully with them in their efforts to eradicate illicit production in their country.

Mr. WOLFF. I think perhaps one of the problems we have had here, as Mr. de la Garza has indicated, is terminology. There will still be a crime of a sort, even for use, although it would be a minor crime.

I think what you are talking about is a reduction in the penalties rather than decriminalization as such. I think the term is one that sets the hackles on everyone's back very strongly.

I yield one question to the chief counsel, Mr. Nellis.

Mr. NELLIS. Mr. Rogers, I will be through in a minute.

We keep discussing decriminalizing supply, or rather possession, and about the illegal nature of the supply.

How would you deal with the enormous variation in cigarettes? One cigarette may contain 13 percent THC, the next may contain 1 percent; and you have no standard.

How do you deal with this problem of the enormous variation in illegal supply?

Dr. Bourne?

Dr. BOURNE. It is not the policy or the responsibility of the Federal Government to set standards for prohibited substance, and marihuana remains a prohibited substance.

People who continue to break the law and who use the substances clearly do so at their own risk. I think the thing we want to make clear is that we are in no way giving a signal to encourage people to use marihuana.

In fact, we want to discourage it to the fullest extent. We feel that by entering into any kind of quality control, that immediately—not only require initial legalization, but will be clearly a signal to encourage use, and we don't wish to do that at all.

Mr. NELLIS. In other words, you could be decriminalizing very powerful cigarettes along with those that are not so powerful.

Dr. BOURNE. Yes; obviously, there is substantial variation in the strength of marihuana, different factors, including source.

Mr. WOLFF. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Now, as I understand it, the Carter administration says they will continue to have a policy of societal disapproval, but they simply want to decriminalize the small possessor.

How would it affect Federal efforts if we pass this? Would it change the Customs efforts? I think not. Would it?

Mr. ACREE. No, sir, it would not.

Mr. ROGERS. You are still going to have your people there that will try to stop the importations of marihuana into the country.

Mr. ACREE. And our attention will be directed at the bulk purveyors of marihuana and hashish.

Mr. ROGERS. Which is current practice.

Mr. ACREE. Correct.

Mr. ROGERS. What about Mr. Bensinger with DEA?

As I understand it, you are currently not arresting people with small amounts.

Mr. BENSINGER. That is correct.

Mr. ROGERS. So the passage of this bill would not affect either DEA, Customs or the Department of Justice, I presume, in its approach; is that true?

Mr. CIVILETTI. That is correct.

Mr. BENSINGER. Mr. Chairman?

Mr. WOLFF. Yes, Mr. Bensinger.

Mr. BENSINGER. I don't mean to be unhelpful. But what is happening is that marihuana cases and some large cases which are being referred to our agency from other sources are not being prosecuted at the Federal level, and at the individual U.S. attorney's offices. The U.S. Customs Service, which enforces the interdiction laws at our borders, has a responsibility to arrest an individual bringing in, let's say, less than 100 pounds of marihuana who is breaking a Federal law, but at some of these border—points of prosecution—those cases are generally declined.

Mr. Acree can correct me if my understanding is not correct.

At the Federal level, our cases do involve much larger quantities, and the general attitude of the U.S. Attorney's Office and Department of Justice has to be prosecute major—we are talking about tonnage—quantities of marihuana sales.

To say, then, that the penalty for simple possession of the present 21 U.S.C. 844—whether that is presently producing excessive social costs, I am not sure.

What we have is a decision where there is a law on the books which is not being enforced.

Mr. ROGERS. I don't think we are changing the law, bringing in 100 pounds, are we?

Mr. BENSINGER. I think the attitude is. I think perspective, for myself and for the other individuals on this panel, that we are against the use of marihuana.

Mr. ROGERS. I understand that.

All I am trying to get at right now is how passage of this law would change our current approach from the Federal level. It appears to me the most significant change must take place at the State level—in other words, by State laws, because our passing this doesn't change the State law.

It will still be a penalty at the State for possession unless that State changes its own law.

Now, this may act as a guide, but it does not change, as I understand it from the testimony today, the Federal approach of enforcement of marihuana laws, is that correct or not?

Mr. BENSINGER. It wouldn't affect, I think, dramatically the allocation of resources; that is correct.

Whether, when you take a sanction that has been a misdemeanor and remove it, you are doing so more than saying "our agents that weren't making arrests aren't still going to be making arrests," that is a question the Congress has to address.

Mr. ROGERS. But I thought you told me you weren't making those arrests.

Mr. BENSINGER. We are not.

Mr. ROGERS. So what I am saying is: as a matter of fact, it doesn't really change your approach for small possession of marihuana; is that correct?

Mr. BENSINGER. That is certainly correct in terms of the deployment of our troops, our agents and the arresting and subsequent prosecution effort of the Department of Justice.



Mr. ROGERS. All right.

Now let me ask this. I noticed in Mr. Brown's statement that we still need to do more research, we don't know the answer.

Why is that, Dr. Brown?

We have been researching this thing, as I remember—why do we still not know? How much have you spent on research?

Dr. BROWN. Ready for the answer?

Mr. ROGERS. I may have another question, but go ahead.

Dr. BROWN. The answer, Mr. Rogers, is, as General Sarnoff of RCA said, the time to go from here to there in getting answers in research is as long as it takes. We have been putting \$4 million a year in research. We found out a great deal. We still don't know enough.

Mr. ROGERS. I would like to have for the record all the research the Federal Government has done, what are the results, why do we still need research and what are its costs.

Now, I have some figures from Oregon that don't seem to indicate there has been less use, but more. These may not be right. 1974 to 1975, and 1975 to 1976.

But it would appear for marihuana there is some 36 percent increase from 1975. This is January to March 1975, January to March 1976. Some 15 percent increase from July to December 1974 to July to December 1975, and rather significant increases of those were possession under 1 ounce.

So I think it would be well to document for us what has been the actual record in all of the States.

Now, I only have a minute more, so if you could do that for the record.

Ms. Falco, could you give us for the record—and I know you won't have this right here—a rundown of all of the nations and their approach on marihuana, whether it is accepted or whether they have a penalty or no penalty, what happens, do they permit it to be shipped, be raised, so forth?

Ms. FALCO. All the nations in the world?

Mr. ROGERS. Whatever ones we have dealings with.

I doubt if you could get it for all the nations, but the most significant ones.

Ms. FALCO. Fine.

Mr. ROGERS. Who we know have some problems. Probably Mexico and some of the others, Jamaica.

Thank you very much, Mr. Chairman.

[The information referred to follows:]

#### FOREIGN LAWS PERTAINING TO POSSESSION OF MARIHUANA

On March 14, 1977, the Department of State was asked by the House Select Committee on Narcotics Abuse and Control to provide information on laws in foreign countries applicable to possession of marihuana. On March 15, the Department sent a telegraphic request to all American Embassies for a "brief description of host country's legal provisions governing marihuana possession (both for personal use and trafficking) and some indication of the strictness with which these provisions are enforced." Responses from 116 countries are attached.

#### AFGHANISTAN

Afghan law makes no legal distinction among such "prohibited substances" as marihuana and other Cannabis, including hashish oil. Afghan law concern-

ing narcotics generally revolves about its place as "contraband", and states that possession of contraband valued at more than 10,000 Afghanis (Dollars 1.00 equals 47.50 Afghanis) is punishable as a felony. In day-to-day police and court practice, persons in possession of less than one gram of Cannabis are fined 500 Afghanis and released. Persons in possession of greater amounts are given larger fines, and/or jail sentences but only after the accused has spent several days (about 30 is an average) in jail awaiting court action.

#### ALGERIA

According to law enacted in February 1975, which does not specifically mention cannabis or any other drug, use of narcotics punishable by 2 months—one year in prison and 500–5000 Algerian din's (roughly dols 130–1300) fine. Trafficking punishable by 2–20 years in prison and 5000–10,000,000 DA (dols 1300–2,597,000) fine. Drug law states that acts considered a threat to public health punishable by death.

Enforcement of law has been vigorous. We are aware of two cases of imposition of death penalty for trafficking in marihuana; although sentences later commuted.

NOTE.—U.S. \$1 is equivalent to about 4 Algerian dinars.

#### ARGENTINA

Argentine narcotics legislation does not outlaw possession, per se. Marihuana (Cannabis) is treated the same as other drugs under Law No. 17,818. Outlawed are the importation, exportation, fabrication, fractionation, trafficking, and use of drugs.

Draft legislation would also outlaw sowing, planting, and harvesting.

Legislation is enforced and arrests are made for marihuana trafficking. Enforcement has not succeeded, however, in seriously reducing the availability of marihuana for those who seek it.

#### AUSTRALIA

Under the Australian federal system, Federal Government, each of the principal territories, and each of the six states have separate legislation and penalties for possession and trafficking in marihuana. There is inevitably a considerable variation among these eight different statutes, as well as among enforcement policies. This report distinguishes between (1) Federal legislation and (2) state and territorial legislation and generally indicates the range of variation among "(2)".

Federal jurisdiction on marihuana is limited to the export and import, possession on board ship or aircraft, and possession where there is reasonable presumption that the product is imported. By contrast, the state and territorial legislation typically covers possession, use, cultivation, preparation and dealing, regardless of the origin.

Federal legislation: The maximum federal penalties are fines of \$4,400 and/or ten years' imprisonment. For minor cases involving quantities of less than 25 grams which are disposed of in magistrates' courts, the maximum penalty is \$2,200 and/or two years' imprisonment. A Cabinet proposal is, however, expected to be introduced into Parliament shortly raising the federal penalties for Cannabis resin and Cannabis oil (not leaf) to \$110,000 and/or 25 years' imprisonment.

State legislation: The legislation of the two most populous states, New South Wales and Victoria, covers smoking, using, possession, manufacture, supply, selling and otherwise dealing. Their penalties correspond to the federal penalties, except that Victoria's penalty for possession and smoking is \$600 and/or 12 months' imprisonment. South Australia and Tasmanian laws broadly resemble Viogva laws. But South Australia also has adopted, with a future effective date, much more severe penalties for transactions involving large quantities. Western Australia has already adopted and placed in effect a scale of penalties corresponding closely to those now proposed for introduction into the Federal Parliament (para 3 above). Queensland has the most severe state legislation—use, possession, selling, supply/or cultivation involving amounts in excess of 25 grams or 40 cigarettes, regardless of weight, are punishable by a fine of \$110,000 and/or life imprisonment at hard labor.

Strictness of enforcement—Given the diversity of Australian state and federal jurisdiction, conditions and laws, it is difficult to generalize. We understand that police forces in all jurisdictions tend to be relatively strict in making arrests whenever violations come to their attention. There is much more variation in practice respecting prosecution after arrest. Our impression is that overall enforcement is probably more strict in Australia than the average of U.S. practice, but we could not document this judgement.

## AUSTRIA

The Austrian narcotics law of 1951, as amended, provides that unauthorized possession, manufacture, import, export or trafficking of narcotic drugs for quantity that could endanger the life or health of a considerable number of persons is a felony punishable by imprisonment of from one to ten years and a fine of up to 225,000 schillings (\$13,235 at current rate).

Courts presently hold that 100 doses (e.g. the quantity of marihuana for 100 cigarettes, 100 shots of morphine, or 100 tabs of LSD) are sufficient quantity to warrant a felony indictment. Persons in possession of quantities less than 100 doses but more than one week's supply for their own use may be imprisoned for a period of up to one year. Persons in possession of a quantity for their own use, which is less than one week's supply, (e.g. 30 grams of marihuana, or 3 grams of raw morphine, or 3 tabs of LSD), are not subject to prosecution, providing that public health authorities certify that such persons do not require supervision or treatment. Refusal to submit to medical supervision and/or treatment, or a second offense within one year, will result in prosecution. In such cases sentence of up to six months may be imposed.

These provisions are strictly enforced.

## BAHRAIN

Bahraini law and practice regarding possession for personal use as well as trafficking in marihuana are relatively harsh and strictly enforced. Both possession and trafficking are illegal. Police and customs authorities are reasonably sophisticated and motivated to enforce regulations. Possession of marihuana, for personal use, results in one to six months in jail terms as well as fines (up to \$1,000). Trafficking in marihuana or possession of quantities deemed excessive to personal use is treated as a serious crime with jail sentences routinely ranging from two to seven years and fines from \$1,000-\$10,000. Both Bahraini nationals and foreigners are subject to the same regulations. Foreigners convicted of possession or trafficking serve their sentences and are then deported from Bahrain. They are then banned from returning to Bahrain.

## BANGLADESH

There is much doubt as to present Bangladesh law with regard to the possession of marihuana. A 1930 law, enacted when Bangladesh was part of British India, dealt with the processing and transshipment of cocaine and opium, but marihuana was not mentioned. This law has reportedly been superseded during Pakistan days, but in what nature is unclear.

Consensus is that whatever law appertains in Pakistan is valid here as well. (Pakistan laws not specifically superseded by Bangladesh laws retain validity.)

## BARBADOS

Possession of marihuana is illegal in Barbados. Penalties are US \$480-\$1,200 fine and/or one to five years. There is no statutory distinction between use and sale, although that factor is relevant to severity of sentence.

Narcotics law enforcement is not rigorous, and at the same time the island does not yet have what would be termed a drug "problem".

## BELGIUM

To avoid problems of conflicting scientific opinions, Belgian law makes no distinction between soft and hard drugs. Marihuana is listed among drugs "capable of creating a dependence," the abuse of which is punishable by imprisonment for 3-5 years and/or a fine of 100-10,000 Belgian Francs (roughly

\$25-\$250). Much stiffer penalties (10-15 years forced labor) may be imposed where the offense involves persons under 16 years of age, or where the offender was part of a group involved in trafficking the substance. Where the offender is the leader of such a group, the penalty may be 15-20 years of forced labor.

Marihuana possession—both for personal use and for trafficking—is subject to the foregoing provisions of the July 9, 1975 law. In fact, the law is rather leniently applied. Casual and occasional users are dealt with on a case-by-case basis, with wide discretion resting with the procurer and judge. The approach is humane and diagnostic. The sociological history, attitude, the results of psychological testing are all taken into account. The procurer may simply terminate a case without prosecution—possibly with a warning—if he feels the circumstances of the case warrant it. An habitual user may receive a 3-4 month sentence. Adult use involving minors under age 16, would receive a heavier sentence, perhaps a year. Convicted traffickers in marihuana have received up to 3 years' imprisonment.

#### BELIZE

Use of, possession of and trafficking in marihuana is prohibited by the Belizean Dangerous Drugs Ordinance which applies to marihuana (called Indian hemp in the law) along with heroin, cocaine, and other derivatives of opium and the coca leaf.

Violations of this law involving possession of use of small quantities of marihuana are treated as summary offenses (a category of offense which is tried in the lower courts and is roughly similar to a misdemeanor in the U.S. judicial system). Although the law provides that violators tried for drug violations in the lower courts can be sentenced to fines up to the equivalent of U.S. \$500, and/or a year in jail, actual sentences in recent years have varied from the equivalent of U.S. \$10 to U.S. \$150.

Violations of the law involving trafficking in marihuana can result in indictment and conviction by the higher courts, and in such cases penalties could amount to up to U.S. \$2,500 in fines and/or up to ten years in jail. However, the few cases in this category which have come before the higher courts in the last few years have resulted in sentences not in excess of six months in jail.

#### BERMUDA

Bermuda law regarding possession of Cannabis (marihuana) is effectively contained in section 6 read with section 27, of the Misuse of Drugs Act, 1972. Simple possession for personal use is punishable in the Magistrates Court by a maximum fine of \$1,000 or imprisonment for 12 months, or both. If charged with this offense in the Supreme Court, an unlimited fine of up to five years' imprisonment, or both, can be imposed. Possession with intent to supply is a separate offense which is punishable in the Magistrates Court with a fine of up to \$5,000, three years' imprisonment, or both. In the Supreme Court, this offense can draw an unlimited fine of up to twenty years imprisonment, or both. In practice, simple possession of small quantities of Cannabis are invariably prosecuted in Magistrates Court where the customary penalty is a fine ranging between \$100 and \$1,000 in most cases, based on the quantity of the drug possessed. Possession with intent to supply small quantities of Cannabis is generally also taken care of in the Magistrates Court. These cases result in substantially higher fines which can range up to \$3,000 or short terms of imprisonment—up to twelve months. Possession with intent to supply large quantities of Cannabis is, as a matter of prosecution policy, taken to the Supreme Court where on conviction, penalties of three to seven years' imprisonment are general.

The foregoing relates to simple possession and possession with intent to supply (i.e. trafficking). Section 4(1)(A) makes it unlawful for a person to import a controlled drug, in which case the provisions of section 27(1)(B) are applicable. This latter makes a person liable to a fine of up to five thousand dollars or imprisonment for a term not exceeding three years or both.

These provisions are strictly enforced by the local police on both local and foreign (tourist) offenders. The courts are likewise applying fines consistently based on \$100 per gram of Cannabis. In Consulate's General recent experience, each case of importation has been successfully prosecuted in summary proceedings and fines are levied along lines described above.

## BOLIVIA

No distinction is made in Bolivian law between marihuana and other narcotics such as heroin. The penalty for possession of marihuana is two to eight years imprisonment plus a fine of 10,000 to 20,000 Bolivian pesos. The penalty for trafficking in marihuana is 20 to 25 years imprisonment plus 20,000 Bolivian pesos fine. (US \$1.00 equal approximately 20 Bolivian pesos). While the law has been in force only a short time, all indications are that the law is being and will continue to be strictly enforced.

## BOTSWANA

The Government of Botswana's Dangerous Drugs Act lists Cannabis among toxic substances which may not be sold except under proper authorization. The GOB's Habit Forming Drugs Act forbids the possession or sale of Dagga (Cannabis), or of the implements used to smoke it. The penalty for possession is usually a very small fine, assessed by a traditional court (Kotla). The penalty for trafficking, although such cases are rare, could be as much as six months imprisonment.

Laws against trafficking are strictly enforced, as it is considered a serious crime. Possession is regarded much more lightly, since Dagga (local name Motokwane) is quite commonly grown and consumed by rural Botswana, especially bushmen.

## BRAZIL

The principal Brazilian legal provisions are as follows:

A. No legal distinction is drawn between marihuana and "hard drugs".

B. The penalty for cultivation, manufacture, transport, or distribution of narcotics (including marihuana), whether or not for sale or profit, is imprisonment for a period of from three to fifteen years, plus a fine of from fifty to three hundred sixty "days-fine". (The "day-fine" is a variable unit of measure whose exact value is fixed, within broad limits, by the sentencing judge. Those limits, at current exchange rates, establish a minimum unit value of approximately two dollars and a maximum of approximately twenty dollars. Thus, the fine for crimes under (B) may vary from a low of one hundred dollars to a high of seven thousand two hundred dollars).

C. Penalty for conspiracy to commit the offenses under (B): Three to ten years' imprisonment plus fine of between fifty and three hundred sixty "days-fine".

D. Penalty for personal use, possession of marihuana (or other drugs): six months' to two years' imprisonment, plus fine of between twenty and fifty "days-fine" (forty to one thousand dollars).

E. Penalties are increased by one to two thirds in cases involving international trafficking, corruption of minors, or commission of the offense in or near schools, hospitals, or recreational and cultural facilities.

F. A person who, because of drug dependence or the effect of drugs, is incapable of understanding the illicit nature of his act or of controlling his actions, is exempt from penalty. If the person possesses only partial understanding, the penalty can be reduced by from one to two thirds.

G. Those exempted from penalty under (F) are required to undergo treatment for addiction, normally on an out-patient basis. Drug addicts sentenced to prison must undergo treatment there.

Our information on Brazilian enforcement practices suggests that while crimes of trafficking in marihuana are prosecuted with no less vigor than those involving hard drugs, personal use marihuana offenses, at least those not involving chronic recidivism, are treated quite lightly and in many instances are not prosecuted at all, in part because of the heavily overburdened state of the Brazilian law enforcement and judicial systems.

## BULGARIA

Chapter 11, PARH, "Offenses Against Public Health", Article 354 of the Bulgarian Penal Code contains following provisions which apply to marihuana:

A. Acquisition, possession, or disposition is punishable by two years' imprisonment or fine of up to 300 LEVA (\$1.00 equals 0.95 LEVA).

B. If offense in (A) is performed "systematically" (presumably aimed at dealers and repeated offenders), imprisonment goes up to three years or possible fine.

This law is rigorously enforced.

#### BURMA

The 1974 Narcotic Drug Act provides the same penalties for cannabis abuse as for any of the other one hundred items defined as narcotic drugs by the Ministry of Health. The cultivation, production, possession and transportation of narcotics is punishable by five to ten years imprisonment plus fines and forfeitures. The processing, import, export, or sale of narcotics is punishable by ten years to life imprisonment, fines or death.

In a social sense cannabis abuse is not considered as serious as opium or heroin abuse. From the limited statistics available, arrests for cannabis trafficking are significantly below those for either opium or heroin trafficking. When arrested and charged under the law, however, cannabis traffickers are punished according to the provisions of the narcotic drug law.

#### BURUNDI

The plant closest to marihuana to be found in Burundi is locally grown hemp, commonly called "Chanvre a fumer" whose narcotic content in relation to marihuana has not been determined. The leaf of this local hemp is smoked unprocessed.

The legal provisions pertaining to this local "chanvre a fumer" are outlined below:

(A) Cultivation, transport and possession of hemp are forbidden by law and the same interdiction applies to the personal use of this product either by smoking it or in any other manner.

(B) Penalties for violating this law range from one hundred francs (1.12 dollars) to a hundred thousand francs (1,120 dollars) and from two weeks to one year imprisonment or of one of these penalties only, and includes the destruction of hemp plantations and the confiscation and the destruction of the seized product.

The use of the "chanvre a fumer" is not believed to be widespread in Burundi. It reportedly remains confined to small segments of the older and poorer population. It is grown haphazardly in small fields. Since the Government does not consider its use extensive, the provisions of the above law are thus hardly ever enforced. There have been no cases under its provisions, according to a Government source, for the last eight years.

#### CAMEROON

Possession, use and all forms of trafficking in marihuana prohibited in Cameroon by June 4, 1976, Presidential Decree (No. 76/214) replacing a 1926 colonial law. However, there is no apparent enforcement effort. Marihuana is sold openly in Yaounde market and prosecutions unknown.

#### CANADA

As currently written, the law does not differentiate between marihuana and hard drugs; actual enforcement does.

For possession of a narcotic a person is liable: "(A) Upon summary conviction for a first offense, to a fine of one thousand dollars or to imprisonment for six months or to both fine and imprisonment, and for a subsequent offense, to a fine of two thousand dollars or to imprisonment for one year or to both fine and imprisonment; or (B) upon conviction or indictment, to imprisonment for seven years." In practice, however, possession of marihuana for personal use (i.e. of small amounts) draws for the first-time offender either an absolute discharge or a conditional discharge whereby there is no conviction, nor sentence and after 6-24 months of "good" probation time, the discharge becomes absolute. A second such offense would result in a fine of \$50 or more. A third or later offense might result in a larger fine and/or even up to 30 days in jail.

For trafficking in a narcotic, a person "is guilty of an indictable offense and is liable to imprisonment for life." In practice, trafficking in marihuana (i.e. possession of large amounts) draws lesser sentences than trafficking in hard

drugs. Quantity, prior record, nature of offense, and type of operation determine the penalty. A trafficker with no previous record, selling only a small quantity, might serve only 30 days on weekends. A repeating offender, dealing in large quantities, and participating in an operation of some scope could draw up to ten years.

For importation of a narcotic, the offender "is guilty of an indictable offense and is liable to imprisonment for life but not less than seven years." In practice, Canada allows importers of small amounts (ounces) of marihuana to plead to the lesser charge of possession. Importers of a few pounds may plead trafficking. Importers of substantially larger amounts draw at least the minimum seven-year sentence, unless their assistance to the authorities enables them to plead to trafficking also.

#### CENTRAL AFRICAN REPUBLIC

According to Central African Empire legal statutes, anyone who has grown, been in possession, prepared or sold hashish (Indian hemp) will be punished with imprisonment from one month and one day to two years and/or a fine will be levied from 50,000 CFA<sup>1</sup> (US \$200.00) to 200,000 CFA (US \$800.00). The substances will be confiscated and destroyed.

Local authorities apply the above law to possession of all derivatives of the Cannabis plant. Although there are few drug-related cases in the Central African Republic, the provisions of the law are fully enforced.

#### CHAD

The importation, exportation, growing, harvest, commerce, use and possession of marihuana are illegal in Chad. Marihuana traffickers are subject to an automatic prison sentence ranging from two to three months and a fine which varies according to the amount of marihuana in question, and the number of offenses. Possession of marihuana is punished by charging a fine, and reprimanding the possessor. In theory, the laws are strictly applied, but no information on prosecutions is available.

#### CHILE

Chilean Narcotics Law No. 17,934 of May 9, 1973, as modified by Decree Law 535 of July 11, 1973, places marihuana in a category of "drugs that do not produce grave toxic effects or considerable harm to public health". Conviction for trafficking in marihuana, as in hard drugs such as cocaine and heroin, nevertheless carries a minimum sentence of five years and one day and a maximum of 15 years, plus nominal fines ranging from US \$176.49 to US \$1,764.93. But the judge has considerable flexibility in reducing the sentence, if it is established that the drug was for personal use.

Under Chilean law possession of marihuana is treated as trafficking, unless the offender can prove that the quantity seized was for personal consumption. In determining the factor of personal consumption, the judge weighs such factors as the quantity of marihuana seized, the circumstances under which it seized, and medical reports. Should the offender establish that the marihuana was for personal consumption, the judge then sets the sentence at between 61 and 540 days. The judge also may refer the offender to a rehabilitation center for treatment.

In trafficking, Government of Chile narcotics prosecutors consistently demand the strictest application of the law. The courts almost always accommodate them.

#### REPUBLIC OF CHINA (TAIWAN)

Republic of China provides for six months to two years imprisonment for possession of marihuana (for personal use) and at least seven years imprisonment plus a fine of not more than US \$7000 for possession of marihuana for sale. The Government of the Republic of China strictly enforces laws against local nationals but tends to adopt a more lenient approach toward simple possession by foreigners of small amount of marihuana for personal use.

<sup>1</sup> CFA—African financial community francs.

## COLOMBIA

According to Colombian law, dosage of habit forming drug for personal use shall be determined by way of expert legal medicine taking into account quality and quantity of substance involved, and also personal history and clinical situation of defendant. In absence of scientific criteria, personal dose is set at 28 grams of marihuana or 10 grams of hashish.

Penalty applied for possession of personal dose of habit forming drugs set at one month to two years imprisonment and fine of 200 to 1,000 pesos (approximately US \$5.50 to \$27.50). Penalty for possession in excess of personal dosage is three to twelve years imprisonment and fine of 5,000 to 500,000 pesos (approximately US \$137.50 to \$13,744.00).

As regards marihuana, law is very loosely enforced. Multi-kilogram possession cases are not prosecuted and relatively little emphasis is given to marihuana enforcement except in extremely large cases.

## COSTA RICA

Costa Rica laws pertaining to possession of marihuana contained in A) Codigo Sanitario, Section 372 and B) Ley General de Salud, Sections 371 and 372. Marihuana and other narcotics are classified in four categories with accompanying penalties: (a) possession—5-10 years; (b) trafficking—5-10 years; and (c) cultivation—5-10 years; and (d) organized international trafficking—10-15 years.

Penalties for personal use and trafficking are same, unless sufficient proof presented to indicate the classification as "drug addict" to marihuana, in which case the judge allows for rehabilitation treatment.

In actual practice, if law enforcement officers cannot prove "trafficking", then the charge automatically becomes "possession." Possession charge is considered by magistrates as possession for personal use. This is sufficient proof that accused is a drug addict and is, therefore, set free to obtain rehabilitation treatment.

Since marihuana is the major drug of abuse in Costa Rica its laws are strictly enforced by their police departments.

## CYPRUS

Marihuana possession in Cyprus is a felony punishable by up to ten years imprisonment and/or a \$2,500 fine. The criminal statute governing marihuana does not differentiate between possession and trafficking. A criminal arrest will result for the possession of any amount of marihuana, although "traces" and amounts below .5 grams rarely result in prosecution. Sentences generally are determined by the quantity seized and may range from a suspended sentence to a fine as many as four years imprisonment. In the last five years, no one has been imprisoned for more than five years for possessing even the largest amount.

## CZECHOSLOVAKIA

Czechoslovak federal laws numbers 187 and 188, covering the organized sale and personal use of unauthorized drugs (including marihuana) respectively, specify maximum penalties of two years in prison and loss of property. Thus, within the confines of Czechoslovak legal theory, no distinction in terms of severity of penalty is made between personal use and trafficking. In practice, however, Czechoslovak judges tend to apply the maximum sentences to traffickers and lighter ones to mere users.

## DENMARK

Denmark has two laws which govern possession and trafficking in Cannabis. A special law covers possession of hashish for personal use. Possession of up to 10 grams of hashish or marihuana for personal use may warrant only a verbal warning which might be repeated if the second offense is more than six months after the first. Possession of up to 10 grams can merit a 300 Danish Krone (DK) (approximately \$50 U.S.) fine and between 10 to 50 grams for personal use can merit a 400 DK fine (\$67 U.S.) for a first offense, 600 DK (\$100 U.S.) for a second offense and 800 DK (\$137 U.S.) for a third offense.



Possession of hashish oil for personal use of between 3 to 5 grams can merit a fine of 1,500 DK (\$250.00 U.S.).

If a person is in possession of over 100 grams of hashish or marihuana, or 5 grams of hashish oil, he must prove it is for his personal use. Any possession of hashish or marihuana for distribution or trafficking is subject to the special law and can merit a fine or up to 2 years imprisonment depending on the circumstances, age of defendant, past record, whether a user, etc., or it can be subject to the Danish Penal Code which can impose a fine or up to 6 years imprisonment, again depending on the circumstances and amount. A general rule which is followed by the courts is trafficking in 10-100 kilograms hashish or marihuana, 1 to 3 years imprisonment; around 100 kgs, 3 to 4 years imprisonment; over 100 kgs 5 to 6 years imprisonment.

Traffickers in hashish oil can receive a fine or up to 10 years imprisonment.

#### DOMINICAN REPUBLIC

Current Dominican legislation governing marihuana possession dates from May 12, 1975, and is called the Narcotic Drugs Law. Those liable for prosecution under the law are divided into four categories: users or possessors, dealers, intermediaries, and traffickers. A person may be charged with simple possession for amounts less than 25 grams. From 25 grams to a pound, the suspect is tried as a dealer and, if caught with more than a pound, he is considered a trafficker. An intermediary is defined as a contact between a trafficker and a dealer or a dealer and a user.

By statute, simple possession carries a sentence of six months to a year imprisonment and/or a fine of RD \$300-RD \$1,000 (RD \$1 equals US \$1). Dealing is punishable by a fine of RD \$500-RD \$5,000 and two to five years' imprisonment. A trafficker can be fined from RD \$10,000-RD \$50,000 and given a three to ten year prison term, to be served at hard labor. Persons convicted as intermediaries are subject to the same penalties as dealers. Repeated offenses are punished with the maximum term under the law and a second trafficking conviction brings a sentence of twice the maximum.

U.S. citizens charged with possession are almost always given the maximum fine but no prison term. However, some persons arrested and convicted have been unable to pay fine and are required to serve one day for each peso assessed, a sentence which could last nearly three years with a maximum fine. A Dominican citizen convicted of a marihuana offense seldom escapes without a jail term.

#### ECUADOR

The Government of Ecuador has the following legal provisions governing the trafficking in or the possession and use of marihuana (includes other drugs and narcotics):

A. No person may possess any quantity of marihuana without legal authorization, whether in clothing, suitcases, at home, in the office or any other place under his/her jurisdiction.

B. Those who illegally use marihuana should subject themselves to detoxification and rehabilitation treatment during a period to be determined by the appropriate physician of the National Directorate of Health.

C. Those who illegally consume marihuana who refuse in any manner to submit to treatment ordered by the physicians of the National Directorate of Health will be obligatorily interned in a health center for the time necessary for their rehabilitation. Under the current narcotics law, there is no prison sentence for the use of or mere possession of marihuana or any other drug or narcotic.

Trafficking is defined as any commercial transaction of any kind, free or otherwise, involving marihuana (other drugs as well), made among persons or institutions, without the authorization of the National Directorate of Health. Prison sentences of from six months to five years will apply to those who traffic in marihuana, according to the following schedule:

A. Traffickers from 18 up to 20 years of age may be punished by six months to one year in prison.

B. Traffickers over 20 and up to 22 years of age may be punished by one to two years in prison.

C. Traffickers over 22 years of age may be punished by two to five years in prison.

The strictness with which these provisions are enforced does not amount to much. For example:

A. The majority of those arrested for trafficking in marihuana attempt to appear as users only and, with the services of a competent lawyer, usually gain their release.

B. The current narcotics law is riddled with ambiguities and is quite difficult to interpret. In many cases, the judges are confused and do not know how to apply the law.

In summary, the current narcotics law is inadequate and needs revision in order to clarify it and bring about its uniform application. As it stands at the present time, the possession or use of marihuana and all other drugs is not a criminal offense and carries no punishment other than forced detoxification and/or rehabilitation.

#### EGYPT

Egyptian law is quite strict with regard to all products of *Cannabis Sativa* or *Indica*, generally seen in Egypt in the form of hashish. Production, importation and sale of these substances has been expressly forbidden since law of 10 March 1884. Law presently provides: for import/export of such products, maximum penalty of life at hard labor and/or fine of Egyptian pounds 3000-10,000; for cultivation, possession or purchase for personal use of such products, (unspecified) term of imprisonment and/or fine of Egyptian pounds 500-3,000. Although law does not specify relationship between jail sentences and the quantity of drug, penalties normally are related to severity of offense as deemed appropriate by court.

Egyptian law enforcement effort is more intense with regard to narcotics than to cannabis products. As concerns latter, it is directed almost exclusively toward trafficker rather than user since enforcement means are limited. This approach is also a reflection of the fact that, in Egypt's view, user of hashish does not present a major social or criminal problem.

#### FIJI

Possession and trafficking of marihuana is an offense punishable under the regulations of the Dangerous Drugs Ordinance, Chapter 95, Laws of Fiji. This ordinance provides for trial by the Supreme Court of cases involving the trafficking of large amounts of marihuana with the maximum sentence being ten years or a fine of Fiji Dollars 2,000. The Magistrates Court tries those cases involving lesser amounts of marihuana for personal use and the maximum fine is Fiji Dollars 500 or a prison sentence of one year. Fiji's Dangerous Drug Ordinance is strictly enforced in the metropolitan areas of Suva and Nadi, but relatively unenforced in the rural areas where can farmers grow small amounts for their own use.

#### FINLAND

Finnish law does not differentiate between possession or trafficking of marihuana and hard drugs. In practice courts have used discretionary authority in implementation of drug laws. As a general rule, possession of small amounts of marihuana is considered a misdemeanor and may result in fines with no prison term; whereas, larger quantities (over 10 kilos) would be a felony with maximum sentence of ten years.

Hashish is more common in Finland and in the past ten years there have been only two or three marihuana cases involving small quantities and resulting in misdemeanors.

#### FRANCE

French law does not draw a distinction between marihuana and other drugs with respect to its definition of a criminal offense for use or trafficking. However, punishments range from two months to twenty years' imprisonment and fines of 100 to 10 million dollars, depending on the type of offense, the drug involved and the quantity involved. Generally, marihuana offenses are punished at the low end of the scale. France also imposes a customs fine equal to three to four times the market value of the drug and an additional sentence of one to two years for non-payment of the customs fine. In addition, the judicial process is often suspended and no sentence rendered if the accused agrees to submit to medical treatment.

Provisions concerning punishment for various category of drug (including marihuana) offenses follow:

- (A) For usage, even alone: Two months to one year and 100 to 2,000 dollars;
- (B) For selling: Two to ten years and 1,000 to 10 million dollars.
- (C) For carrying drugs across borders or manufacturing: Ten to 20 years and 1,000 to 10 million dollars;
- (D) For encouraging drug usage either verbally or in writing: One to five years and 1,000 to 100,000 dollars.

#### GABON

Gabonese law is both simplistic and severe in its treatment of marihuana possession, use and/or trafficking. Marihuana is classed as one of the dangerous narcotics along with cocaine and heroin. Its use, possession or sale can be punished by from six to twenty-four months' prison sentence and from a \$100 to \$4,000 fine. A local criminal judge has informed that Embassy prosecution is fairly rare for marihuana offenses, but when guilt proven, the sentences are severe.

#### GAMBIA

Possession and/or trafficking in marihuana is a criminal offense under Gambian law, and either is dealt with strictly. Persons convicted of trafficking in drugs almost always receive prison sentences ranging up to several years.

First offenders convicted of mere possession of marihuana may be fined only, especially if they are young and without previous police record. However, leniency is completely at the discretion of the court system which takes a general hard line on drug abuse.

#### GERMAN DEMOCRATIC REPUBLIC

The operative legislation is the law of December 19, 1973 which, in Section 1(3), defines "Cannabis (hashish, marihuana)" as a narcotic which is a "particularly serious danger when misused". Further, is the first implementing regulation to that law, dated January 28, 1974, issued by the German Democratic Republic Health Minister, "Cannabis (Indian hemp)" and "Cannabis heart" as well as "tetrahydrocannabinol-3-pentyl-8,8,9-trimethyl-6A,7,10,10A-tetrahydro-6H-dibenzo (B,C) pyran-1-ol" and their "isomers, esters, ethers, salts, and preparations" are listed as falling under the law.

Trafficking, production, or possession for trafficking of narcotics as well as falsification of records, promotion of abuse, malpractice by persons in the medical profession, and use of juveniles (under 18) in trafficking is punishable by "up to five years imprisonment, probation, confinement or a fine".

Possession for use is punishable by up to two years in prison. "Serious" cases involving juveniles or habitual or conspiratorial trafficking can lead to ten years in prison. Negligence calls for two years maximum.

These laws are enforced sternly with the full severity of the law being applied in each case.

#### GHANA

Under Ghanaian law it is illegal to possess or traffic in marihuana (called "wee" or "indian hemp" here). Arrests usually involve people stopped at airport for smuggling marihuana out of Ghana to the United States or Europe. Violators receive small fines or, if they cannot pay, light jail sentences. However, punishments are not severe. Local authorities seem to make little effort to stamp out domestic production and use of drugs. Probably because drug abuse is not a serious problem here.

#### GREECE

Possession of marihuana, even in small quantities, is punishable by a minimum of two years imprisonment under Greek law.

Trafficking is punishable by 5-20 years imprisonment and a fine of 50,000 to 10 million drachmas (approximately \$1,400 to \$270,000). Sentences up to life imprisonment and a fine of from 100,000 to 10 million drachmas (\$270 to \$270,000) may be imposed on those convicted of a narcotic offense, involving marihuana, if the defendant is involved in a conspiracy or is considered by the court to be especially dangerous as a habitual offender.

Marihuana is considered a narcotic drug in Greece and the penalties against its possession, use and trafficking are strictly imposed.

## GUATEMALA

In a major step forward for narcotics enforcement in Guatemala, the Guatemalan Congress on March 22, 1977 passed and sent to the President Law Number 10-77, greatly increasing penalties for international trafficking and, in certain cases, for domestic trafficking in narcotics.

The existing law provides (Article 307 of the Criminal Code) that the following offenders "will be sanctioned with imprisonment from three to five years and a fine of 500 to 5,000 quetzales (one quetzal equals \$1.00): (1) whoever illegally introduces into the country pharmaceuticals, drugs or narcotics or products destined for their preparation; (2) whoever, without being authorized, sells, delivers, transports, or supplies pharmaceuticals, drugs or narcotics; (3) whoever, without being authorized, keeps, stores or in any form retains in his possession pharmaceuticals, drugs or narcotics, or products destined for their preparation." A separate law, Article 80 or Health Code, establishes which drugs it is illegal to import and sell: "Definitely prohibited in the Republic are: (A) the sowing, cultivation, and harvesting of cannabis, opium poppy, and coca; (B) the importation, elaboration, possession, distribution, use, trafficking, and exportation of prepared opium, of cannabis and its preparations, of cocaine and of heroin."

The new law provides that penalties specified above "will be increased by one-third in the following cases:

"(1) When the commission of the offense occurs within a public or private school or in its immediate vicinity;

"(2) When the substance or product \* \* \* is sold or given to a minor;

"(3) When the offender is a physician, chemist, biologist, pharmacist, dentist, laboratory technician, nurse, obstetrician, midwife, teacher, minister or priest, or others responsible for the leadership of groups. Also those public employees and officials who take advantage of their position (to commit the offense);

"(4) When the offenses \* \* \* include activities of international trafficking or have a connection of any kind with it. In such cases, the sentences will be incommutable, the fines will be from 5,000 to 50,000 quetzales (one quetzal equals \$1.00), and the civil responsibilities, in the cases specified in Article 83 of the Code of Criminal Procedure, will be fixed between 10,000 and 100,000 quetzales."

It will be seen from the foregoing that Guatemalan law makes no distinction between trafficking and possession and none between marihuana and hard narcotics. Obviously the courts, in deciding between a lesser or more severe penalty, may take the fact that only marihuana is involved into account. However, the new law makes a jail sentence for possession of marihuana mandatory, if the possessor is in any way involved in international trafficking.

## GUINEA

The Government of Guinea professes to take a hard line against all traffic in or use of stupefying drugs.

President Toure last year urged the death penalty for drug smugglers. The American Embassy has not been able to identify Guinea's implementing legal provisions governing possession of marihuana or other stupefying drugs. According to the Government of Guinea's medical contacts, very strict administrative measures are in force at Conakry airport and seaport against traffickers.

Some unauthorized drug use is believed to exist in Guinea (the President's outburst was one indication of this), but it is not believed to be a major social problem and the Embassy has no information as to what drugs may be present.

## GUYANA

It is an offense of the Dangerous Drug Ordinance of the legal code of Guyana to cultivate, produce, sell or otherwise deal in, or possess any type of cannabis plant or its marihuana derivative. Ordinance provides following penalties applicable to all these offenses:

A. For conviction on indictment: (Before high court judge and jury) fine not to exceed Guyana \$5,000; (US \$1.00 to Guyana \$2.5452) or penal servitude for a period not exceeding 10 years, or both.

B. For summary conviction: (Before a magistrate; no jury) fine not to exceed Guyana \$1,200; or imprisonment, with or without hard labor not exceeding 12 months; or both.

According to official of Georgetown police crime division Dangerous Drug Ordinance is strictly enforced, and trafficking in and use of marihuana is very minor problem in Guyana. 25 arrests were made in 1976, and four to date in 1977, all on charges of possession, and only small quantities involved. All were tried or are pending at magistrate level. Penalties generally have ranged from three to six months imprisonment, with and without hard labor. A few convictions have resulted in fines only not exceeding Guyana \$1,000.

While Embassy agrees that marihuana is not significant crime or social problem here, the drug is readily available on streets of Georgetown. Only 29 arrests in 15 month period is indication that police give relatively low priority to enforcing Dangerous Drug Ordinance in face of more pressing need to deal with city's serious robbery and violent crime rate.

#### HAITI

Current Haitian Narcotic Drug Control Law classifies marihuana as a narcotic drug. Law provides following criminal sanctions for all drug offenses.

(A) Use—\$1,000-2,000 fine or six months to 2 years imprisonment. Second offenders liable to both penalties.

(B) Trafficking alone—3-15 years imprisonment, and fines from \$2,000 to \$100,000. Second offenders liable to double these penalties.

(C) Importation, exportation, transport and manufacture—10 to 15 years imprisonment, and fines from \$20,000 to \$200,000. Second offenders liable to double penalties. Law also provides that all persons apprehended for use of narcotic drugs must submit to medical treatment. Socio-medical Commission within Ministry of Public Health is supposed to oversee treatment and advise courts of their findings. Narcotics users volunteering for treatment will not be publicly identified or subject to criminal penalties unless they are repeaters.

#### HONDURAS

Honduras has not yet enacted a draft narcotics control law which has been under study for the past few years. The National Investigation Directorate (DIN) of Public Security Forces (FUSEP) continues to carry out enforcement operations against cultivation, sale, trafficking and use of narcotics. Marihuana is considered a narcotic substance for these purposes. In absence of special laws pertaining to narcotics, control and enforcement activities are based on general provisions of penal code, customs regulations and fiscal code. There appears to be little distinction in regulations between marihuana and other substances. However, in practice, severity of fines and detention for personal use, sale and trafficking bear a relationship respectively, of one-two-three, with the former being relatively light.

On the basis of limited press accounts and statistics on drug confiscations and arrests, it would appear that the National Investigation Directorate is relatively strict in enforcing provisions of existing laws and regulations. There has been a substantial increase in arrests involving marihuana in the past few years.

#### HONG KONG

Hong Kong's Dangerous Drug Ordinance stipulates stiff penalties for trafficking in Cannabis, lighter penalties for simple possession. Hong Kong authorities do not intend to decriminalize offenses; but they emphasize that policing Cannabis use and trafficking takes relatively low priority in their drug enforcement efforts since Cannabis use is relatively rare.

Chapter 134 Hong Kong Dangerous Drugs Ordinance (revised 1974) makes trafficking in Cannabis, Cannabis possession and Cannabis cultivation criminal offenses. Penalties upon conviction are as follows:

(A) Trafficking or possession for purpose of trafficking: If convicted in the Hong Kong Supreme Court (option rarely employed and reserved only for offenses involving large amounts of Cannabis), a fine of U.S. \$1,000,000 and life imprisonment; if convicted in a lower court, U.S. \$100,000 fine and three years' imprisonment.

(B) Possession: U.S. \$2,000 fine and three years' imprisonment.

(C) Cultivation: U.S. \$20,000 fine and 15 years' imprisonment.

The Government has no intention of decriminalizing any of the above offenses.

Cannabis use is rare among the 98% of Hong Kong's population who are Chinese, and Hong Kong Chinese seldom traffic in Cannabis. Hong Kong police

stress that while some westerners resident in Hong Kong and few western-influenced young Chinese here use Cannabis, Cannabis consumption is a minor drug problem in a city with an estimated 100,000 persons addicted to opiates (50,000 to heroin) and a cornucopia of other dangerous drugs easily available.

Typical sentences for Cannabis traffickers found guilty in Hong Kong courts over the last 18 months have been medium term (1-3 years) prison sentences and heavy fines (U.S. \$1-2,000). Foreigners convicted of Cannabis trafficking are also deported from Hong Kong and may be denied the right of return. Users, mostly foreigners, are typically given fines ranging from a low of U.S. \$100 to a high of U.S. \$1,000 and deported without prison sentences. Hong Kong citizens are given similar fines and imprisoned for 6 months to one year.

Definitions: The Hong Kong Dangerous Drug Ordinance labels both Cannabis and Cannabis Resin as dangerous drugs but defines both substances according to the prevailing British legal definitions. That is, " 'Cannabis' means the flowering or fruiting tops or viable seeds of any plant of the Genus Cannabis from which the resin has not been extracted . . ." While " 'Cannabis resin' means the separated resin, whether crude or purified, obtained from any plant of the Genus Cannabis." The Hong Kong Ordinance defines unlawful "trafficking" to include importing, exporting, procuring, supplying or otherwise dealing with a contraband substance. Possession of 5 grams of Cannabis or 2 grams of Cannabis resin creates the legal presumption of possession for the purpose of unlawful trafficking. The Ordinance does not oblige Hong Kong prosecutors to take advantage of this presumption, however, and they evaluate each case in context before deciding whether to prosecute for trafficking or simple possession.

#### HUNGARY

Hungary is a party to the International Agreement on Narcotics of 1961 and, accordingly, considers marihuana to be a narcotic substance.

Section 198 of the Hungarian Criminal Code provides:

1. Whoever, by infringing or evading the regulations of the authorities, makes, procures, keeps, puts into circulation, brings into, takes out of, or carries through the territory of the country, a drug suitable for pathological enjoyment, shall be punished by loss of liberty from one to five years.

2. The punishment shall be loss of liberty from two to eight years if the crime was committed:

- a. professionally,
- b. by a recidivist,
- c. in criminal partnership, or
- d. with drugs in significant quantity or value.

3. Whoever carries out an act of preparation for drug abuse, shall be punished with loss of liberty up to six months.

4. The drugs with which the drug abuse has been committed, shall be confiscated. Confiscation shall take place even if the drug is not the property of the perpetrator.

Marihuana is "a drug suitable for pathological enjoyment," and as such falls under Section 198 of the Criminal Code. The law is enforced in Hungary and penalties applied as stated therein. However, the incidence of marihuana use in Hungary is low, and, hence, so are arrests and prosecutions.

In the recent case involving an American citizen who was convicted for possession of about four grams of hashish which he allegedly unknowingly brought into Hungary, the American was sentenced to a suspended eight months' imprisonment and released on probation. An American arrested in 1975 received six months' imprisonment and a 10,000-forint (\$500) fine for illegal importation and distribution to friends of about 300 grams of marihuana.

#### ICELAND

Under the provisions of Icelandic Law Nr. 65 of 1974 and paragraph 173, subsection A. of the General Penal Code, the possession of marihuana, either for personal use or trafficking, is punishable by a maximum sentence of ten years' imprisonment and/or a fine of one million Icelandic Kronur (approximately \$5,000.00). Marihuana is only one of several narcotic substances, such as heroin, LSD, etc., which falls under the provisions of this law.

Iceland's narcotics abuse law is strictly enforced, although the actual sentence depends on the seriousness of the case. Fines are usually levied

in cases which involve possession of only small amounts of the illegal substance or small-scale trafficking for profit. Prison sentences are reserved for cases involving possession of large quantities; prison terms are also set in addition to fines in cases involving the trafficking of larger amounts.

#### INDIA

Under Indian Constitution, marihuana control is a "state subject" and not susceptible to legislation by the Central Government. All but four of the Indian states have banned the cultivation and use of marihuana. In these areas, possession of any amount of marihuana is punishable by a prison sentence of up to two to three years. State laws do not distinguish purpose of the possession, i.e., whether for personal use, trafficking, or pushing. In practice, the marihuana user is never arrested and enforcement machinery picks up traffickers exclusively. The courts have been very lenient in marihuana cases, rarely if ever imposing the maximum penalty. The court will frequently sentence convicted defendant to confinement "until the rising of the court".

The Central Government in narcotics legislation dealing with areas other than marihuana will attempt to distinguish between private use, trafficking and pushing, and hopes that these distinctions would subsequently be reflected in state marihuana laws. In any event, the Government of India is not intending any steps towards decriminalization.

Under the Single Convention, the Government of India is obligated to end legal cultivation and use in Madhya Pradesh, Bihar, Orissa and West Bengal by 1989. At the present time, cultivation is by private growers operating under state government licenses and the state government is the sole buying agent. Marihuana is sold by state licensed shops for retail use only. Possession of more than small quantities of marihuana by unauthorized persons is a criminal offense in these states.

#### INDONESIA

Indonesian Narcotics Law of 1976 fixes penalties relating to marihuana as follows: planting or growing—maximum of six years imprisonment and fine of US \$24,000; possession—maximum six years and US \$24,000; transportation of marihuana—maximum 30 years and US \$72,000; trafficking or selling—maximum 30 years and US \$72,000; personal use—maximum two years.

Sentencing of offenders under present law has been fairly strict. Sentences for possession of amounts indicating intent to sell to others have usually been maximum (six years). Two foreigners convicted of transporting 604 kilos of marihuana into Indonesia received sentences of 17 years and 7 years, plus fines of US \$48,000 each. Major law enforcement efforts are concentrated on combating the narcotics trade, and few arrests are made for personal use or possession of minute amounts of marihuana.

#### IRAN

The Government of Iran marihuana laws are as follows: Possession: Under 50 grams, 61 days to three years imprisonment plus fine of \$7 per gram. Over 50 grams, two to ten years imprisonment plus fine of \$7 per gram. Normally an individual possessing under 50 grams receives a minimum sentence of 61 days. In unusual circumstances, exceptions to the law may be made and an individual with a good record and reputation may receive a suspended sentence. Possession of large quantities of marihuana, 500 kgs, would normally receive a five year sentence. Sale, import and purchase: Irrespective of the amount, three to 15 years imprisonment plus fine of \$7 per gram. Normal sentencing in this category is the minimum of three years imprisonment for five to ten kg quantities and five to seven years for 500 kg quantities.

#### IRAQ

Iraqi rules governing marihuana possession are extremely strict. Fact that possession usually involves smuggling charge, a very serious matter here, adds to gravity of marihuana cases.

Iraqi law provides for death penalty for convicted marihuana traffickers with possible commutation to life imprisonment. Life imprisonment in Iraq effectively means twenty-five years. At least two foreign nationals are currently

serving twenty-five year terms. While there is no known distinction in Iraqi law between trafficking and possession for personal use, Iraqi authorities have in practice dealt much more leniently with latter case when small amount was involved and other circumstances clearly ruled out trafficking as a motive.

#### IRELAND

Present Irish law concerning Cannabis has no distinction between possession for personal use and trafficking. A first offense provides maximum 50 pound fine (pound presently is 1.72 dollars) and six month imprisonment, succeeding offenses—500 pounds and five years. Practice is variable, but possession for personal use is seldom even brought to court as legal authorities have given wide latitude to the drug squad. Traffickers usually get about one year.

Since 1973, a new Misuse of Drugs Bill has been slowly working its way through the Irish Parliament to replace the present antiquated 1934 law. If it gets a final reading, it should pass this year without significant opposition. While not exactly decriminalizing the possession of marihuana for personal use, it goes far in that direction. The Bill provides for:

- (A) First offense—maximum fifty pounds, no imprisonment;
- (B) second offense—maximum one hundred pounds, no imprisonment;
- (C) third offense—two hundred and fifty pounds and maximum twelve months imprisonment.

Trafficking in marihuana will have a maximum 1500 pounds and seven years imprisonment.

#### ISRAEL

Israeli law does not differentiate between the various drugs scheduled—further, both trafficking as well as use constitutes a felony. Particularly, the availability of marihuana in comparison with hashish is limited. Hashish cases constitutes about 85 percent of the total drug prosecutions, while marihuana constitutes a very small fraction of the former and are not enforced differentially. The policy calls for the prosecution of drug traffickers as the primary enforcement target. Notwithstanding former policy, all intelligence pertaining to users is acted upon and charges filed, an effort at total enforcement, thus being made at present.

#### ITALY

Article 71 of Italian Drug Law (No. 685 dated 12/22/75) states in part that whoever, without authorization, produces, makes, extracts, offers for sale, distributes, buys, gives or receives for any purpose, procures for others, transports, imports, exports, passes in transit with or illegally possesses any substance in Table II (Cannabis Indica, Cannabis resin, Cannabis oil) shall be punished with imprisonment of from two to six years and a payment of a fine of from 2 million lire to 4 million lire. However, the law also provides that persons in possession of small amounts of narcotics or psychotropics for personal (or therapeutic) use are not in violation of the law.

The Italian law is vague as to the amount of Cannabis (or any drug) which can be determined as for personal use or for trafficking. In practice, the distinction seems to be left to the prosecutor and is made on an individual basis. Interpretations of the dimensions of personal use vary as well as depending upon the locality where the offense is committed. Generally, one gram or less appears to be a widely used guideline to determine whether the amount in possession of an offender is for personal or commercial use.

Article 80 of the law requires that those in possession of narcotic substances for personal use become subject to the fuller rigor of the law, if they do not submit themselves to rehabilitative treatment. Few of the treatment centers foreseen by the law are in operation as yet, and as a result, there is little follow-up of this class of offenders.

#### IVORY COAST

Ivory Coast's legal provisions governing marihuana possession include imprisonment for 3 months to 5 years and/or a fine of 120,000 to 1,200,000 CFA francs (480 to 4,800 dollars). These provisions apply for all stupefiant (narcotics)—including among others opium, cocaine and morphine as well as marihuana. Similar penalties are provided for selling, buying, and use.



Provisions of these laws are enforced strictly when abuses are discovered. However, narcotic abuse is not a major problem in Ivory Coast.

#### JAMAICA

The Jamaican Dangerous Drug Act as amended with regard to possession of marihuana (Ganja) states that "every person who is found guilty of the offense of being in possession of Ganja (marihuana) shall on summary conviction before a resident magistrate, in the case of a first conviction for such offense, be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment, and in case of a second or subsequent conviction for such offense, be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding five (5) years or to both such fine and conviction".

With respect to trafficking of marihuana, the Jamaican Dangerous Drug Act, as amended, states that every person who is guilty of the offense of importing or bringing into the island, or exporting therefrom any Ganja (marihuana) or of cultivating, selling, or otherwise dealing in Ganja, shall (a) on conviction before a circuit court, be liable to a fine or to imprisonment for a term not exceeding ten (10) years or to both such fine and imprisonment; (b) on summary conviction before a resident magistrate in the case of a first conviction for such offense be liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three (3) years or both such fine and imprisonment, and in the case of second or subsequent convictions for such offenses, be liable to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding five (5) years or to both fine and imprisonment.

Currently, first offenders charged with possession of Ganja (marihuana) are fined on a case by case basis (depending on amount possessed and ability of individual to pay) from fifty (\$50) dollars to two hundred (\$200) dollars. Jail sentences nearly non-existent on first offense.

#### JAPAN

Within Japan, the "Cannabis Control Law" (Law No. 124 of July 10, 1948, as amended), regulates cultivation and use of cannabis plant and derived substances including, but not confined to, marihuana and hashish. Under Law's provisions, the penalty for import, export or cultivation (i.e. major trafficking) is seven years or less imprisonment. The penalty for possession or use is five years or less imprisonment. Although factors vary from case to case, the Japanese authorities have demonstrated in recent years increasing leniency in dealings with cases involving marihuana possession for personal use.

#### JORDAN

The Jordanian Narcotics Law (1955, amended in 1973) does not distinguish between types of drugs. Thus, the penalties outlined below, apply to "all intoxicating drugs—heroin, opium, hashish, cocaine, and others". The Government of Jordanian authorities confirm that in practice as well, no distinction is made between marihuana and other drugs.

The penalties are as follows:

A. Import, export, or manufacture: Life imprisonment, plus a fine of 3-5,000 Jordanian Dinars (US \$9-15,000);

B. In-country merchandising, or operating an establishment in which drugs are consumed; not less than 10 years' hard labor, plus a fine of 1-3,000 JD (US \$3-9,000);

C. Transporting: Imprisonment for not less than 2 years;

D. Use: Imprisonment for not less than 6 months, plus a fine of 50-200 JD (US \$150-600).

The local use of hashish and marihuana is virtually nil, although Jordan is used as a trafficking route to other Middle East points. Thus, the question of strictness with which the laws pertaining to use are applied is almost academic. Once violators are apprehended and convicted, the penalties for trafficking appear to be fairly strictly applied.

## KENYA

Under Kenyan law, possession, use and trafficking in marihuana is punishable by 20,000 shilling fine (approximately 2140 dollars) and ten years in jail or both. Provisions are strictly enforced.

## KOREA

The Korean law on marihuana is quite complex but basically both traffickers and users, if convicted, are subject to prison terms of seven to ten years at hard labor.

The law became effective January 1, 1977, and police have arrested a number of people for violation. However, the courts have not yet heard cases under the new law, and so we do not know how strictly its provisions will be enforced.

## KUWAIT

Kuwaiti law includes the use of and trafficking in marihuana under the broad Criminal Code of Narcotics Abuse.

Persons arrested in possession of any marihuana for personal use are subject to imprisonment for not more than two years and/or required to pay a fine not to exceed KD <sup>2</sup> 150 (\$520).

Persons arrested for trafficking in marihuana are subject to imprisonment for not more than seven years and/or a fine of KD 525 (\$1,826).

Non-Kuwaiti citizens who are arrested and imprisoned for use, possession or trafficking in marihuana are automatically deported following imprisonment/fine.

Statistics available for 1976 show that there were 21 arrests for use/possession of marihuana with the average imprisonment of 2 months, and 105 arrests for trafficking in marihuana resulting in convictions with average imprisonment of 2 years. No fines were imposed in any of these convictions.

## LESOTHO

Lesotho law does not distinguish between personal use and trafficking of marihuana, both are felonies and subject to criminal prosecution. Conviction generally leads to jail and/or fine. Severity of sentence dependent on various factors, first-time offense, amount, and previous criminal record. Within constraints of limited police manpower, enforcement is very strict.

## LIBERIA

The penalty for illegal possession of drugs, including Cannabis under the Public Health and Safety Law of Liberian Code of Laws is a fine of \$250.00 for each ounce of the drug in possession and imprisonment for not less than one and not more than two years. The penalty for illegal traffic in drugs, marihuana included, is imprisonment for not less than seven years and not to exceed twenty years.

In cases involving narcotics offenses, including offenses with marihuana, habeas corpus will remain suspended by Presidential Decree, under continuing provisions of the Emergency Powers Act of 1973. A special commission, established in 1975, is empowered to try narcotics cases and its decisions are final, subject only to approval of the President.

The use of marihuana is fairly common in Liberia. The quality and extent of law enforcement here on its use, possession and trafficking is at best spotty.

## LIBYA

It is illegal in Libya to possess marihuana. The law provides for a sentence of life imprisonment and a fine of approximately \$10,200 to \$34,000.

Specific penalties for anyone who holds, purchases, produces, separates or makes narcotics or cultivates the marihuana plant for the purpose of consumption or personal use are imprisonment and a fine of \$10,200 to \$17,000.

There have been few cases prior to the last 5-6 months, but an increasing number of drug cases have begun to appear. Recent arrest cases are still

<sup>2</sup> Kuwait dinars.

pending trial and the accused have been freed on bail. From most indications, it appears that persons who were arrested for possession for personal use will be fined and released from further prosecution.

#### LUXEMBOURG

Luxembourg law makes no distinction between marihuana and other narcotics. The law provides for the following penalties: Simple possession—3 months to 3 years; simple trafficking—1 year to 5 years; organized trafficking—15 years to 20 years.

In practice no case of simple possession of marihuana ever sees court. Paralegal procedures have been set up to provide counseling and rehabilitation for such offenders without criminal sanction being taken against them. The authorities here have gone out of their way to avoid imprisoning young people for narcotics violations. This also holds true, by the way, for simple possession and use of heroin, which results in an obligatory, supervised counseling and rehabilitation program.

#### MADAGASCAR

There have been no reports on use of or trafficking in marihuana in Madagascar. Indian hemp (Rongony), however, is found here. Malagasy law strictly enforced, forbids growing, preparing, selling, consuming and transporting Indian hemp. Penalties range from 6 months to 5 years in prison and fines of the equivalent of 40 to 4,000 U.S. dollars.

#### MALAWI

Under Malawi law possession of marihuana is punishable by a fine of US \$1,100 and imprisonment for ten years. The provisions of this law are strictly enforced for Malawian offenders. Americans and other foreign nationals convicted under this statute have in the past been immediately deported.

Malawi law makes no distinction between possession for personal use and trafficking. Local police have power to search any individual suspected of being in possession of dangerous drugs.

#### MALAYSIA

The Dangerous Drugs Ordinance, 1952, the basic Malaysian narcotics enforcement law, provides for penalties of up to five years' imprisonment for possession of dangerous drugs, including Cannabis (which is dealt with in the same manner as opium). The penalty for trafficking in dangerous drugs, including Cannabis, is death or life imprisonment plus whipping. Any person found in possession of 100 grams of heroin or morphine, or 1,000 grams of prepared opium, or 5 kilograms of raw opium or 200 grams of Cannabis or Cannabis resin shall be presumed, until the contrary is proved, to be trafficking. Malaysian law treats Cannabis as a dangerous drug and makes little distinction between it and opiates.

In practice, however, Malaysian courts assign the stiffest penalties only for offenses involving heroin or morphine. The life imprisonment and death penalties for trafficking have only been on the books since 1975, and all offenders so far sentenced to these penalties have been convicted of heroin or morphine trafficking. Nevertheless, there have been recent sentences of six to nine months for possession of Ganja, and an American currently detained pending trial has been told that he faces a possible sentence of nine months for possession of 2.5 grams of Cannabis.

#### MALI

Mali's laws regarding possession of marihuana are French laws inherited from the colonial era. Legal provisions are identical to the French texts. In brief, marihuana is considered a stupefactive drug and its unauthorized sale, possession or use is prohibited. Since marihuana is not used in Mali except by some villagers along the Senegalese border, enforcement of the law poses no problems.

#### MALTA

The Dangerous Drugs Ordinance XXXI of 1939, Chapter 161 of the Laws of Malta, as amended by Act No. XLVIII of 1975, states (in part):

"No person shall import or bring into, or export from, these islands any resin obtained from the plant Cannabis Sativa. If any person has in his possession, produces, sells or otherwise deals in the resin obtained from the plant Cannabis Sativa or any preparations of which such resin formed the base; or cultivates the plant Cannabis Sativa; or has in his possession, sells or otherwise deals in the whole or any portion of the plant Cannabis Sativa (excluding its medicinal preparations), he shall be guilty of an offense against this ordinance. Every person guilty of an offense against this ordinance shall, in respect of each offense, be liable on conviction to a fine ranging from one hundred Malta pounds to one thousand Malta pounds, or to imprisonment ranging from three months to ten years, or to both such fine and imprisonment."

These provisions have not to date been strictly enforced by the local courts in the very few personal use cases which have occurred. Suspended sentences (or small fines) have usually been the outcome.

#### MAURITANIA

It is illegal to sell, possess, or use marihuana in Mauritania. The penalty for conviction for either personal use or trafficking ranges from six months to five years in jail.

Personnel of the Mauritanian Drug Enforcement Administration are grossly inadequate in number and in professional training. As a result, enforcement of drug laws is very spotty. Enforcement officials see drugs as an increasingly more serious problem as Mauritania evolves from a traditional, highly-conservative society into a modern, urbanized nation. They see no significant or rapid improvement in local drug scene. Officials express concern over the general trend toward leniency in sentences and believe Mauritania must impose harsher penalties on those drug abusers who are caught as a means of dissuading others.

#### MAURITIUS

There is virtually no use or trafficking in marihuana in Mauritius, but locally produced derivative of Cannabis Sativa called Gandia, which closely resembles marihuana, is used instead. Legal provisions governing the use of Cannabis derivatives are strictly enforced, but distinguish between personal use and trafficking. The maximum sentence for conviction of possession for personal use is a fine of 1000 Rupees (about \$150) for first offense, 100 Rupees fine and one year prison term for repeated offenses, although the courts rarely hand out maximum sentences. Sentences for trafficking are more severe and can include prison term (maximum one year) for a first offense.

#### MEXICO

The Mexican Sanitary Code places marihuana in the same category as opium, heroin and cocaine.

The Mexican Penal Code, which specifies penalties for violations of the Sanitary Code, includes the following provisions:

(A) For sowing, cultivating or harvesting marihuana: 2-9 years and a fine of 1,000 to 10,000 pesos.

(B) For first-time possession "in such quantity as is destined for personal and immediate use" by a person "who is not addicted to marihuana": six months to three years and a fine of up to 5,000 pesos.

(C) For first-time possession "in such quantity as is destined for personal and "immediate use" by a person "who is not addicted to marihuana" who also gives marihuana to another person for the latter's own and immediate consumption: two to six years and a fine of 1,000 to 10,000 pesos.

(D) For importation or exportation of marihuana: 7-15 years and a fine of 5,000 and 50,000 pesos.

(E) For trafficking in marihuana or financing such traffic: five years and three months to twelve years and a fine of 5,000 to 50,000 pesos.

(F) For encouraging or assisting another person to consume marihuana: three to twelve years and a fine of 3,000 to 30,000 pesos. If the person encouraged is under eighteen, otherwise incompetent, or under the the authority of the violator: an additional five years and three months to twelve years.

The Penal Code also provides: "The acquisition or possession of drugs or psychotropic substances by those who have the habit or necessity to consume them is not a crime, providing always that the amount involved is that which is strictly necessary for their own use." Such persons are, however, subject to medical treatment and/or confinement in a health facility.

The Penal Code further provides that parole will not be granted to those convicted on drug offenses.

The Embassy's experience indicates that provisions on trafficking, including import and export, are strictly enforced. Practice varies widely for individuals caught with relatively small quantities of marihuana. While relatively few Americans arrested here have successfully employed the addict provision to escape jail, many have been let off with a fine and deportation. On the other hand, a number have been detained for many months before charges against them were dropped. We believe the number of Americans actually sentenced for possession of small amounts is negligible.

#### MOROCCO

Use of "poisonous substances" (not further specified) was decreed illegal by Royal Dahir dated December 2, 1922. Specific penalties were outlined in Article 8 of Royal Dahir dated May 21, 1974, making use of Cannabis subject to penalty of imprisonment for two months to one year and/or fine of 500 dirhams (\$111) to 5,000 dirhams (\$1,111) to 500,000 dirhams (\$111,111).

#### MOZAMBIQUE

The Mozambique Government exercises strict control over entry of narcotics and marihuana. Customs police often search crew members of ships arriving from Far East. Local press has periodically reported the detection of marihuana peddlers. Heavy fines or imprisonment are meted to those convicted. The use of marihuana is not permitted in Mozambique.

#### NEPAL

1976 narcotics law does not differentiate between classes of narcotics. Penalties apply equally for possession of marihuana or other narcotic substances. Possession is punishable offense with imprisonment of up to one year and/or fine of up to \$800.

Law does, however, state that "if any person is found to have purchased any narcotic in a small quantity (undefined) only for personal use, kept it or used for the first time . . . and signs a statement he will not repeat the offense he may be set free. If a case is filed and a court finds this to be a minor and first offense, the accused may be set free".

Since legislation has only recently been passed, there have been no known sentences handed down. The courts will probably enforce law strictly against foreigners arrested for attempted smuggling. In reality, virtually no action is taken against anyone for simple possession of Cannabis which remains widely available in Nepal.

#### NETHERLANDS

Legal provisions governing marihuana possession (both for personal use and trafficking) are contained in Articles three and eleven of the Law of June 23, 1976, which came into effect November 1, 1976.

Article Three: "It is forbidden: A) to take in or out of Dutch territory: B) to prepare, process, sell, deliver, supply or transport; C) to possess; D) to manufacture, the means, mentioned in list II belonging to this law."

Article Eleven: "1. He who acts in contravention of a prohibition mentioned in Article 3 will be punished by a detention of one month at the most or a fine of 500 Guilders at the most;

"2. He who deliberately acts in contravention of a prohibition mentioned in Article 3 under B, C, or D, will be punished either by imprisonment of two years at the most and a fine of 10,000 Guilders at most, or by one of these penalties.

"3. He who deliberately acts in contravention of a prohibition mentioned in Article 3 under A, will be punished by imprisonment of at least four years and a fine of 50,000 Guilders at the most, or by one of these penalties.

"4. The second paragraph is not applicable, if the fact concerns a quantity of 30 grams at the most of the means mentioned in Article 3."

List II refers only to hemp products.

The strictness with which above provisions are applied varies. Although public prosecutors throughout the Netherlands have decided to seek uniformity of sentences, judges will not comply. Courts in big cities tend to be more tolerant than those in smaller municipalities or in country. Example: A judge in Amsterdam recently gave only six months to a Turk who smuggled 1130 kgs of hashish in a truck. As for law enforcement, police say that given choice between pursuing traffickers of 100 grams of heroin and one kg of hash or marihuana, they will go after the heroin.

#### NETHERLANDS ANTILLES

Possession, use or sale of any controlled drug, e.g., marihuana, cocaine, or heroin is a criminal offense covered by a single law in the Netherlands Antilles. Violation of this law is punishable by a maximum sentence of four years with no minimum sentence specified.

Although the law does not differentiate between marihuana and hard drugs or possession for use and trafficking, sentences for simple possession of marihuana are in general less severe (normally a fine) than for trafficking or offenses involving hard drugs.

Police actively enforce provisions of drug law against marihuana and hard drug offenders. Attorney General's Office does not differentiate between possession of marihuana and hard drugs but does view trafficking as a more serious offense.

#### NEW ZEALAND

New Zealand legislation governing the use of and trafficking in illicit narcotics will be repealed on June 1, 1977. New legislation, Misuse of Drugs Act of 1975, will come into force on that date. The following remarks are confined to the new legislation.

Under the new legislation, cannabis is defined in three different forms:

A. Cannabis plant material (any part of plant except part from which all resin has been extracted);

B. Cannabis resin, extracts and tinctures of cannabis, except when occurring in natural preparations such as hashish;

C. Tetrahydrocannabinols.

The intention of the legislation is to scale maximum penalties available for offenses involving cannabis in relationship to their potential for harm, i.e., potency. The maximum penalties are as follows:

A. For dealing in cannabis leaf material, the maximum penalty is now eight years' imprisonment where the offender is proceeded against the Supreme Court, or one year's imprisonment where the matter is heard in the Magistrate Court. (The law also provides for a fine not exceeding \$1,000);

B. Where the charge relates to the dealing in cannabis resin, i.e., hashish, the Magistrate may impose two years' imprisonment and/or a fine not exceeding \$2,000, and the judge in the Supreme Court could impose a maximum of ten years' imprisonment;

C. Where the offense involves tetrahydrocannabinol (a form of cannabis not seen in New Zealand to date), the Magistrate could impose a term not exceeding three years' imprisonment or a fine not exceeding \$3,000, whereas the judge could impose a maximum of fourteen years' imprisonment.

Under current legislation, no differentiation was made between different forms of cannabis. Therefore, the judge could impose up to fourteen years' imprisonment and the Magistrate three years' imprisonment, irrespective of the form of cannabis involved.

A new section has been introduced in the Misuse of Drugs Act, which reduces the gratis gift of cannabis leaf material to a person over the age of 18 years to a purely summary offense, with a maximum of three months' imprisonment and/or a fine of \$500.

The new Act is designed to reflect public opinion towards use, abuse, and trafficking in cannabis, as opposed to so-called hard drugs.

There will be no lessening of controls concerning the use of cannabis, but as Parliament has considered its use among less serious offenses, it is expected to be dealt with accordingly.

The penalties referred to in paragraph 3 are maximums. Both judges and magistrates are free to impose lesser penalties, some of which may be markedly less. Based on past performance, penalties for dealers can be expected to be harsh. Trial in the Magistrate's Court is without jury. Either defense or prosecution can request Supreme Court trial.

#### NIGER

Niger classes marihuana (*Cannabis*) among "poisonous substances and drugs" prohibited by the Government of Niger Ordinance 74-30 issued November 6, 1974. Persons found guilty of importing, exporting, buying, selling, possession, or use of marihuana in Niger may be sentenced to 5-10 years in prison and/or fined 2,000-4,000 dollars.

In practice, severe penalties outlined above reserved for drug traffickers. There have been five arrests for marihuana trafficking since January 1, 1977. Foreign nationals caught trafficking or in possession of marihuana are frequently expelled from Niger without criminal penalties involved para 1. Although same severe penalties also possible for personal consumption of marihuana. Ordinance 74-30 gives courts option to send individuals so convicted to medical centers for "deintoxification". There have been no recorded arrests for possession/personal consumption since Ordinance was passed 1974. However, in some cases foreign nationals have been expelled.

#### NIGERIA

Nigerian laws governing marihuana possession and trafficking are the Indian Hemp Decree (No. 19) of March 31, 1966, and the Indian Hemp (amendment) Decree (No. 34) of October 24, 1975, which substantially reduces penalties prescribed in the 1966 decree.

Penalties, as determined by the combined effect of the two decrees, are as follows:

A. For cultivation of *Cannabis*: Imprisonment for not less than ten years. (Before 1975, the penalty had been death or imprisonment for not less than 21 years.)

B. For importing into Nigeria or selling: Not less than ten years. (Before 1975 the penalty had been death or imprisonment for not less than 15 years.)

C. For export: Ten years (neither more nor less.)

D. For smoking or possession: Fine of 200 naira (about \$300) or imprisonment for not less than six months, or both. (Before 1975 the penalty had been not less than ten years' imprisonment.)

E. For permitting one's premises to be used for selling, smoking or preparing: Ten years' (neither more nor less.)

F. For assisting in selling, smoking or preparing: Ten years (neither more nor less.)

Males under the age of 19 convicted of above marihuana offenses can be sentenced to caning, either in addition to or instead of any other punishment. The court may specify any number of strokes of the cane, not exceeding 49 (in successive installments of seven strokes per day, if necessary.)

Without prejudice to the caning provisions, juvenile courts trying persons under the age of 17 "Shall have particular regard to the need to prevent a repetition \* \* \* and shall accordingly, unless there are strong reasons why it should not do so \* \* \* either—

A. Place offender under the supervision of a probation officer, or

B. Send him to an approved institution; or

C. Commit him to the care of a fit person; or

D. Order his parent or guardian to give security for his good behavior."

Provisions against cultivation and trafficking are enforced as strictly as police capabilities permit. Provisions against possession and use are less strictly enforced.

#### NORWAY

Chapter 162 of Norway's Criminal Code (act concerning drugs and poisonous substances) defines possession of and trafficking in marihuana as illegal, with offenders subject to the same criminal sanctions as in cases involving harder, more dangerous drugs. The punishment for marihuana and all drug offenses under Chapter 162 can be maximum of 10 years' imprisonment for trafficking

or possession, or 15 years maximum for conviction of both offenses. In practice, drug sentences tend to be light. The heaviest sentence to date is 9 years for two Chinese convicted of smuggling heroin into Norway in December 1976.

Public attitude in Norway favors leniency before the law for all drug users and treatment of addicts/users instead of prosecution. Police, under Chapter 162, have the discretion to handle drug offenses as civil misdemeanors, and this is the general practice at this time. Offenders charged with civil misdemeanors receive a warning or a small fine. The police practice has been sanctioned by the Norwegian Attorney General.

Norwegian authorities advise us that no change in the law regarding marihuana is contemplated, and that current practice of charging marihuana offenders with civil misdemeanor at discretion of police will be continued.

#### PAKISTAN

Under Pakistan law, use, transportation, cultivation, manufacturing and trafficking of Cannabis and Cannabis derivatives is punishable by a fine of 2,000 Rupees (\$200) and/or two years of rigorous imprisonment. The above penalties are found in the Dangerous Drugs Act of 1930 which was amended in 1975 to include Cannabis. There are also provincial laws in each of the four provinces with penalties the same as the federal act, with the exception of the province of Sind. In the latter, the penalty is 4,000 Rupees and/or seven years' imprisonment. In the Sind, this offense is not bailable.

Within Pakistan law, there is no differentiation between users and traffickers. However, in actual practice, enforcement and punishment is lenient and practically nil with regard to users. Offenders when arrested are often able to delay cases for months or years and many never come to trial. Foreign offenders are usually assessed the \$200 fine and asked to leave the country. The few domestic offenders actually brought to trial are usually fined and released within a matter of weeks. The maximum recent sentence actually served, to our knowledge, was two and one-half years for a major trafficker.

Pakistan has prepared a new comprehensive narcotics law which may be adopted by the National Assembly within the next few months. This law contains uniform penalties for all drug offenses. First offenses are punishable with a prison term up to ten years. Second offenders receive a minimum of seven years to a maximum of fourteen years' imprisonment.

#### PANAMA

The basic Panamanian law governing possession, use and trafficking in narcotic drugs (including marihuana) is Law 59 of June 4, 1941, as amended by Cabinet Decree No. 159 of June 6, 1969. Law punishes illegal use of narcotic substances by imprisonment of six months to one year, possession by one to three years and selling by two to three years. Release on bail is specifically prohibited.

For several years there has been talk of reforming narcotics laws. Meanwhile, marihuana remains the principal drug of abuse in Panama and sanctions are administered with moderate severity.

#### PAPUA NEW GUINEA

The Papua New Guinea Government maintains strict controls on import, growing and use of marihuana. Papua New Guinea's Dangerous Drug Act of 1973 provides penalties of imprisonment for not less than three months and not exceeding two years for cultivating, exporting or having possession of marihuana.

#### PARAGUAY

Paraguayan law forbids possession of "dangerous drugs or products containing them" but does not differentiate between marihuana and other drugs in establishing penalties, which are determined by the nature of the criminal act rather than the type of drug involved (see below).

Only one section, Article 15 of the Paraguayan Drug Law (Number 387, dated September 15, 1972), specifically mentions possession of dangerous drugs. It prescribes imprisonment from one to five years for anyone in possession of dangerous drugs. However, persons who have in their possession only "a



minimal quantity of such drugs for exclusively personal use" may be subjected to a different section of law, which prescribes rehabilitation and medical treatment at a care center rather than imprisonment.

Other sections of law which concern production, sale of drugs, promotion of drug sale, and trafficking, prescribe imprisonment ranging from six months to twelve years, depending on the type of crime.

Enforcement is not strict. The small National Narcotics Department is the only police agency in Paraguay specifically charged with narcotics law enforcement. In the absence of widespread abuse of hard drugs, the National Narcotics Department concentrates primarily on suppression of production, trafficking and use of marihuana and amphetamines. Statistics are not readily available, but the NND has had some successes in recent years in marihuana crop destruction and arrest of traffickers. Those arrested for crimes involving marihuana usually are imprisoned briefly, if at all, or, if consumers are given court-ordered rehabilitation. Due to smallness of the NND, only a fairly small proportion of traffickers and producers may in fact be affected by the NND's efforts.

#### PERU

In Peru, individual possession of marihuana for personal use is a civil, not criminal offense. If authorities apprehend a marihuana user, they bring a complaint before a civil judge who summons the accused for a personal appearance, warning him that failure to appear will cause the police to bring him in. After the judge's interrogation, he has discretion to confine the user in an institution (in the case of an habitual user) or adopt other lesser measures.

Trafficking in marihuana is a criminal offense, but the severity of punishment is at the discretion of the judge who may (a) confiscate the marihuana; (b) apply a fine; (c) decree imprisonment for up to two years; (d) expel the offender from the country. Usually, (c) and (d) would only be applied in grave cases.

As regards the strictness of enforcement, narcotics officers of the Peruvian Investigations Police (PIP) generally do not pursue marihuana cases unless there is a large quantity involved. Cases against users are not pursued unless the action of the user is so blatant that he must be arrested (e.g., smoking in a public place), or if a complaint is lodged by parents regarding use of marihuana by their children and/or their children's friends. PIP does not condone the use of marihuana, but a combination of widespread cocaine trafficking and an understaffed narcotics office has resulted in PIP's only being able to pursue selected cases.

#### PHILIPPINES

The Philippine Government, under the direction and with the full support of President Ferdinand E. Marcos, enforces the following laws governing the personal use and trafficking in marihuana, to the fullest extent of the law:

(1) Republic Act 6425, Section 8, states that for simple use and possession (one stick or more), individuals will receive six months and one day to six years' imprisonment and a fine of 600 to 6,000 pesos (\$81-\$816) upon conviction.

(2) Republic Act 6425, Section 4, states that traffickers in marihuana will receive twelve years and one day to twenty years' imprisonment, and a fine of 12,000 to 20,000 pesos (\$1632-\$2721) upon conviction. This Section also states that if the trafficker sells to a minor, he will receive a 20-year prison sentence.

Marihuana is the primary drug of abuse in the Philippines, and the Philippine Government is using all legal means to eliminate the growth, trafficking and use of this drug.

#### POLAND

The Polish Penal Code defines marihuana as an intoxicating substance. Under Polish law, the production, import and export, in-country transit, storage and sale of marihuana is allowed only for medical, scientific and industrial purposes, and requires the permission of the Ministries of Health and of Foreign Trade and Maritime Economy.

The responsibility for the enforcement of laws and statutes governing narcotics and intoxicating substances belongs to the Chairman of the Council of Ministers and a joint committee comprising the Ministries of Health, National Defense, Internal Affairs, Agriculture, Foreign Trade and Justice.

The possession of marihuana for personal use is punishable by a loss of civil liberties for up to one year. The penalty for trafficking is imprisonment for up to five years and a fine of 5,000 Zlotys. A revised statute now in preparation will considerably increase these penalties.

In general, these laws are not strictly enforced. The use of marihuana in Poland remains at a relatively low level, although street trafficking has increased during the last twelve months.

#### PORTUGAL

Portugal's drug control law, Decree-Law 420/70 of September 3, 1970, does not distinguish between types of drugs. The law provides for the following penalties:

Possession for personal use: up to two years in jail and a fine of 5,000 to 50,000 escudos.

Trafficking, including misuse by doctors: 2 to 8 years in jail and a fine of 10,000 to 100,000 escudos.

Being "dangerous" habitual user, or user who "provokes a public scandal": 6 months to 2 years in jail and 5,000 to 50,000 escudos fine.

Owning or managing site where drugs are consumed: up to 6 months in jail and a fine of up to 5,000 escudos.

In practice, judges appear to have applied penalties according to the type of drug and the severity of the offense.

The Inter-Ministerial Committee is studying new legislative proposals, which will be designed to explicitly vary penalties by drug and offense. One new law, covering "psychotropic" drugs, already has been approved by the Assembly of the Republic and awaits Presidential signature.

Comment: Decision by the U.S. Congress is likely to influence new Portuguese legislation.

#### QATAR

Under Section 10, Law 20, of 1972, the punishment for possession of—or trafficking in—"illicit drugs" is not less than one year and not exceeding five years, with a fine of not less than QR2000 (\$500) and not exceeding QR10,000 (\$2,500). In short, the law does not distinguish between possession and trafficking, nor does it distinguish between various kinds of drugs.

In practice, however, the Qatari legal system does mete out penalties according to the seriousness of the act and the type of drug. Persons convicted of possession of marihuana normally receive the minimum penalty (one year, QR2000), whereas traffickers and possessors of harder drugs receive penalties on the order of three years upwards, with penalties of at least QR10,000.

NOTE.—U.S. \$1 is equivalent to 4 Qatar riyals.

#### RWANDA

Marihuana possession (both for personal use and trafficking) in Rwanda is governed by the Legislative Ordinance of January 22, 1903, which prohibits cultivation, transport, sale or consumption. Fines range from \$11 to \$110 and/or imprisonment for 15 days to one year. The Embassy understands the law is not strictly enforced and marihuana is not considered a significant problem.

#### SENEGAL

Senegalese law controls "stupefants", or drugs, and there is a lengthy list of controlled substances. Cannabis and its resins are on the same list as cocaine, heroin, and morphine. The law prohibits production, possession, trafficking, and use of all substances on the list except for authorized medical purposes.

The law provides that for illegal use, or attempted use, of controlled substances, the court may request expert medical opinion. The court then has the option of imposing a jail sentence and/or fine, or remanding the guilty party to medical treatment.

Anyone convicted of production, possession, trafficking, or use of a controlled substance, except as noted in para 2 above, is liable to imprisonment from one to five years, a fine of not less than \$2,000 or more than \$20,000, or any combination of jail and fine within those limits. For production, importation, or

exportation, the maximum imprisonment increases to ten years. Senegalese law also provides for (1) Punishment even if the crime occurs outside Senegal; (2) Punishment of "any preparatory act" as if it were the crime itself; and (3) Punishment in cases of conspiracy to commit. Those convicted can also have their civil rights suspended as part of their punishment.

Seeking or soliciting controlled substances is punishable by a jail term of one month to one year, and/or a fine of \$80 to \$400. The police have the right to enter any house or building at any time of day or night without a search warrant where they believe that controlled substances may be in use by more than one person.

In practice, these laws are enforced in a manner best described as "irregular and severe". Sentences handed down are rarely the maximum.

#### SIERRA LEONE

The laws of Sierra Leone provide the following penalties for use, possession or trafficking of any quantity of marihuana:

(A) On conviction in the Supreme Court, to a fine not exceeding LE\*2000 (US \$1,750) or to imprisonment for a period not exceeding ten years, with or without hard labor, or to both such fine and imprisonment, or,

(B) on summary conviction, to a fine not exceeding LE 500 (US \$450), or to imprisonment, with or without hard labor, for a period not exceeding twelve months, or both fine and imprisonment.

Cases involving marihuana are not very frequent in Sierra Leone. Use seems to be increasing, especially among student age population.

#### SINGAPORE

The Government of Singapore law regarding the possession, sale and trafficking of marihuana is as follows:

Less than 100 grams constitutes possession and sentencing can range from a small fine up to ten years' imprisonment and a S\$20,000 (U.S. \$8,333) fine.

Trafficking is presumed if an individual is arrested with over 100 grams (3½ ounces). The sentences range from a minimum mandatory sentence of 3 years' imprisonment and 3 strokes of the rotan to 20 years' imprisonment and 10 strokes of the rotan. Sale of marihuana is automatically considered trafficking, despite the amount involved.

In cases of sale or possession of 10 kilograms (22 pounds) or more, a mandatory minimum sentence of 20 years' imprisonment is imposed with 15 strokes of the rotan. At the discretion of the judge, the sentence can be set up to 30 years.

As an indication of the seriousness with which the Government of Singapore views its efforts to stop the usage of all drugs, including marihuana, the following recent examples of penalties imposed in specific marihuana cases are cited:

Offense/amount:	<i>Sentence and strokes of the rotan</i>
Possession—81.2 g-----	3 yr and 3 strokes.
Trafficking—9.24 g-----	4 yr and 3 strokes.
Trafficking—.46 g-----	3 yr and 3 strokes.

Although the Government of Singapore continues to prosecute marihuana cases, it devotes most of its drug enforcement effort to combatting heroin trafficking and possession.

#### SOUTH AFRICA

South African law covering possession of marihuana is "Abuse of Dependence-Producing Substances and Rehabilitation Centres Act No. 41 of 1971." Section 2 states that possession of less than 115 grams of marihuana is punishable by a minimum sentence of two years, maximum ten upon first conviction and a minimum sentence of five, maximum 15 upon second conviction. Possession of more than 115 grams is automatically under Section 10 of this law which carries a minimum sentence of five years, maximum fifteen upon first conviction

\* Sierra Leone leones.

and a ten-year minimum, twenty-five year maximum sentence upon second conviction. In cases where the individual is charged with "dealing", the court may not suspend or mitigate the minimum sentence.

The South African Police are relatively strict in bringing drug offenders before the law. However, in practice it is unusual for a first-time offender arrested for simple possession or personal use of marihuana (less than 115 grams) to end up with a jail sentence. He is usually given a suspended sentence or remanded to a drug rehabilitation program or a combination of both. For a second offense, a five-year jail sentence is mandatory. However, with time off for good behavior, the average time in jail is two to three years. The five-year mandatory sentence for a first offense of drug dealing also averages two to three years in jail. At present, prison officials are not releasing those with multiple drug dealing convictions prior to the completion of minimum sentence. No distinction is made between dealing in marihuana and dealing in hard drugs such as heroin, cocaine, or LSD. Only in terms of simple possession or personal use, is marihuana treated less harshly than hard drugs.

Foreigners caught in drug offenses are usually declared "undesirable aliens" and sent out of the country. Court sentencing of South African citizens on marihuana charges depends on the accused's sex, demeanor, age and life style. For example, there have been cases in which an elderly African woman from a rural area was given a suspended sentence for smoking marihuana, whereas a young long-haired white was imprisoned. Likewise, a white youth was recently sentenced three years for possessing less than one gram of marihuana upon his third conviction.

#### SPAIN

First, the Spanish penal code lumps all "toxic drugs and stupeficients," including marihuana, together in one article. (The Spanish adhere to the list of "stupeficients" in the Annex to the 1961 Single Convention, which includes cannabis.) Second, the common form of "marihuana" encountered in the United States generally does not exist in Spain. The nearest thing to "marihuana" in the Spanish experience is "hashish," usually from Morocco. According to one report, most marihuana found in the United States contains 0.5 to 2.0 percent tetrahydrocannabinol (THC), compared to "about 10 percent THC" in hashish and 20 to 65 percent in liquid hashish.

The basic provision of the Spanish penal code on drugs is Article 34, which states: "Those who illegally execute acts of cultivation, fabrication, elaboration, transport, possession, sale, donation or traffic in general, of toxic drugs or stupeficients, or in other ways promote, countenance or facilitate their use, shall be punished with the penalties of major imprisonment and fine of 10,000 to 50,000 pesetas (about \$150-\$750 U.S. dollars)." Although "major imprisonment" is defined generally as six to twelve years, judges can, in fact, vary sentences from six months up to twenty years, using the mitigating circumstances provision of Article 344.

Illegal possession of controlled drugs for personal use (where trafficking is not shown or alleged) is not specifically addressed under the Spanish penal code. However, it is a situation treated under the "Law of Social Danger and Rehabilitation" (Law 16/1970, August 4). Further, since the penal code refers simply to "possession," without reference to purpose, a user could be sentenced under that code. Under this Rehabilitation Law, a drug user can be found to be in a state of danger and receive a sentence which is intended to cure and reeducate the user and rescue him from danger. Judges have broad discretion under this law and can impose sentences ranging from probation to confinement in a prison-type hospital. As with the penal code, no distinction is drawn as to the type of drug involved. However, judges generally consider this with other circumstances of the specific case when setting sentence.

In addition to the application of the penal code and/or rehabilitation laws, drug traffickers also are subject to the "Law of Contraband," which provides for confiscation of personal property (vehicles, etc.) involved, and fines of from one to six times' value of contraband drugs. Article 340 of the penal code also provides for fines of 5,000 to 50,000 pesetas (about \$75-\$750 U.S. dollars) and suspension of drivers' licenses for three months to five years for "driving motor vehicle under the influence of alcoholic beverages, toxic drugs or stupeficients."

In practice, there is great variation among sentences imposed by judges, both under the penal code and the rehabilitation law. The following examples

of sentences by judges during recent years provide an idea of the range: 1976—American given 10-year sentence and \$1500 fine for possession of 111 kilograms of hashish; 1975—three Moroccans between the ages of 30 and 63 years were sentenced to 7 years for possession of 200 kilograms of hashish; 1975—Spaniard (Barcelona) was given eight-year sentence for possession of two kilograms of hashish; 1975—Spaniard (Seville) was given a six-month sentence for possession of two kilograms of hashish.

#### SRI LANKA

In Sri Lanka, the penalties for possession of marihuana are very lenient. Traffickers, particularly first-time offenders, are fined without imprisonment, depending on the quantity of marihuana seized.

Under Sri Lankan law, all narcotics including marihuana fall under the Poisons, Opium and Dangerous Drugs Ordinance of 1929. Fines and/or imprisonment are determined by the courts. If convicted in Magistrate's court, fine may not exceed Rs.1000<sup>4</sup> (U.S. \$137.94) and/or one year imprisonment. In District court, fine may not exceed Rs.5000 (U.S. \$689.72) and/or three years' imprisonment. In Supreme court, fine may not exceed Rs.10,000 (U.S. \$1379.44) and/or ten years' imprisonment.

Proceedings against narcotics violators are generally initiated in Magistrate's court. If a major violation is committed, it is referred to either the District or Supreme courts where higher penalties may be levied.

Fines are left to the discretion of the court judges. No set fine is levied for narcotics violation. Generally, first offenders charged with simple possession of marihuana are given warning or light fine of Rs.100 (U.S. \$13.79). Traffickers are dealt with more severely, with fines and/or imprisonment, depending on the quantity seized and the number of offenses.

#### SUDAN

Sudan's Hashish and Opium Act forbids the cultivation, manufacture, sale, possession and smoking of hashish and opium, and, also, their import into or export from the Sudan and their transport within Sudan, whether in transit to other countries or otherwise. Any person contravening this Act shall be liable to be punished with imprisonment for a term not exceeding seven years, or with a fine not exceeding \$1500 U.S. dollars or both. The word "hashish" includes cannabis indica or cannabis sativa and all preparations or admixtures of hashish and intoxicating drugs.

#### SURINAM

In Surinam, the law stipulates that a trafficker in any narcotics can receive a maximum jail sentence of four years. No minimum is specified. Traffickers in marihuana usually receive sentences of 1½-2 years. For simple possession of marihuana, violators are occasionally released if they cooperate with the police, but most violators, even first-time violators, receive a sentence of six weeks to two months in jail.

#### SWAZILAND

The situation concerning the use of marihuana is complicated by the fact that the local variety, called dagga, has traditionally been part of the culture of both ceremonial and medicinal uses. For this reason, the Government of Swaziland provisions on possession tend to be less rigidly enforced in rural areas than in urban areas.

The basic Government of Swaziland law governing marihuana use and trafficking is the 1932 Opium and Habit Forming Drugs Act:

A. Personal use is not against the law.

B. Possession for personal use is not a criminal offense, but possession for trafficking is a criminal offense.

C. Possession for personal use is punishable by fines. The maximum amount is B2,000\* (U.S. \$2,300). The size of the fine is left to the Magistrate's discretion and depends on the circumstances of the particular case. There is no predetermined schedule of fines.

<sup>4</sup> Rupees.

\*Emlalengeni.

D. Possession for trafficking is punishable by fines up to E2,000 or up to five years in prison, at the Magistrate's discretion.

The use of dagga in Swaziland is so widespread that only minimal effort is made to enforce provisions concerning possession for personal use, especially in rural areas. However, the Government of Swaziland makes a major effort to destroy dagga drops and prosecutes persons found to be trafficking in dagga.

It is possible for a Swaziland citizen to get a doctor's permit to legally possess dagga for medicinal purposes.

#### SYRIA

Criminal charges for possession of marihuana or any narcotic, either under categories of trafficking or possession are governed by Law 182. Possession for personal use carries minimum imprisonment of six months with no maximum sentence set and fine of from 5,000 to 30,000 Syrian pounds, both depending on amount of narcotics seized and previous criminal record. Trafficking can result in imprisonment of from 3 years to life with hard labor and fine from 30,000 to 100,000 Syrian pounds, both depending on amount of narcotics seized and previous criminal record. Length of sentence is determined by recommendation of public prosecutor and discretion of judge's who act independently. Recently, courts have handed down relatively harsh sentences.

A category of accused who fall between definitions for possession and trafficking are carriers. Example of this is an American citizen who was accused of trafficking by public prosecutor but convicted for possession of 8 kilos of hashish. His sentence was 18 months and fine of 96,000 Syrian pounds.

Fines are administratively determined by Customs Service in most cases and lesser amounts can be negotiated by accused or his attorney. If fine is not paid one year is added to sentence for criminal charges.

Official rate of exchange is 3.90 Syrian pounds to the U.S. dollar.

#### TANZANIA

Tanzanian law provides for a fine of US \$240.00 or imprisonment for not more than one year for anyone convicted of consuming, using, possessing, or cultivating marihuana (*Cannabis Sativa*) or the cocaine plant (*Erythroxylum Coca*). A small division of Criminal Investigation Division (CID) is in charge of suppressing narcotics traffic, in cooperation with police of adjoining Kenya, Uganda, and Zambia.

Narcotics control is not given very high priority, but press reports occasional convictions and prison sentences.

#### THAILAND

Under Thai law, simple possession of marihuana for personal use is punishable by a fine not to exceed BAHT equivalent of approximately US \$10. Sale of marihuana or possession of marihuana for sale is punishable by imprisonment not to exceed six months. Export of marihuana is punishable by imprisonment not to exceed one year and a maximum fine of the BAHT equivalent of US \$25.

Generally speaking, the Royal Thai National Police Department does not seek out marihuana violators. However, if caught, defendants are tried in criminal court.

#### TOGO

Togolese law provides for imprisonment from three to six months for possession of "narcotics" (stupefacients) including marihuana. The law makes no distinction between possession for personal use and for trafficking.

#### TRINIDAD AND TOBAGO

Provisions governing marihuana possession contained in Trinidad and Tobago Narcotics Control Ordinance Number 27-1961. Section four of Ordinance provides inter alia, that "a person who has in his possession any narcotic is guilty of an offense and liable—(A) upon summary conviction to imprisonment for a term of not less than 6 months and not more than 18 months; (B) upon conviction on indictment to imprisonment for a term of not less than 6 months and not more than 7 years." This section further provides that "every person—(A) who traffics in any narcotic or any substance represented or held out by

such person to be a narcotic, or who has in his possession any narcotic for the purpose of trafficking is guilty of an offense and is liable upon conviction to imprisonment for a term of seven years." For purposes of this ordinance, narcotic is defined to include marihuana (*Cannabis Sativa L.*).

The narcotics squad of the Trinidad and Tobago police, however, advises that in practice fines and not imprisonment are given in most cases. This is done upon the authority given to magistrates under the Summary Court Ordinance (Chapter 8 Number 4) whereby magistrates may impose a fine if an ordinance does not specifically forbid the imposition of the fine. According to narcotics squad members, the fines are usually not large, with the highest fine ever given out that of TT \$1,000 (approximately US \$400) to an individual with a large quantity of marihuana in his possession and prior convictions.

Personal use of marihuana is widespread in the society and to some degree is linked with anti-establishment politics. Ambivalence on subject of marihuana is, therefore, common and is interwoven with other attitudes unrelated to narcotics. Police enforcement actions appear designed mostly to curtail domestic marihuana production and prevent establishment of any organized trafficking.

#### TURKEY

Under Turkish law, the minimum penalty for simple possession of marihuana or hashish is three years in prison (five years maximum) although part of sentence may be commuted for extenuating circumstances or good behavior in prison. Minimum stay in prison for those convicted usually is about two to two and a half years.

Punishments for possession for purposes of trafficking or smuggling by a single individual range from five to ten years of rigorous imprisonment in the case of marihuana and from ten years to life for hashish, but in practice the Turks made no sharp distinction between marihuana and hashish, normally applying the label "hashish" to high-grade marihuana.

In the case of conspiracy or commission of smuggling or trafficking by two or more persons, penalties in Para 2 above are increased by 100 percent (conspiracy) or 50 percent (joint commission) although the distinction between the two is not always clear. Joint or conspiratorial unlicensed import or export of "hashish" is punishable by death. (Death penalty was decreed as recently as November 1976, in a case involving young German hashish smugglers, although as is usual, the sentence was commuted to life imprisonment).

Turkish narcotics laws are applied very strictly, with no leniency shown for offenses involving marihuana or hashish.

#### UNITED KINGDOM

Possession of marihuana is covered under the Misuse of Drugs Act, 1971. Under this act, penalties for possession and trafficking range from a minimum of six months imprisonment or a 200 pound fine or both up to 14 years or an indeterminate fine or both. Though severity of judgment varies throughout the country, home office officials point out that first offenders are almost never imprisoned for possession of small amounts of Cannabis. They add that decriminalization is not possible under United Kingdom law but that the way in which penalties under the law are applied may in the end have the same effect. Conviction figures for possession have dropped steadily over the past three years. Owing to their limited resources, drug squads tend to devote more of their efforts to hard drugs and trafficking rather than actively pursuing simple possession cases.

There is consideration being given to further liberalization of the laws relating to possession of small amounts of Cannabis. The House of Lords, for example, has just turned down by a narrow margin in an amendment to the criminal law bill which would have removed the possibility of imprisonment being imposed by a court of summary jurisdiction on conviction of unlawful possession of Cannabis or Cannabis resin. The amendment was introduced as part of a general attempt by the home office and the courts to clear up confusion and uncertainty over Cannabis in the Misuse of Drugs Act.

In January the Court of Appeals ruled that possession of the leaf and stalk of the Cannabis plant was not illegal although they contained the active ingredients of Cannabis and the Cannabinal derivative THC. This left the

police with the possibility of prosecuting for possession of the derivative which carries stiffer penalties. The police have successfully prosecuted in this manner and the result is to be tested by the Court of Appeals in the near future. The home office expects that eventually the appeal will go to the House of Lords. If possession of the leaf and stalk remains legal, then the home office will have to consider changing the act to clarify the definition of Cannabis. Finally, a working party of the Standing Advisory Council on Drug Addiction has "tentatively suggested" that first offenders for possession should not be imprisoned.

#### UPPER VOLTA

Upper Volta's Penal Code (Sections 52 to 55) and Code of Penal Procedure (Sections 473 to 477, and 699 to 718) call for the punishment of persons found guilty of possessing or trafficking in marihuana with imprisonment and/or fines. Normally, a user possessing a small amount is to be imprisoned from three to six months, and a trafficker is to be imprisoned from one to five years. Fines can range from about one to ten thousand dollars.

The drug problem in Upper Volta is minimal: There are usually not more than two to three arrests per year. No prison sentences longer than six months have been handed out since about 1971.

#### URUGUAY

Uruguayan law governing the possession of marihuana is part of general regulations covering controlled substances considered physically or psychologically harmful.

Penalties range from (a) mandatory commitment to medical care for persons found in possession of small quantities of marihuana for their personal use, (b) 3 to ten years in prison for possession of larger quantities to (c) a maximum penalty of 6 to 18 years imprisonment for organizing or financing a trafficking ring.

These laws are vigorously enforced by the police, but as the tendency to abuse controlled substances in Uruguay is very low, occurring mainly in drugs for personal use, only 50 persons or so were detained last year. In nearly every case, sentencing amounted to compulsory medical treatment. Only one person, picked up for trafficking marihuana imported from Paraguay, received a prison sentence (2 to 6 years).

#### U.S.S.R.

Soviet laws governing marihuana and other drugs are promulgated by the republics; while the wording of such laws in the various republics do not differ significantly. There may be considerable variances in application. The following concerns the Laws of the Russian Republic (RSFSR), which group together "narcotics" and "powerful and poisonous substances," in which category the Soviets include marihuana.

*Trafficking:* (A) Smuggling: Article 78 of the RSFSR Code of Criminal Justice defines a punishment of imprisonment of three to ten years and confiscation of property, with possible exile for two to five years for smuggling over a border.

(B) Sale: Article 224 of the Code, "manufacture or sale of narcotics and other powerful and poisonous substances," allows for punishment of one to ten years if the material is sold or kept with intention of sale.

*Simple Possession:* Article 224 further specifies imprisonment or corrective labor of up to one year, with a fine up to 100 Rubles, for violation of the "established rules" or producing, keeping, delivering, stocking, transporting, or sending of narcotics and other powerful and poisonous substances.

*Therapy for Addicts:* Article 62 of the Code specifies that addicts or alcoholics convicted of a crime may be required to undergo special programs of therapy, including possible compulsory medical institutionalization, even when the punishment itself for the crime does not require imprisonment.

*Enforcement:* (A) Smuggling. Westerners caught trying to transit the Soviet Union with marihuana or narcotics have received approximately equivalent, fairly stiff sentences in recent years. Many of the non-Americans transporting either marihuana or hashish, were released after short periods on "humanitarian grounds." As the Department is aware, three Americans arrested in June 1976 with 28 kg of heroin are still incarcerated. Since the Americans



have not yet been in prison even a year, it is too early to determine whether the heroin-smugglers will be treated differently than the Cannabis-smugglers by the Soviets.

(B) Personal Use: There has been a sprinkling of criticism in the Soviet judicial press, principally directed at the southern republics, for "unjustified" leniency in drug cases. We have no firm information thereon, but the apparent Soviet effort to dissuade traffickers from using Moscow as a transit point for drugs may be a reflection of increased Soviet concern over domestic drug use, inspiring concomitant effort to stiffen the enforcement.

#### VENEZUELA

A penalty of 4 to 8 years imprisonment is specified for possession, sale, or trafficking in opium and its derivatives; coca-leaves and cocaine; the "marihuana" plant and its derivatives or product; and any other so-called stupefying drugs or narcotics.

A penalty of 2 to 5 years imprisonment is specified for one who offers, lends or otherwise allows a locale to be used by others for consuming narcotics.

Those persons who make use of said locale for consuming narcotics shall be penalized with imprisonment of six (6) months to 2 years without benefit of bail. (This is the only reference made as to use.)

Penalties under Article 367 are increased by one-third if the narcotics are sold to, applied to, or made available to minors under 18 years of age. The penalty increase is also applicable to those persons who utilize minors for trafficking.

Article 367 and subsequent articles of the Venezuelan Penal Code do not provide for legal disposition in cases of addiction, abuse or occasional use of drugs or narcotics substances.

Proposed legislation which is now under consideration by the Venezuelan Congress provides the following:

A. Title III, Chapter I, Article 48 specifies a penalty of 10 to 20 years imprisonment for illicitly trafficking with; and the preparation or elaboration of narcotics, including marihuana.

B. Article 49 specifies a penalty of 4 to 8 years imprisonment for illicitly distributing, supplying or storing narcotics for any purpose; or possession or purchase of narcotics, including marihuana, for other than personal consumption.

C. Chapter II, Articles 62 and 63, provide that a drug user who possesses narcotics, including marihuana, for personal use will be submitted to one or more of the following: (1) treatment and rehabilitation; (2) detoxification; (3) social readaptation; (4) supervised release or follow-up; (5) expulsion, in the case of foreigners. A personal dose is considered an amount for the immediate requirement of the individual and it will be left to the discretion of the judge to make a determination.

Generally, the Venezuelan enforcement authorities and the judicial system are flexible in marihuana cases where small amounts (up to 1 or 2 oz) are concerned and may not prosecute first offenders if no other offense is involved. Second and subsequent offenders may be referred to treatment in one of several government sponsored or private clinics which deal with drug abusers.

#### WEST BERLIN

The Federal German Law on Narcotics of January 10, 1972 was extended to Berlin in February of the same year with the approval of the Allies. Article 11, Section 3, of this law provides that in an especially severe case, a violator can be sentenced to imprisonment for one to ten years, in addition to being fined. The maximum sentence (i.e., ten years) can be imposed if an offender, through his actions, is judged to have damaged the health or endangered the lives of others, has repeatedly sold narcotics to persons under the age of 18, or has imported or possessed narcotics in large quantities. A court can refrain from sentencing an offender to a prison term or from imposing a fine, if the offender had been found in possession of only a small quantity of narcotics which he had bought for his own use.

All persons arrested by the police in Berlin for trafficking in or possessing marihuana are turned over to the Justice authorities for possible violation of

the above-mentioned narcotics law. The Attorney General then decides if an offender should go to trial, pay a simple fine or be released. In general, however, Berlin authorities assume a relatively lenient attitude towards persons in possession of small amounts of marihuana, hashish, and other so-called soft drugs. An offender found in possession of a soft drug in small quantities (less than 20 grams) for the first time would not be charged, but would be released with a warning in accordance with Article 11, Section 5 of the drug law. Conviction for a more serious drug violation (possession of a larger quantity of soft drugs, use of hard drugs, and trafficking), can result in a first offender being imprisoned from six to twelve months. In the case of a repeated offender, a conviction can lead to several years' imprisonment without probation.

In 1976, police and prosecution authorities in Berlin investigated a total of 2300 violations of the narcotics law, of which 803 cases were dropped for lack of evidence and 663 cases were discontinued, due to the relative insignificance of the offense committed. (Most of the cases in the latter category involved possession of soft drugs.) From the overall total of 2300 drug investigations, court convictions numbered 438, or 19 percent.

As in the Federal Republic of Germany, there is no inclination at present in Berlin to decriminalize the possession of, or trafficking in soft drugs. This attitude is based on court statistics reflecting a striking increase of cases in Berlin involving both the use and trafficking in soft drugs (including marihuana), which local enforcement agencies consider to be "transfer drugs" paving the way to eventual heroin or other hard drug addiction.

#### WEST GERMANY

The Federal Republic of Germany considers marihuana and hashish a major problem area of abuse followed closely by heroin. Consequently, FRG laws are strong in forbidding possession of any amounts of Cannabis. Section 11 of the Law on Narcotics dated October 3, 1972 prescribes "punishment with imprisonment up to three years and by a fine, or either of these punishments, will be inflicted upon whoever possesses narcotics referred to in Section 9, without the Federal Public Health office having granted an exception".

Referred to under cited Section 9 is marihuana described as "flowers or fructifications of the plants belonging to the Genus Cannabis, from which the resin has not been extracted; i.e. exempted are the seeds not mixed with such fructifications and the leaves not containing resin".

Embassy and DEA attaché note that on conviction for marihuana, severeness of penalty depends on amount and level of violator and the age of violator. Adult first offenders in possession of less than one ounce of marihuana can be fined as little as 150-200 DM (\$60-\$80). On the other hand, traffickers in hashish are given more severe sentences. 1975 sentencing statistics for marihuana/hashish trafficking are not broken out as a separate class. However, narcotic conviction statistics reflect the following:

7,547 persons were convicted for narcotic offenses. Of these, 2,267 or 30 percent, were given fines. 4,893 persons were imprisoned without being assessed a fine, and 387 were imprisoned and fined. Therefore, 69 percent of the convictions in FRG for all types of drug offenses resulted in imprisonment. Of these total imprisonments for narcotic offenses, 3,043 were sentenced as felons, i.e. more than one year.

#### YUGOSLAVIA

Yugoslav law does not distinguish between different narcotic drugs in the severity of penalties provided. Marihuana and heroin, for example, are covered by the same provisions.

The law provides penalties for manufacture of or trafficking in narcotics, but not for possession for personal use.

Federal penalties were increased last year to require imprisonment for from six months to five years for individual traffickers and from one to ten years when a group is involved.

No arrests or seizures involving marihuana are believed to have occurred in Yugoslavia for at least a year. Hashish smugglers, however, are frequently intercepted at Yugoslav borders and traffickers are occasionally arrested within the country. In a recent case, an individual received ten months in jail for

selling hashish in Slovenia. In another case, two adults received three and one-half and three years in jail for their part in an international hashish smuggling ring.

#### ZAMBIA

Under Statutory Instrument No. 128 of 1971 and the Dangerous Drugs Act of 1967, Dagga would come under the description of "Cannabis resin" which is defined as being "the separated resin, whether crude or purified, obtained from any plant of the genus Cannabis.

The possession of Dagga is an indictable offense and carries a penalty of a fine not exceeding K500<sup>5</sup> or imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment. However, certain categories of people may deal with Dagga or any other drug in the course of their duties, e.g., doctors, veterinary surgeons, etc., when authorized to do so in the course of their employment or profession.

Dagga is very similar to marihuana. It is a weed or wild plant in Zambia and every owner or occupier of land on which it is growing is obliged to clear it and burn it. This applies as well to cultivated plants in the absence of authority or licenses.

The Zambian Government has shown increasing interest in curtailing the use of drugs for personal use among its youth. However, its action centers largely on admonishment rather than the imposition of stiff fines. Recently, a number of Zambians have been arrested in the U.K. and locally for trafficking in Dagga. The punishment for traffickers tend to be much more severe than for users.

Mr. WOLFF. Thank you, Mr. Rogers.

Mr. Beard.

Mr. BEARD. Yes, Mr. Chairman.

Let me just make some input as to Mr. Acree as far as the difference—on his agency—you stated in your statement the fact that decriminalization may serve to increase the level of border smuggling, so do you see that with the possibility of decriminalization that could increase the supply?

Mr. ACREE. That would be a prospective judgment, yes, sir.

Mr. BEARD. I think coming from you who has had to deal with it, it would be a fairly accurate one.

Let me ask this, Dr. Bourne.

I think everyone agrees with the fact that the young people should not be sent to prison or some of the stiff penalties they have experienced in the past for having possession of a minor amount.

There was one program I would like to get your comment on that has been written up in several areas that apparently gives one other alternative we did not list in the opening statement.

This is regarding the Sacramento experiment.

Are you familiar with this at all?

Dr. DuPont. I am, Mr. Beard.

Mr. BEARD. All right.

Do you have any comments, Dr. DuPont, to that—would you like to describe the Sacramento experiment and then respond to it?

Dr. DuPont. The key element of that plan is that for repeat offenders there are escalating penalties, including ultimately prison sentences available for particularly aggravated cases.

An issue that has not been addressed here this morning is the question of what happens with particularly aggravated cases or repeat offenses. This is something that would need to be considered.

<sup>5</sup> Kwachas.

Furthermore, I believe the Sacramento experience is, as you say, a citation diversion approach where the offenders are encouraged to take a drug abuse course.

Mr. BEARD. It is mandatory, if I am not mistaken.

Dr. DuPONT. That is right, strong "encouragement."

Then, if they complete that and don't have another offense within a 2-year period, the offense is expunged from the criminal record.

Mr. BEARD. That is right.

There is the opportunity to where, when they are caught for possession, they have to go to this course and that is the time when people who, like yourselves, express the potential danger of it, really have a chance to zero in on it.

Dr. DuPONT. There is one newer wrinkle on that model that has been pursued in Minnesota where they require the offender to pay for the course rather than the taxpayers.

Mr. BEARD. How do you feel about this as something to examine?

Dr. DuPONT. I think it is well worth examining.

Mr. BEARD. As a matter of fact, the State of New York, if I am not mistaken, their legislature is considering pending legislation along this line, approximately.

I would like at this time to submit for the record the comments made by the Barristers' Club of San Francisco as to their summation description of how they feel it's been working, and also a copy of the law.

Mr. ROGERS. Will the gentleman yield?

Mr. BEARD. Yes.

Mr. ROGERS. Actually, under the present Controlled Substances Act, isn't there currently a procedure in the law which allows a first-time user of small amount—actually to have the judge recommend that and expunge the record?

Is that not true?

Mr. BENSINGER. Yes, sir; that is true.

Mr. ROGERS. Yes; it is true.

Thank you.

Mr. WOLFF. Without objection, the San Francisco statement will be made a part of the record.

[The information referred to follows:]

#### REPORT OF THE BARRISTERS' CLUB OF SAN FRANCISCO ON THE SACRAMENTO CITATION-DIVERSION PROGRAM<sup>1</sup>

##### I. SUMMARY

The Sacramento citation-diversion program is wholly operated within and administered by the Sacramento Police Department. There appears to be no statutory authority either supporting or prohibiting the program. Eligibility for the program is tightly restricted to minor narcotics offenses. Offenders who enter the program emerge from it without any arrest or conviction record. The program was developed jointly by the Sacramento Police Department and the Sacramento District Attorney's office. The Sacramento Municipal Court Judge and the Presiding Judge of the Superior Court were both advised of the program prior to its inception. They did not oppose the program, provided it was operated in a lawful manner.

<sup>1</sup> The Barristers' Club of San Francisco is deeply indebted to Tom Latham, Esq., of the Non-Victim Crimes Committee, for researching and authoring this report.

In comparison to the diversion program contemplated under sections 1,000 to 1,000.4 of the Penal Code (hereafter called the "State diversion program"), the Sacramento citation-diversion program saves about 31 hours of professional time per case, as well as associated costs of support personnel and facilities.

## II. HOW THE PROGRAM OPERATES

### A. Eligibility Criteria

A person is eligible for the Sacramento citation-diversion program only if the person fits within certain eligibility criteria.

1. The person must be at least 18 years old.
2. The person must be a resident of Sacramento County.
3. The person must be in possession of no more than one ounce of marijuana when apprehended, or no more than 25 pills of amphetamines or similar "light" drug.
4. There must be no indication of a narcotics offense more serious than possession (such as dealing).
5. The person must not be involved in any of the following additional offenses at the time apprehended: (a) any felony; (b) any misdemeanor against person or property; (c) driving under the influence; (d) any firearms offense; (e) prostitution; (f) gambling; or (g) possession of paraphernalia.
6. The person must not have any record of: (a) a prior arrest on a narcotics offense; or (b) a prior conviction of any felony.

### B. Determination of Eligibility

The apprehending officer makes the determination whether a person fits the criteria outlined above. Age and residency are determined from information on a driver's license or other identification. The officer checks for a prior arrest or conviction record by calling the central office on his radio.

### C. Citation Procedure

When the field officer determines that a person is eligible for the citation-diversion program, the officer completes a juvenile offense form specifying the offense (no special form for this program has been printed). The defendant signs a promise (on the form) to appear, before the diversion officer at 9:00 a.m. the next business day. Once the defendant has signed the promise to appear, he is free to go on his way.

### D. The Diversion Program

The diversion program is operated by the Sacramento Police Department. The diversion officer is an employee of the Youth Services Division of the Department. When a defendant first appears before the diversion officer, the officer again checks the eligibility of the defendant for the program. If the defendant is eligible, the officer then explains the terms of the program. The defendant must appear for counseling with the diversion officer. The counseling may include a maximum of 16 counseling hours over a period not exceeding 30 days. If the defendant faithfully appears for his counseling appointments and completes the counseling program, no charges will be brought against him. He will emerge from the program without any arrest or conviction record. If the defendant does not wish to enter the diversion program or fails to attend the counseling sessions, a formal complaint will be sent to the District Attorney for issuance of an arrest warrant. All communications during the counseling will be confidential and will not be used in any subsequent court proceeding.

After hearing the terms of the diversion program, if the defendant decides to enter the program he is asked to sign a "contract" to evidence his decision. In essence, the "contract" states that the defendant, without admitting or denying guilt of the offense charged, agrees to waive his rights to be arraigned within 48 hours, to have a preliminary examination within 10 days of arraignment, and to have a speedy public trial. The defendant also agrees to appear before the diversion counselor as requested for a total of not more than 16 counseling hours over a period of not more than 30 days.

If the defendant lives up to his agreement to appear for counseling, he will automatically complete the diversion program. At the end of the program his file will be closed and he will have no arrest or conviction record. The only record of the person's involvement in the program will be the confidential files

which the diversion officer maintains. These files are not part of the public record.

One object of diversion counseling is to impress upon drug users the serious legal penalties they will be subject to if apprehended a second time. This portion of the diversion counseling is called "reality therapy". It is centered around an effort to bring home the harsh reality of a narcotics arrest or conviction and its impact on employment, etc.

A second object of diversion counseling is to determine whether adverse emotional, medical, family, or social conditions have helped cause the drug use, and whether anything can be done to treat those causes. The Diversion officer can refer a defendant to a family therapy agency, crisis clinic, or other appropriate counseling agency. The referral is not binding upon the defendant since it does not fall within the terms of the "contract" for entrance into the diversion program.

#### *E. Experience of the Citation-Diversion Program*

The Sacramento citation-diversion program was started during July, 1973 by the Sacramento Police Department. During the year that the program has been in operation, about 80 defendants have entered it. At first glance this figure might seem low, in light of the minor marijuana offenses one would expect in a major city. The low number is explained in part by the restrictive eligibility requirements. The eligibility criteria exclude people with prior narcotic arrests and people who are involved in some other offense such as driving under the influence when apprehended.

At the beginning of the program, diversion intake and counseling was handled by two officers. Experience has shown that only one officer is required to handle the case load, and even then only on a part time basis. A typical case load is about five to six persons a month. A typical case requires about 4 hours of counseling.

Of the 80 people who were issued citations in conjunction with this program, everyone has appeared for his first meeting with the diversion officer. Everyone has decided to enter the diversion program rather than face booking and formal charges. And everyone has cooperated with the diversion counselor by faithfully appearing at all appointments. In other words, there has been absolutely no problem with people failing to appear.

The success of the diversion counseling in preventing recidivism cannot be validly evaluated at this time because the program has been in operation only one year. To date, 2 out of 80 defendants have been arrested a second time on a narcotics offense.

#### III. COST SAVINGS

Cases which are eligible for the Sacramento citation-diversion program are cases which, in the absence of the program, would fall within the State diversion program under section 1,000 of the Penal Code. The most valid way to estimate the costs saved by the citation-diversion program is to compare it with the State diversion program. The Sacramento Police Department prepared such a comparison. A typical case in the citation-diversion program requires about 5 hours of professional time. The cost savings of the citation-diversion program is therefore about 31 professional hours. Professional time means the time of a police officer, deputy district attorney, defense attorney, judge, probation officer, or mental health department counselor. The above estimates do not include the cost of support personnel and facilities. If those costs were accounted for, the cost savings of the citation-diversion program would be even larger.

The reason for the significant cost difference between the two programs is apparent when one considers the difference in operation of the two programs. The citation-diversion program does not involve any personnel outside the police department. The citation is written by the field officer, and the counseling is conducted by the diversion officer, an employee of the Youth Services Division of the Police Department. The counseling takes place over a 30 day period. In contrast, the State diversion program involves personnel from the police department, the courts, the district attorney's office, the probation department, the department of mental health, etc. Since many extra components of the system are involved, it is natural that many extra hours of professional time are expended. In addition, the State diversion counseling extends over a minimum period of six months, not just 30 days.

## IV. STATUTORY AUTHORITY

The Sacramento District Attorney's office has adopted the position that, "There may be nothing in the statutes to support the citation-diversion program, but there is nothing in the statutes to prohibit it either." The program was developed jointly by the District Attorney's office and the Police Department. When the program was initiated, the District Attorney's office brought it to the attention of the Sacramento Municipal Court and the Presiding Judge of the Superior Court. The Judges did not oppose the concept of the program, provided it was operated in a lawful manner.

Both the Police Department and the District Attorney's office believe the program is a reasonable way to "save a great deal of cost to the entire criminal justice system", to relieve "overworked investigators from petty offenses so that they can concentrate on more serious cases", and to give a first-time offender a "second chance without the burden of a criminal record."

The Sacramento citation-diversion program contains two aspects which might seem novel when measured against statutory authority. First, the "citation" is not really a citation. At least it is not a citation within the meaning of section 853.6 of the Penal Code. That section deals with citations containing promises to appear in court, and conditions under which a citation can serve as a complaint in court. In contrast, the "citations" issued under this program contain promises to appear at the Police Department, and are not used as complaints at any time. In effect, these "citations" have no direct legal sanction. They are little more than requests to appear at the Police Department. The request is effective because of the consequences an offender will incur if he fails to appear, the filing of a formal complaint.

The second novel aspect of the citation-diversion program is the fact that the diversion counseling is conducted by the Police Department. Apparently there is no statutory authority which either sanctions or prohibits the Police Department from conducting diversion counseling.

Dr. BOURNE. May I add something?

Mr. WOLFF. Yes, sir.

Dr. BOURNE. I think this points out a couple of points that may be important. One is that I think the best analogy to this situation is to the traffic violator, we are giving a citation that is very similar to the way we handle traffic violators. I think in many States people are required to take traffic education courses by the courts as a result of getting a traffic violation, and I think that this kind of approach is completely consistent with the overall policy we are talking about.

I think it also demonstrates what we feel is an extremely important element in this which is to leave the discretion up to the individual States, that if a State wishes to set up a mechanism like this and feels it is the appropriate way to handle it within their jurisdiction this is something else we feel is completely consistent with our overall policy.

Mr. BEARD. See, I get a little hung up the way we continue to compare the traffic violation to the use of marihuana. I want to try to instill a little bit different attitude and I hate to see in many areas the leadership bringing up that comparison. That may be a very simplistic statement, but it is kind of my feeling. Let me ask you this, Dr. Bourne.

All right, we always start out somewhere.

So, marihuana was an extremely serious problem, without any question. A long time ago, when we first started on it. It was something you didn't talk about, but you knew it was wrong, so the Government and everyone, it was very popular to stand up and say, "It is terrible and we will not allow it at all."

As this started developing more and more people began using it, et cetera.

Now, we are down talking about decriminalization. After decriminalization, people are talking about, well, legalization will be the next step. Oh, it may not be next year or 6 months from now, but maybe 5 years from now, after we have gone that one step further, we are going to be talking about legalization.

I would like to give you an opportunity, but you spoke at the NORML—National Organization for the Reform of Marijuana Laws—convention and it is stated in here in a speech before the conference, "Dr. Peter Bourne, Adviser to President Carter on Drug Abuse and Mental Health echoed the importance of decriminalization as a prelude to legalization." Is this accurate, out of context?

You see that is the kind of thing that somewhat concerns me.

Dr. BOURNE. That, Mr. Beard, is a misrepresentation of my views. That is not what I said at that meeting.

I strongly oppose legalization. I, in fact, made the distinction at that meeting. There are many people in that organization who feel legalization should be the next step and I do not. I think that there has been a major change in our attitude over the last 10 years because we have become much more informed about this drug.

There was a state of panic in the country 10 years ago because people were misinformed. There was a feeling that marihuana was a very, very dangerous drug, comparable to heroin or even more dangerous in some people's minds.

We have done an extensive amount of research and, contrary to much of the prejudice that existed, we have yet to find a serious medical consequence related to marihuana.

Mr. BEARD. If I may just have just one more question in response to that though, is it not correct that what, as the group of professionals, the medical people were with the U.N., have they not been absolutely consistent about coming down hard on the dangers of marihuana?

As a matter of fact, have they not been very vocal in their opposition to the leniency projected toward marihuana?

In your presentation before the U.N., I saw no comments regarding decriminalization because I think, would you not say, it is safe to assume they are very, very adamant about the health consequences, as far as a group of medical professionals?

Dr. BOURNE. I don't know.

I don't think one could say that there is a single health professional who speaks on behalf of the U.N. There may be individuals who have spoken.

Mr. BEARD. Excuse me, just referred to the resolution adopted February 24, 1975, which I would hope Ms. Falco or somebody would be familiar with and their dealings about the U.N. Commission on Narcotic Drugs. It leaves no doubt as to the strong medical feelings they have on the danger of marihuana.

Dr. BOURNE. It doesn't go to the issue of criminal penalties and it leaves the option up to each country, which is what we are talking about.



Mr. BEARD. Well, all right, but I just wanted to respond to your fact about you talked about all the medical research and that nothing has come out stating that it is really a problem. So that is the reason why I responded regarding, there are other—

Dr. BOURNE. If we are going to base our criminal penalties on the medical findings then we shouldn't be talking about decriminalizing marihuana, we should be talking about imposing criminal penalties on those who smoke cigarettes and drink alcohol.

Unfortunately, our law is not always based on that much of a rational decision.

I don't think the U.N. has said that individual countries should base their laws on medical findings exclusively.

Mr. WOLFF. Time of the gentleman has expired.

I just would like to pose one question, intervening here before I pass the questioning over to Mr. Mann.

There has been a likening of the use of marihuana to a traffic offense. I would like to put the two together for a moment. Marihuana is a mind-altering substance. What about the use of marihuana in the commission of some other type of either criminal or, and this is only the occasional user, or in an accident, shall we say? How would that be affected by decriminalization?

Dr. DUPONT. We have many alternatives under the title "decriminalization."

Let me emphasize, Mr. Chairman, that the levels of marihuana use in the United States today are of particular concern with respect to highway safety. One of the top priorities of the National Institute on Drug Abuse in the next year is to establish clear correlations between various levels of marihuana in the body and specific decrements in driving performance as prelude to institution of policies similar to what we have for alcohol in highway safety now.

We see this as an urgent priority.

Mr. Wolff. In other words, your recommendation would be that a casual user or a person who had small amounts of marihuana in his or her possession should be treated in the same fashion as someone who is under influence of alcohol, either in the commission of a crime or in an automobile accident or the like?

Dr. DUPONT. Yes, sir.

Mr. WOLFF. Thank you.

Mr. Mann.

Mr. Mann. Dr. DuPont, I read something last week about a report issued out of your office about partial findings on the effect of marihuana on driving?

Mr. DUPONT. Yes, you did, and I wanted to respond earlier when Mr. Rogers was talking about our research.

We did publish this last week and I would like to submit it for the record. There are a broad range of serious medical concerns about marihuana use. The most urgent one however right now does have to do with driving.

Mr. MANN. I think probably legally, changing Federal marihuana laws to civil offense would not affect State statutes which make driving under the influence of drugs a crime. However, it might make

enforcement a little more difficult; which raises another interesting question.

Incidentally, I wish that you, Mr. Civiletti, would furnish the same type of information Mr. Rogers asked for concerning medical studies with reference to the current State penalties and practices with reference to marihuana in cooperation with our staff who already, perhaps, have some basic data on that.

Mr. CIVILETTI. Yes, Congressman.

[The information referred to follows:]

Currently there are 8 States which have in effect decriminalized the possession of marihuana. Attached is a chart compiled by the Center for the Study of Non-Medical Drug Use which shows how these 8 States treat possession of marihuana. The other 42 States still retain possession of marihuana as a criminal offense with a maximum penalty, for the first time offender, ranging from 30 days in prison up to 1 year. Many of these States, however, have provisions for the conditional discharge of first-time offenders.

SUMMARY CHART OF 8 STATE DECRIMINALIZATION LAWS

State	Maximum fine Imposed	Maximum amount possessed	Criminal or civil violation	Effective date
Oregon.....	\$100	1 oz.....	Civil.....	Oct. 5, 1973
Alaska.....	100	Any amount in private for personal use or 1 oz. in public.	.....do.....	Sept. 2, 1975
Maine.....	200	Any amount for personal use <sup>1</sup>	.....do.....	Mar. 1, 1976
Colorado <sup>2</sup> .....	100	1 oz.....	Class 2 petty offense; no criminal record.	July 1, 1975
California <sup>2</sup> .....	100	.....do.....	Misdemeanor; no permanent criminal record.	Jan. 1, 1976
Ohio <sup>2</sup> .....	100	100 gms. (approx. 3½ oz.).....	Minor misdemeanor; no criminal record.	Nov. 22, 1975
South Dakota.....	20	1 oz.....	Civil.....	Apr. 1, 1977
Minnesota <sup>2</sup> .....	<sup>3</sup> 100	1½ oz.....	.....do.....	Apr. 10, 1977

<sup>1</sup> There is a rebuttable presumption that possession of more than 1½ ozs. is with an intent to distribute.

<sup>2</sup> Distribution of marihuana by gift, or for no remuneration, is treated the same as possession in 4 States: California (for up to 1 oz.), Colorado (up to 1 oz.), Ohio (up to 20 gms), and Minnesota (up to 1½ ozs.).

<sup>3</sup> Only Minnesota provides for increased penalties for 2d offense: 0 to 90 day, in jail and/or a \$300 fine.

Compiled by the Center for the Study of Non-Medical Drug Use.

Mr. MANN. One enforcement problem is causing me some concern at the moment, and I do want to put it to Mr. Civiletti. You know the current major effort this country is making toward drug enforcement is aided substantially by the loosening to some extent of our search and seizure laws or certainly by the ability to get search warrants on probable cause based maybe on smelling marihuana, which often leads to other drug arrests, very often, as a matter of fact. Would changing it to a civil offense remove it as a basis for probable cause in search warrants?

Mr. CIVILETTI? Yes, sir.

Mr. MANN. If you smelled the smoke coming out of the drug house, it wouldn't give you cause to search?

Mr. CIVILETTI. That's correct, you would have to have other bases other than simply the smell or sight of a small quantity.

Mr. MANN. I know we are all concerned about the effectiveness of the criminal punishment system in this country, about sentencing. And we seem to have forgotten that punishment is a deterrent. We seem to have forgotten that. It is inadequate to say that we are going to be expressing societal disapproval or extreme discourage-

ment, as Ms. Falco says, while we eliminate criminal sanctions. As a matter of fact, we are making a slow retreat because of lack of societal support, lack of willingness to furnish the resources to adequately enforce our laws.

Now, this committee has already gone into the problem of heroin in New York. They lack the resources to enforce heroin laws. And they say, "Why should we furnish that kind of law enforcement support for something that is essentially a victimless crime?"

I am sure the same argument was made when we repealed prohibition, that there wouldn't be any increase in consumption. We had a man run for office down in South Carolina, for governor, as a matter of fact, at one time when we were confronting this problem of open bars versus licensed stores. He would hold up a quart in one hand and a 1-ounce jigger in the other. He said, "What would you have me able to buy, a 1-ounce jigger or would you make me buy this 32-ounce drum, as if that caused more drunkenness?"

And perhaps, it does. But we are certainly consuming more alcohol in South Carolina now that it can be bought by the ounce. So can we go to a civil penalty and have the societal disapproval that we profess as a policy?

You know we retreated all the way on alcohol. Many a day I have gone and seen that \$15 fine and I would admit it wasn't doing much good. I agree with your assessment, we don't want the cure to be worse than the problem. But can we abandon the social stigma, the peer pressure that comes from criminal penalty vis-a-vis a fine?

And I throw in one last little remark, surely we will have to gage those civil penalties based on some kind of severity. What strength of THC in cigarettes, frequency of public possession, et cetera? Who will be making the decisions that are supposed to reflect society's disapproval?

Dr. BOURNE. I think your analogy with prohibition is very apt. I think one of the difficulties we have is that this is a very complicated issue.

One could, perhaps, make a strong argument that we should still have prohibition because it is clear fewer people would drink alcohol if we had prohibition.

The issue with marihuana as it was with prohibition is what is the price we pay? And I think that is really what we are addressing as far as this issue is concerned also and the feeling is that the price we had to pay in many, many ways in terms of what—the effect it had on individuals, young people who were convicted, the effect it has on the resources of law enforcement agencies were just too high in terms of whatever deterrent effect there may be, and also we feel that the deterrent effect really is not that great and in many instances, because of the lack of enforcement, there may be no deterrent effect at all.

While I think that what we are talking about is a middle road between prohibition and maintaining that high cost of penalties, the message we hope would still be there that marihuana is damaging, it is a drug, we shouldn't use drugs and we want to discourage the use of it without saying we are backing off and we are going to allow everybody to use it.

Mr. MANN. I think we are expressing a lack of confidence in the judicial system in its sentencing processes.

The abuses of the past certainly have been excessive. The expectancy that a judge can always be Solomon is, of course, unjustified. Nevertheless, let's not overreact. We talk about traffic offenses. They are still crimes, aren't they, Mr. Civiletti?

Mr. CIVILETTI. Yes, sir.

Mr. MANN. And judges have been pretty moderate about those.

Of course, the statute is fairly moderate about them, too. But do we have to cop out on the basis that we don't carry out the criminal sanctions appropriately?

We talk about various sentencing alternatives these days, preindictment probation, indeterminate sentences, all types of agencies that work on those matters short of an actual criminal record, and then expungement under certain conditions. I think the present method could very easily be adapted if we applied a little more resources.

I don't agree that changing to a civil penalty makes the enforcement problem any less. Not if we believe what we have just finished saying down there. That is, if you still have extreme disapproval on the use of it.

Mr. ROGERS. Would you yield?

Mr. MANN. Certainly.

Mr. ROGERS. Really hasn't this all come about, it seems to me, because we have looked at the problem and done some research, medically? And when we compare the effects of alcohol, as you brought out, I think, Dr. Bourne, how many deaths do we have a year from alcohol, some 9,000 to 11,000?

Dr. BOURNE. It is probably substantially higher than that.

Mr. ROGERS. I mean directly from alcoholism, not getting into automobile accidents or anything like that.

Dr. BOURNE. Even that is conservative.

Mr. ROGERS. Probably.

Well, now, what have we shown as to deaths from use of marijuana.

Dr. DUPONT. No deaths.

Mr. ROGERS. None. I think it is because of this that this has been put into national debate, as to how we handle people's use of it. I think, frankly, that is wise. So, we have to make these judgments and we still need to do more research, I would agree with Dr. Bourne, although I wonder how long, you know, we do.

So I think that really is a basis of what we are looking at. Where we have this one policy where we know what a drug itself will do. Then we are having medical evidence to show—thank you.

Mr. WOLFF. The gentleman's time has expired, but please proceed.

Mr. MANN. One last item, Mr. Chairman.

I think it was Ms. Falco who said that in justifying our position with other countries that we can change our domestic handling of matters because marijuana really doesn't harm other people.

Since it is a matter that doesn't result in harm to other people. You know, we look at alcohol and perhaps put it in that category. I don't think we put it in the category as much as we put marijuana, but we put it in that category in our licensing of it.

Yet short of any criminal offense that arises from the use of alcohol, just as with any criminal offense that might arise from the use of marihuana, alcohol does incalculable harm to other people as I am sure marihuana would do.

Thank you, Mr. Chairman.

Mr. WOLFF. I just cannot let the opportunity pass.

Dr. DuPONT, you indicated there were no deaths attributable to marihuana. There would seem to be a lack of statistics because, after all, the fact is there are no deaths due to overdoses of marihuana, but there obviously must have been some circumstances under which marihuana was used and deaths have occurred.

That is basic to the problem we seem to have in assessing this situation: The physical addiction to a particular drug and the physical effects that are attendant with the use of marihuana, and finally the attendant psychological problems that ensue from this. For example, we have not been able to get the figures of deaths attributable to any source at all from the city of New York for the past 1½ to 2 years. The medical examiner refuses to give us the information.

So, I don't think we can let pass the idea that there are no deaths due to marihuana. I think this would be a misconception.

Mr. BEARD. If the Chairman will yield on that particular point, if I may add just quickly.

Doctor, you stated before the Eastland committee, you made the point that parents who think their child is smoking pot, he wouldn't be drinking booze. You stated they are terribly mistaken.

Now, you said one of the most important sad lessons of the last few years, there is not a tradeoff between these two drugs. On the contrary, within a group of young people who are smoking the most marihuana we found an excess of heavy drinkers and vice versa.

So, would it not be accurate to say that compounding the form of—form of intoxication resulting from the use of marihuana and alcohol is much more serious than just, say, marihuana intoxication and alcohol intoxication?

So, really, in some cases it is very hard to separate, is it not?

Dr. DuPONT. Yes, Mr. Beard. I should have noticed when Mr. Rogers asked that question about marihuana-caused deaths that none of the other distinguished panelists seated at this table rose to answer. I should have known there was a problem, and I should have restrained myself also at that moment. But in the silence, I did respond.

The question which was posed by Mr. Rogers was a fairly specific one and that was how many deaths have been directly caused by marihuana. In the preceding colloquy with Dr. Bourne, you will notice he did exclude those causes of death which are not directly toxic. So that was the context in which I answered.

Let me mention two additional points that concern me about our discussion. One is that the attorneys here are making a distinction that I think many of us who are not attorneys have a hard time understanding. They say that traffic violations are crimes. They are legally correct, as I have learned, although this is not the way the public generally perceives traffic violations, including parking tickets.

When you fill out an application for employment, for example,

or insurance and you are asked, "Have you been arrested?" Most of us who have paid a parking fine, for example, do not consider that an arrest. We simply write "No." The practical effect of a parking violation, while it is technically a crime, is very different from other "crimes." It is that difference, I think, that we are trying to get at this morning. Most people respect parking rules most of the time without threats of prison or disabilities in insurance, employment, et cetera.

The second point is the issue of the definition of the term "probable cause." The current administration proposal to maintain fines which would be enforced by the police. I think the policeman could, in the pursuit of giving a citation for possession of marihuana enter a house or automobile if, for example, he smelled the drug, and that would constitute probable cause. But, again, I am not an attorney and I am not certain.

Mr. WOLFF. Would you like to respond to that?

Mr. BENSINGER. I think, under the Rules of Federal Criminal Procedure, offenders under decriminalization statutes may not be compelled to be summoned before magistrates, nor would search warrants have their source of power. I would defer to my legal adviser, the Assistant Attorney General in the Criminal Division on that, but I think Congressman Mann's point was important about certainty of punishment and availability of resources.

Further, Congressman Mann's point about marihuana not being the sole type of drug used or trafficked in by an organization is true. We have seen repeated instances of organizations not only dealing with marihuana but cocaine and heroin in very large quantities. Certainly, from a Federal enforcement standpoint, we need to have the intelligence and enforcement opportunities to continue to work against all three trafficking organizations. And it isn't as though this drug, marihuana, operates in a vacuum or on its own. I just wanted to pursue the point you were raising.

Mr. WOLFF. Yes.

Mr. ROGERS. Well, it still would be a crime if it's over a certain amount, would it not?

Mr. BENSINGER. The proposal would be—

Mr. ROGERS [interrupting]. Under the proposed bill. So you would still have the right to pursue anything. Suppose it's over an ounce or it's 2 or 3 ounces. You still have that right, just as you would any other crime, would you not, Mr. Civiletti?

Mr. CIVILETTI. It's difficult by the sense of smell to determine quantity.

Mr. ROGERS. So you would have to investigate before you knew, wouldn't you?

Mr. CIVILETTI. Other bases.

Mr. ROGERS. Sure. If you said, I thought it sounded and smelled like there must have been a ton in there, so you could go in, couldn't you?

Mr. CIVILETTI. Yes.

Mr. ROGERS. Why, sure. So I think you still have enough authority to pursue and investigate.

Thank you.

Mr. WOLFF. Mr. de la Garza.

Mr. DE LA GARZA. Thank you, Mr. Chairman.

Mr. CIVILETTI, if you have available a brief or research as to, we are going to have to be dealing with it in a constitutional concept, between decriminalizing, legalizing, and your narrow definition is between the criminal and civil penalty, differentiating, as I assume you do, by concept or amount, can you do that? Or do you have that available?

Mr. CIVILETTI. I can do it and submit it for the record.

Mr. DE LA GARZA. Would you, please?

Mr. CIVILETTI. There is a significant distinction between what we are proposing, which is the civil penalty, and the most minor criminal penalty, be it but a fine or 2 days in jail, or whatever, and that is significant. It's not significant, I was suggesting, as a practical matter in enforcement, direct enforcement prohibitions against marihuana. It has collateral effects such as the search warrant.

Mr. DE LA GARZA. Would you submit whatever you have for the record, please?

[The information referred to follows:]

The legalization approach would simply remove all penalties concerning the possession of marihuana. Under this approach, marihuana would no longer be considered contraband and thus would not be subject to seizure. A person in possession of or a vehicle or structure containing marihuana could not be searched, since no crime would be involved. The legalization approach would, at the minimum, express society's neutrality towards the use of marihuana.

Under the civil penalty approach, a person in possession of marihuana would commit a civil violation and would be subject to a civil penalty. In those States which utilize the civil penalty approach, the penalty usually is in the range of \$100 to \$200. Under this approach, a person would not be arrested but would be given a summons to appear in court on a fixed day. The officer at the time he issued the summons could seize the marihuana since it would be considered contraband. However, he could not conduct an incidental search of the person since the person would not be taken into custody. See *Gustafson v. Florida*, 414 U.S. 280 (1973). Because the civil penalty approach, although expressing continued societal disapproval and imposing a monetary sanction, involves no criminal offense, the person would receive no criminal record.

The primary distinction between the criminal fine approach and the civil penalty approach is that under the former, as is the case today for violations of traffic laws, a violator would be deemed guilty of a minor crime or infraction. This has the collateral consequences that the law enforcement officer at the time of the arrest could seize the marihuana and, if the decision was made to take the person into custody as opposed to merely issuing a summons, could also conduct an incidental search of the person and the immediate area. See *Gustafson v. Florida*, *supra*. Under the criminal fine approach, if a person was found guilty of possession of marihuana, he could receive a criminal record. However, a statute under this approach could, as is done in Colorado and Ohio, provide that no criminal record be deemed established as a result of conviction for the infraction, or alternatively, could provide for expungement of that record after a certain period (e.g., a year), conditional upon the lack of subsequent violation by the defendant of any drug law, thus preventing a youth committing an isolated transgression of the marihuana possession statute from having to carry the stigma of his act with him for life.

Mr. CIVILETTI. Certainly, sir.

Mr. DE LA GARZA. Dr. Bourne, you mention as an outright statement that there is no serious medical consequence associated to the use of marihuana. Do you stand on that statement as a positive, unqualified statement?

Dr. BOURNE. What I said is, to date, the extensive research that has been done has not yet demonstrated any serious medical consequence. I did point out that we have a serious problem with people, presumably with people smoking and then driving automobiles. But in terms of direct medical effects on the body, the evidence to date does not suggest that there is any serious medical consequence.

However, and I mention this also, there needs to be a continuation of research because the findings are not necessarily final.

Mr. DE LA GARZA. Dr. Bourne said he didn't know, to the extent of the research available. Has any research been done on rats, mice?

Dr. BROWN. Yes; I think I will defer to Dr. DuPont.

Dr. DUPONT. Dr. Brown has given me the rats and mice; he'll take the people, I guess, is what that exchange means.

There has been a considerable amount of research on the effects of marihuana. Much of it does raise questions, but I think, narrowly focused. Dr. Bourne's statement does stand. That is, in studying the clinical effects, the practical effects in people, we have not found cancer, or any other particular problem associated with marihuana consumption. However, in rats we have found that marihuana consumption does depress the immune system and this raises a question about the human body's ability to deal with infection and, for that matter, potentially carcinogenic substances.

Mr. DE LA GARZA. Do you know of any person who has died from an overdose of saccharin?

Dr. DUPONT. No, sir.

Our society applies a totally different standard for drugs used for recreational matters. We have known harmful substances which we still permit; yet other substances where we find problems only associated with excessive dosages are removed from the market even if the findings only involve laboratory animals.

Mr. DE LA GARZA. We are getting into the problem where the right hand doesn't know what the left hand is doing. We are getting into a problem with the only pesticide that can kill fire ants and toe crabs. EPA testified that had no field of study, but rather because of some massive overdoses of the market, somebody in Canada says saccharin caused some malfunction to the system of rats and mice, of the market.

Then you distinguished gentlemen here saying, well, not so with marihuana.

Dr. BOURNE. Well, I want to make it clear that——

Mr. DE LA GARZA [interrupting]. And lady. Excuse me, I didn't mean to leave you out.

Dr. BOURNE [continuing]. Merely because there are not major demonstrated health hazards related to marihuana discovered as yet, that there—this should not be used as any reason to encourage use. It is still a drug, it still carries with it potential hazards.

We do know, for instance, that it causes bronchitis. Though that is not a major health hazard, it is a reason for not using it. It is a minor health hazard. This is true with virtually all drugs. There are side effects and reasons for not using them.

Even aspirin causes side effects, though we don't regard them as serious enough to warrant not using aspirin.



Mr. ROGERS. Would the gentleman yield?

Mr. DE LA GARZA. Briefly.

Mr. ROGERS. Very briefly.

It is my understanding that the reason Food and Drug has said they are going to take saccharine off the market is because of the law which says that any time you find any cancer resulting at all, no matter what the benefits may be, it must be taken off the market.

So the law is a little different in that it is specific on cancer, I believe.

Mr. DE LA GARZA. Thank you very much for your contribution.

Mr. WOLFF. I would just like to ask for one particular piece of information.

The panel—the administration—is coming before the Congress recommending the concept of decriminalization of marihuana.

Do you have in mind the same type of approach or the same request with respect to cocaine?

Dr. BOURNE. We don't at the present time.

The issue of cocaine is an extremely complicated issue. We are in the process now of very carefully reexamining our policy on that issue.

In the meantime, the existing policy will stand as far as cocaine is concerned.

But, Mr. Chairman, as we both know, it is a very complicated issue involving both domestic and foreign policy and we are going to be working very hard to examine all aspects of that policy in the next few weeks.

Mr. WOLFF. One other aspect.

Is it only the question of the physical damage that might be done to an individual through the use or abuse of a substance to which we give this consideration?

It seems to me one aspect of all of this is the question of a mind-altering substance of some sort, the question of what other types of psychological damage might occur in an individual as a result of abuse of a substance. I think there should be a clear definition made between use and abuse of a substance.

We came upon the fact in Europe, in an examination of our NATO forces there that somewhere around 25 percent of the U.S. troops in Europe today are abusing some mind-altering substance, whether it be marihuana, alcohol, heroin, or the like.

Now, by putting all of them together, we are not trying to say that there are not differentials that exist between the substances, but what we are saying is that the end result in the abuse of a particular substance is that merely through the use of this type of substance we necessarily degrade the efficiency of a force the purpose of which is to protect the security of the United States.

Now, that is an extreme case, I know. But by the same token, should not that be the delineator that we use in making a determination such as this?

In other words, when we start talking about decriminalizing small amounts for possession, what if someone says they are not able to obtain a supply for small use and that they have to in some way warehouse the substance—marihuana?

Are you then saying that that person who has stockpiled some of the substance then should or should not come under the recommendations that you have put forward?

Dr. BOURNE. Obviously, any distinction in the final analysis has to be somewhat arbitrary. I think that the level of 1 ounce that has been used in many States is an arbitrary amount that people consider reasonable to suggest that you are only possessing it for your own use.

Perhaps some people would have a pound or 2 pounds and really only intend to use it for their own use. I am not sure you can absolutely make that distinction. You have to make an arbitrary cutoff at that point.

I don't think—obviously, we are not here to testify about specific legislation today, so—

Mr. WOLFF [interrupting]. Well, there is no legislation that we are specifically discussing.

Dr. BOURNE [continuing]. So I wouldn't want to get into what might be the appropriate cutoff level.

Obviously, one has to set some point which is an arbitrary point that says if you have more than such and such an amount, you are presumed to have it for the purpose of trafficking.

If you have less than that amount, it can be presumed that you have it only for your personal use.

Mr. WOLFF. That gets us to the point discussed with Mr. Civiletti, that if we decriminalize the possession and retain the penalties on the trafficker, making it difficult in order to discourage the use or abuse of this substance, then the individual who is a casual user who says, well, "I want to put up a year's supply of the stuff because I don't know where I am going to get it in the future," doesn't this complicate the situation very severely?

How are you going to treat this individual, as a trafficker?

Dr. BOURNE. My feeling is that that is his problem.

Mr. WOLFF. Whose problem, the user?

Dr. BOURNE. Of the user.

I don't think it is our job to make it easier for him to maintain an adequate supply. We are talking about what still remains a prohibited substance.

Mr. WOLFF. Then what we are talking about is not the question of how often the person uses the substance, but how much that person has in his possession, which really does not delineate whether this person is an abuser or a user.

Dr. BOURNE. Well, that is correct.

And I think it is an important distinction. I think it is true not just with marihuana, it is true with a lot of drugs. The distinction between use and abuse has been a terrible problem in this field for many, many years.

There has been a tendency by some people to say that anybody who uses an illicit substance is by definition an abuser when we know that that isn't true. We know that 35 million Americans have tried marihuana, but we wouldn't regard them as abusers of marihuana merely because the drug happens to be illegal.

It is the people who use drugs to excess and who get into serious problems with them. Those are the people, I think, clinically we

regard as abusers. Obviously, with a drug like heroin that it is a relatively high percentage of the people who use the drug. There are clearly people who use marihuana, amphetamines, who use them occasionally, in effect, have no problem with them at all.

And there is a smaller percentage that for a variety of reasons use those drugs to excess, become somewhat psychologically dependent on them, and it may create problems for them.

Those people are regarded as abusers. But I think we have had constant definitional problems. I think we are going to continue to have them.

Mr. WOLFF. It has been indicated that the use of marihuana in treatment of glaucoma has been helpful. It has similarly been used to alter the side effects of some people who are treated with chemotherapy for cancer. These are clearly beneficial uses of the drug.

Would that mean that this substance then can be licensed for medical use today and if so, is it? In other words, how would people get this substance for medicinal use today?

Dr. BOURNE. I will let Dr. DuPont elaborate on this, but, in effect, it is handled like any other experimental drug. People apply to the FDA for license to use it as an experimental drug and it's handled in a similar manner.

Dr. DUPONT. That is right.

Mr. WOLFF. Mr. Skubitiz.

Mr. SKUBITZ. Thank you. Mr. Chairman.

Dr. Bourne, I am on this committee as an ex officio member. I serve by sufferance of our chairman, and I thank him for permitting me to serve on the committee.

I would like to direct my first question to Dr. Brown.

Dr. Brown, how many people do you have that are doing research work in this particular field?

Dr. BROWN. The research work, Mr. Skubitiz, is carried out by a wide range of people throughout the alcohol, drug, mental health field.

The predominant responsibility is under Dr. DuPont, so I think he can give you an overview of that better than I could.

Mr. SKUBITZ. I wonder how many you have in the department itself that spend their time in this field.

Dr. DUPONT. We have about 4 or 5 people out of our staff of about 300—at the National Institute of Drug Abuse—who work specifically on marihuana.

We currently support 112 research projects totaling about \$4 million, specifically targeted on marihuana.

Mr. SKUBITZ. You have five people in the department that give full time to this?

Dr. DUPONT. That is correct; yes, sir.

Mr. SKUBITZ. I assume the rest of the projects you have or rest of the research is by, or is in the colleges?

Dr. DUPONT. Yes, sir, most of these studies are carried on in medical schools and research centers.

Mr. SKUBITZ. Scholarships, I assume, research scholarships?

Dr. DUPONT. Mostly our funding is for project research. A principal investigator, a senior researcher, applies to the National Institute on Drug Abuse or, as Dr. Brown, said, in some cases to other

organizations in the Federal research establishment, and asks for a grant to pursue research in his area.

Then he will hire associate researchers, often including young researchers, to work with him. In other cases, where we wish to direct research on a specific targeted area, investigators bid to do contract research.

Mr. SKUBITZ. Could you give us for the record, Dr. Brown, the projects that were carried on in the last fiscal year?

Dr. BROWN. We will.

[The information referred to is in the committee files.]

Mr. SKUBITZ. Thank you.

Dr. Brown, did you appear before the Public Health Committee about 5, 6, 7 years ago on this subject?

Dr. BROWN. Yes, in my introductory remarks I pointed out I appeared perhaps 15 or 20 times on this subject between 1969 and 1975.

I have been off the bench since then.

Mr. SKUBITZ. My recollection is that during that time, the first time you appeared, it was your belief that there were no substantial health hazards involved with the use of marihuana; is that correct or not?

Dr. BROWN. Yes. The high point of the public attention was when the Congress asked us to produce the first report on the health consequences of marihuana.

And literally the Nation hung on every word.

It reported very few, if any, health consequences. We are now 5 years down the pike and the fifth report was referenced by Dr. DuPont. At that time of the first report we did feel that a small number of already unstable people might be "pushed over the hill." The first report mentioned anxiety about the impact of marihuana on individuals age 10 to 14. This concern has grown in the past 5 years.

Mr. BEARD. Will the gentleman yield?

Mr. SKUBITZ. Yes.

Mr. BEARD. I am confused about the consistency of concern shown in the medical aspect. We are not going to—you know, the reason why the medical aspect is going to be a point of consideration is the very fact that one of the ways you go out to the people of this country and sell decriminalization is maybe to create in their mind that maybe marihuana is not as serious medically as has been stated by some people running around saying it will kill you.

But I think in the same token, I think you are doing a disservice by maybe not reemphasizing the unknowns or the potential or the fact that there are viewpoints that it could be a serious problem.

I think that you're kind of low-keying that, and it really burns me up just to be very honest with you.

Dr. DuPont, you appeared before Senator Eastland's committee and stated as a result of reports by various doctors, group of doctors in Switzerland, et cetera, that we should be very concerned that tests have come out that apparently do cause serious problems.

Yet we really seem to be continuously going back to the fact of after years of research and all this, we really don't see that much of a real serious problem.

Well, I think we should be just as—the young people or whoever is going to be making the decision, to go this route, I think should be aware of the serious aspects of it.

You even refer in this testimony to the potential hazards and dangers of low dosage, of low-dosage users.

I don't find this consistent.

Mr. SKUBITZ. Did you appear before the committee at that time, around 1969?

Dr. DUPONT. No, sir, I did not.

Mr. SKUBITZ. I recall, I believe, Dr. Brown appearing. It seemed to me that his testimony then summed up, was that so far as research was concerned, there were no medical substantial health hazards. Your position hasn't changed, Doctor, at all?

Dr. BROWN. When you start from a baseline that a substance will cause instant insanity and horrible crimes and lead to heroin addiction, pointing out that the health consequences were not demonstrable is quite a swing. At that time our concern of long-term effects, which we still do not know, and our concern for the possible effects on development, which is not emphasized by young people, was laid out and continues.

Somewhat to my surprise we have not found serious health consequences in approximately \$20 million of research in the last 5 years.

Mr. SKUBITZ. This is what bothers me just a little, Dr. Bourne. In one breath you are for decriminalization. In the next breath you are not for legalization. If there is no potential health hazard, why isn't your position just to legalize it?

Dr. BOURNE. Because I think—

Mr. SKUBITZ. Or are you like the politicians? We good politicians always learn how to slide down a barbed wire fence without ripping our pants. Now, is that what you are trying to do today?

Mr. ROGERS. Would the gentleman yield?

Mr. SKUBITZ. Yes, but I would like for the doctor to explain.

Mr. ROGERS. Sure. All right.

Mr. SKUBITZ. Would you like to?

Dr. BOURNE. Well, I think what we are trying to say and the message that I think I want to make clear to Mr. Beard, that we do want to communicate, is that there still should be appropriate caution with this substance. That we have done a great deal of research, we have not found dramatic or very significant health hazards. That any drug that is used this widely, any drug at all, particularly, one that is used this widely by this many people, we have to be cautious about. It may well be that 20 years from now we will find that those young people who smoked marihuana for 10 years every day during the 1960's will turn out to develop lung cancer.

Mr. SKUBITZ. Wouldn't that be pathetic if you found out in 20 years you had made such an error?

Dr. BOURNE. That is why we are urging caution, why we oppose legalization.

Mr. SKUBITZ. How are you, in view of the fact it doesn't create a substantial health hazard, talk about discouragement of its use?

Dr. BOURNE. Because we intend—

Mr. SKUBITZ. Just a second, Doctor.

How do you intend to discourage it, by advertising? If so, how?

Dr. BOURNE. We plan to do it by maintaining penalties, by education.

And even though it will be a disaster if it turned out 20 years from now that these young people developed cancer, we have no evidence at the moment to suggest that——

Mr. SKUBITZ [interrupting]. Doctor——

Dr. BOURNE [continuing]. What we do know is that if a young person is put in prison for smoking marihuana that will ruin his life. That is what we are concerned about.

Mr. SKUBITZ. Now in an education program you would carry on to discourage the use of marihuana, what approach could you use today, assuming it is not dangerous to the health?

Dr. BOURNE. I think it is a kind of education program which mustn't focus just on one drug.

Mr. SKUBITZ. Could you give me one teeny-weeny idea of what you would do to discourage it in an education program?

What would you tell the people?

In cigarettes, we said it is harmful to your health. It could cause cancer. What would you do in your program?

Dr. BOURNE. I think we are talking about the same thing. And I think we need to talk about marihuana within the context of those other drugs.

I don't think it makes any point to say you shouldn't use marihuana, because it is conceivable it could cause a health hazard.

We need to say all drugs are dangerous. If you drink alcohol you will have health problems, if you smoke, you will have health problems, and on marihuana it's conceivable you may as well.

I think we need to discourage all drugs.

Mr. WOLFF. We have a vote in the House. We will have to recess for about 10 minutes.

Mr. SKUBITZ. May I ask one before we leave, Mr. Chairman?

Mr. WOLFF. Go ahead, Mr. Skubitz.

Mr. SKUBITZ. Well, with all the dangers that we have pointed out with respect to the use of cigarettes in this country or anywhere—has drug education been effective?

Dr. BOURNE. It has among some people. I think one of the problems you face is in educating people to the dangers they are exposing themselves to, it is very hard.

Mr. SKUBITZ. The educated people.

Dr. BOURNE. Physicians, for instance, have reduced their use of cigarettes.

Mr. SKUBITZ. Let's talk about the public, generally. What about the use of tobacco? Has it decreased or not?

Dr. BOURNE. It is a question of among all the people it has. I think it is a question relative to what? We don't know what the use of cigarettes would be——

Mr. SKUBITZ. Put another way, are there more cigarettes and tobacco being used today than there was 1 year or 2 years ago?

Dr. BOURNE. Yes.

Mr. SKUBITZ. That is the answer I wanted.

Mr. ROGERS. Mr. Chairman, as I understand it, what you are trying to do is to avoid getting the Nation in the same position we are

now in with cigarettes or with alcohol. You are trying to encourage a policy of disapproval by saying, although we would decriminalize small use, there would still be a civil fine. You don't fine people for using cigarettes or just drinking alcohol, unless they get into some trouble with it.

So, as I understand it, you are putting forth the idea that you still want to discourage it.

And not let it be accepted as alcohol and cigarettes.

Dr. BOURNE. That is exactly correct.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. WOLFF. Committee stands in recess for 10 minutes.

[Recess.]

Mr. WOLFF. The hearing will come to order.

I want to thank you for bearing with us. We do have duties to perform within the House at the same time that we have these hearings.

I would like to announce that this afternoon we have Chief Edward Davis of the Los Angeles Police Department and President of the International Association of Chiefs of Police; the Honorable Richard Hatcher, Mayor of Gary, Ind.; Mr. Joseph Turner, Chief Investigator, Alaska State Troopers; Dr. Jerome Jaffe, Professor of Psychiatry, Columbia University; and Dr. Henry Brill, who, I believe participated in the White House Study on Marihuana.

Mr. Nellis would like to proceed.

Mr. NELLIS. Thank you, Mr. Chairman.

Mr. DE LA GARZA. I do have one question.

Mr. WOLFF. If the chief counsel will yield.

Mr. NELLIS. I will yield.

Mr. DE LA GARZA. Thank you, Mr. Chief Counsel, just one question in order to have in our files, I guess, to the panel.

If you set an age limit as to, I don't know, should I say, over, over what age would you recommend that it be decriminalized using your phrase? Can we arrive at an age that you would recommend, over what age?

Dr. BOURNE. I would rather let the lawyers address this issue but I don't think one can maintain criminal penalties for juveniles and decriminalize for adults.

Mr. DE LA GARZA. That is a mixed-up question. But Dr. Brown said preadolescent and adolescent would have trouble handling. You have alcohol in some jurisdictions at 21, some at 18.

Dr. BOURNE. If you are legalizing then that is a relatively easy distinction because one can prohibit the use below a certain age. But we are talking about maintaining the prohibition. So, it would be a question of selective sanctions against people under a certain age, which, I think, would be extremely difficult to implement. I don't know if there is any real precedent for that kind of distinction.

Mr. NELLIS. Mr. de la Garza, let me ask a question in that regard. The new marihuana report issued by Dr. DuPont recently says that last year, 1 in 12 high school seniors nationwide reported using marihuana 20 or more times per month. Is that a correct statistic, Dr. DuPont?

Dr. DUPONT. Yes sir.

Mr. NELLIS. My question is with that enormous usage, how are you going to distinguish between giving a civil ticket to a juvenile and one to an adult?

Some thought has to be given to that problem. What is the difference between ticketing a juvenile under 16 or 18, and an adult using marihuana?

Dr. DuPONT. Dr. Bourne's statement is correct. If we were talking about legalization, it would make sense to make a distinction on age. Dr. Brown was saying, and we all feel, that there are particular dangers among the youthful marihuana users. But does that lead one to the conclusion that one ought to have criminal penalties? I don't think so.

Mr. NELLIS. Juvenile law, as Mr. Civiletti will agree, I am sure, is quite different from the law applied to adults. You are going to have a different result in terms of civil penalties for juveniles as compared to adults. Am I not correct?

Mr. CIVILETTI. There certainly is substantial differences between juvenile law and adult offender law.

Several things fall out of that category. A fine is a fine, and I don't see any rational distinction in that regard.

It seems to me what we and what Dr. Bourne has been saying is that if we are going to discourage use, if you are going to impose fines, civil penalties, for individual use, you are still leaving open to the States and properly within the respective jurisdictions the imposition of criminal penalties if they feel in their judgment, in their circumstances, that it is appropriate for the people who are citizens of those States. Exactly as they do with regard to liquor and other dangerous substances, although not drugs.

Mr. NELLIS. Mr. Civiletti, I also would like to ask you about this. There is presently, according to Mr. Bensinger's testimony, a moratorium, so to speak, on Federal enforcement of casual use of marihuana. How does this affect respect for law? How does this affect the average American who says that people using small amounts are getting away with it in the absence of decriminalization?

Mr. CIVILETTI. I think it is very hard for the public at large to understand or appreciate the distinction in discretionary prosecution. I think that it erodes the law and respect for the law to have laws which make certain action, on the books, that make certain actions criminal and yet people aren't prosecuted for it, or they are only prosecuted in certain areas by the same prosecuting authority such as the Government. So, I think it is detrimental.

Yet, that is the circumstance that exists today with regard to marihuana in the sense it is such a high visibility issue that disregard for the law is very substantial.

Of course, it is not the only circumstance wherein we have laws on the books which make certain acts criminal and those acts through resources or through other reasons are not prosecuted. But it is one that I think erodes the confidence of people in the equal enforcement of criminal justice.

Mr. NELLIS. Thank you, sir.

I would like to address this to any member of the panel caring to respond. We have been talking about marihuana and other drugs. All of us have heard the statement that use of marihuana either does or does not create the use of heroin, or constitute a steppingstone to other drugs.



If you decriminalize the use of small amounts, are you going to be inviting persons to use other drugs; Dr. Bourne or Dr. DuPont?

Dr. DuPont. Yes; the earlier concern was in the area Dr. Brown mentioned; namely, that marihuana use led almost inevitably to heroin use. This is clearly not the case. So, the steppingstone theory has in a sense been discredited by more recent data.

On the other hand, within the last year or two, we now have good evidence that all drug use is interrelated to other drug use. So, that individuals who do not use marihuana rarely use heroin. We have now adopted the concept of gateway drugs. These are drugs that an individual uses early on, such as cigarettes, beer and wine, and all persons use who later go on to become involved in other more hard drug use.

The initial gateway drug, however, is not an illegal drug at all, but is usually either alcohol or tobacco. Following those is marihuana, then there is a move on to the less common and usually more dangerous drugs.

But the fact is that any increase in marihuana consumption would on the basis of the available evidence be associated not with a decrease in the use of other drugs, but with an increase in the use of other drugs, including heroin and alcohol.

Mr. NELLIS. Are you then saying that if the casual use of marihuana is decriminalized, you would be sufficiently able to discourage its use so that that fact alone would not lead to a gateway, so to speak, for other drugs?

Dr. DuPont. Yes, I would expect that changes in usage rates, or the kind of change we are talking about, would be very modest, after decriminalization. The available evidence suggests that the changes are modest.

Mr. NELLIS. I would like to ask you about that evidence. What evidence do you have, Dr. DuPont or Dr. Brown, that that is so?

Dr. DuPont. I would like to submit for the record the evidence on the various States which have decriminalized including California and Oregon. The National Institute on Drug Abuse is currently studying usage patterns with respect to legal practices in the various States.

Mr. NELLIS. Does that study include the effect on industrial production and efficiency?

Dr. DuPont. No.

Mr. NELLIS. Does it include highway safety?

Dr. DuPont. No; this study simply correlated levels of use with various legal approaches to the drug. There is a presumption though that the levels of use are directly correlated with all these other things so that increased levels of use would be associated with increased levels of highway problems and industrial safety. We do also have another research contract at NIDA which is concerned with correlating amounts of THC, the main active ingredient in marihuana, in the blood with decrements in performance. These studies would have implications on industrial performance as well as driving.

Mr. DE LA GARZA. Would the gentlemen yield?

You mention levels of use in the California study, in the report which you will give, if you have not already thought of doing it, would you associate that with levels of use of other substances?

It is my understanding that the use of cocaine has increased proportional to the statute concerning marihuana in California.

Dr. DuPONT. Yes; again ultimately we are going to need a national study because we need to be able to compare those States which have not decriminalized with those that have. You have given a very good example of the problem of an uncontrolled study.

We might observe in California a substantial increase in cocaine coincident with the development of decriminalization of marihuana, but in the State that did not decriminalize such as Arizona there might be a similar increase in cocaine use.

So, it is very important that we have controlled scientific data.

I must say we are some way off from having really comprehensive data. The limited data we have now suggests that the kind of legal steps we are talking about here are not associated with sudden large changes in marihuana usage. We are saying that if there is a big change it is going on over a long period of time rather than something that is happening from one year to the next. Nevertheless, it seems to me that decriminalization will be associated with at least a modest increase in use. It surely won't reduce marihuana use!

Mr. BEARD. If the gentleman would yield. How long has California had the decriminalization and how long has Oregon had it?

Dr. DuPONT. A little less than 4 years for Oregon; about 1 year for California.

Mr. BEARD. Has any State that has decriminalized, has any single State experienced a decrease in the use of marihuana?

Dr. DuPONT. No; not to my knowledge.

Mr. BEARD. Not a single State has experienced a decrease?

Dr. DuPONT. Not to my knowledge, Mr. Beard, none.

Mr. BEARD. All right. Would it, would there be a possibility that maybe the increase might be just a tad higher than, maybe, would be shown in studies as a result of the law enforcement attitude to where I wonder if there was an active approach or active area in the field of marihuana versus cocaine or heroin.

I wonder if maybe that, I wonder if there is more, would be more of an increase if we were actively investigating it or prosecuting it as they have in the past?

Do you understand what I am saying?

Dr. DuPONT. I don't—

Mr. BEARD. I wonder about deemphasis of the marihuana in the community, does this mean the law enforcement officers, therefore, kind of put that as secondary and go on to other things?

Dr. DuPONT. I must say that the one thing that distresses me about this hearing today—which I have generally felt very positive about is the perception that many people appear to have that I have changed my position and am not talking about the serious health consequences of marihuana use—

Mr. NELLIS. On that connection—

Dr. DuPONT [continuing]. Or not emphasizing importance of discouragement. I think my answer today is perfectly consistent with what Dr. Bourne says and it reflects my feelings as well; marihuana use is bad. We want to discourage marihuana consumption.

Although we don't have all the answers on the health effects of marihuana, as Dr. Bourne suggests, there are sufficient questions

raised by the available evidence to discourage the consumption of marihuana.

I don't have any trouble in looking at young people, as I often do, and telling them that I think the health hazards are sufficiently serious that I don't think they should use marihuana. Whether we are talking about the potential of bronchitis, even the possibility of cancer with very high levels of use or about other serious problems.

Mr. Nellis was talking about one of the most distressing current trends recently: The large number of regular users of marihuana. When the Marihuana Commission did its report there was a presumption almost all marihuana users would stabilize at infrequent use patterns. Available evidence is that many marihuana users tend to go either to no use at all or daily use. When we have, for example, 8 percent of the high school seniors reporting daily marihuana use and this exceeds the percentage that report daily alcohol use, we have a very serious problem of heavy use. Ten percent of the Nation's 20- to 24-year-old males are now daily marihuana users.

So if the question is discouraging its use, I feel very strongly about that. The question is not about whether it should be discouraged, the question is how to do it. Most specifically, the question is the role of the possession offense.

Mr. NELLIS. Did you not advocate legalization at one time?

Dr. DuPONT. No, sir, neither privately nor publicly have I ever advocated legalization of marihuana use.

Mr. NELLIS. Those who quote you as having said the opposite are misquoting you?

Dr. DuPONT. I have not see that quote for several years. I did several years ago, but I have never seen where I was supposed to have said it. In any event, such a rumor is wrong.

Mr. NELLIS. Do you doubt that the next move would be for legalization? Is there any doubt about it in your mind?

Dr. DuPONT. I would think there would be discussion of that option as there now is. I can assure you I would oppose it. I don't think it is a wise course of action. I have said so publicly on every occasion and intend to continue to do so.

Mr. NELLIS. Is there anyone on this panel who truly and sincerely believes that the push toward legalization could be successfully overcome if the Federal law were changed now?

Dr. DuPONT. Yes; I think we could resist that. I absolutely do.

Mr. NELLIS. Do you all think we could resist legalization? Are you all on record?

Dr. BOURNE. Yes, I do. I think there would be pressure from certain quarters to legalize, but I think in that we feel that the evidence strongly supports the position that we are taking now, we can adhere to this position because it is derived from certain factual information that we have and that same factual information I think leads us to oppose legalization and we will continue to do so.

Mr. NELLIS. Dr. Bourne, there are FBI statistics recently published that show that of the more than 2 million persons arrested for marihuana offenses during the past 6 years, only 7 percent were commercial traffickers. This will interest you, too, Mr. Bensinger.

I wonder if we are getting such a low percentage of commercial traffickers, why we are concerned about them at all. Two-thirds of

the other cases involved possession of 1 ounce or less. That is the initial statistic that leads me to the question.

Mr. BENSINGER. Could I ask you to pose the question again?

Mr. NELLIS. Surely.

Recent FBI statistics show that arrests for marihuana offenses during the past 6 years numbered more than 2 million of which only 7 percent involved these tonnages Commissioner Acree and you were talking about. That is commercial traffickers.

Mr. BENSINGER. Basic arrest patterns, of course, on an annual basis will reflect the fact that State and local jurisdictions are making perhaps 380,000 to 400,000 arrests involving that substance whereas the Federal DEA last year made some 780 marihuana arrests.

The incident of arrest in the city and community area for possession and sale of marihuana and two things can happen. One, the individual arrests can be incidents of a variety of other offenses for which the marihuana charge may be one. We have seen testimony, as a matter of fact, earlier this year where one of the major organizations, Sicilia Falcone organization, actually had 104 indictments. This organization distributed heroin and cocaine as well. The indictments returned in San Diego were marihuana distribution indictments. At the city and State level it could be that these arrests which were originally for sale could have been reduced to simple possession. Or the arrests could have developed in a first offender diversion programs which many of the States' attorneys, have available.

The fact that individuals in those numbers have been arrested does not mean that out of 7 percent of 2 million arrests over 6 years you don't have some significant criminal violations as well.

But I think the perspective is that federally we are not involving those type of numbers and our efforts are not reaching the broad, I think, population characteristic that the State and city police actually are handling.

Probably in this afternoon's testimony Ed Davis could give you further benefit on what is happening in California and for the IACP.

Mr. NELLIS. I would like to ask you this concluding question. I am a little puzzled about the notion that reducing a criminal penalty to a civil penalty somehow will assist you in discouraging the use of the product. It seems to me, in criminal law, Mr. Civiletti, that if you reduce a criminal penalty, in effect, the Government is encouraging the commission of whatever the act may be.

How do you reconcile the allegation that this will discourage use when you reduce the criminal penalty?

Mr. CIVILETTI. I don't—I myself don't know if it's going to encourage or discourage. I am not a sociologist and I have done no studies to determine whether or not that will occur. But I am saying—what we suggested, what I said from a law enforcement point of view was, from the Federal position we are not now prosecuting individuals, nor do we have the resources to.

Your statistics show the States are prosecuting. Some. In some States it differs. But from the Federal point of view, we are not doing it. So there would be no change, as a practical matter in our enforcement procedure.

As to the impact of a civil penalty as opposed to a nonprosecuted misdemeanor, I can't really answer that.

Mr. NELLIS. Will it affect informants, Mr. Bensinger? You have a buyer and seller in this transaction—

Mr. BENSINGER. It might. What you have is, as you indicated, a situation where the growing is not legal, could not be sanctioned, and criminal penalties would have to be consistently enforced; and I would urge that, for home use as well, in concert with our treaties and other considerations, where selling is still a criminal sanction, and we would recommend it stay that. And where, as Mr. Civiletti said, we have a change in a penalty, from one that is now on the books but is not being prosecuted, to one that would not afford the prosecutor the option, I think that is questionable as to what really will happen in that respect.

I think the individual, State-by-State research would be important for the Congress to consider and, certainly, that is one of the comments Dr. Bourne had made earlier.

Mr. NELLIS. Commissioner Acree, how would this affect your seizures at the border? I understand you have a system of administrative fines for small amounts. Do you propose that would continue, irrespective of any decriminalization?

Mr. ACREE. I wouldn't foresee any change in that regard, Mr. Nellis.

Mr. NELLIS. Would it matter whether or not the cigarette involved were high or low in THC content?

Mr. ACREE. No; the way we view them at this point is across the board, without any chemical or laboratory analysis to determine THC content.

Mr. NELLIS. A cigarette is a cigarette is a cigarette, is that what it amounts to?

Mr. ACREE. Marihuana is marihuana is marihuana.

Mr. WOLFF. Throughout the discussions we have had this morning has permeated the idea that we are not actually prosecuting those people who possess, so far as marihuana is concerned, small quantities. Where and with whom did this policy originate?

Can anyone here tell us that?

Mr. CIVILETTI. It originated—I can perhaps partially answer, based on some assumptions. I do not know specifically that it originated with one particular attorney general, one particular Federal judge, or one particular U.S. attorney in a particular State. But, for example, 55 percent of all Federal prosecutions in Tucson, Ariz., are drug prosecutions. If there was an attempt to prosecute on any kind of effective, for example, basis, marihuana users in that jurisdiction, no other crimes would be prosecuted, there wouldn't be any bank robbery prosecutions, no heroin, no other kinds of prosecutions.

So a simple matter of priorities and realistic evaluations when we only have 1,700, for instance, U.S. attorneys and assistant U.S. attorneys, we can't handle, the Federal courts are not a volume operation, we cannot handle those kinds of prosecutions. So we establish priorities and attempt to follow those priorities, such as organized crime, such as heroin, such as amphetamine and barbiturate misuse,

cocaine, white-collar crime, frauds, where in—where most of our resources can be best utilized and we can reap the best benefits.

Mr. WOLFF. What you are saying, Mr. Civiletti, is that by executive fiat, we have made a determination, rather than prosecuting under the existing law.

Mr. CIVILETTI. Not executive fiat. Historically, for 200 years, we have never been able to prosecute every person or investigate every person who violates every crime on the Federal books.

Mr. WOLFF. But, in effect, we have decriminalized before the statute has been changed.

Mr. CIVILETTI. No; what we have done is, we have utilized what resources we have to the best effect we can.

Mr. WOLFF. I can understand your difficulty. I can understand the complete difficulty that exists with not having adequate resources to handle all of the problems. But my point, I think, is the fact that we have a de facto decriminalization.

Mr. CIVILETTI. No; I disagree, because we use it, as has been testified to earlier, for purposes of probable cause. We use it in situations where there is very strong belief, although not perhaps to a conviction beyond, that the person utilizing marihuana is also engaged in other crime, and he's prosecuted for marihuana in those instances.

Mr. WOLFF. You would be denied that under a full decriminalization?

Mr. CIVILETTI. That is true.

Mr. WOLFF. One final point. We have got to close off here because we have to let the Members here have an opportunity to eat and let you get back to your work as well.

One problem that occurs to me is whether a casual user, who has a small amount of marihuana in his possession, when he purchases that marihuana from a trafficker is engaged, under decriminalization, in a criminal transaction. Is this not true?

Mr. CIVILETTI. I think that properly and legally construed, both parties to the transaction in buying and selling would be considered to have violated the law.

Mr. WOLFF. So that, in effect, the situation, is that casual use would be decriminalized, but even that individual who was the casual user, if he purchased his supply from a trafficker, would be still guilty of a crime?

Mr. CIVILETTI. As I suggested in my prior answer, I think that he could be charged with a criminal violation, yes.

Mr. WOLFF. Thank you.

Mr. BEARD. Mr. Chairman, I would like, for the record—Dr. Bourne, have you ever come out in any statements that have been covered by the newspaper to the extent that you would favor or would consider the decriminalization of cocaine or other drugs?

Dr. BOURNE. Not that I am aware of. As I mentioned earlier, I think that the issue of cocaine is a very complicated one. We are back, again, into the issue of what are the health consequences. We are spending vast resources now in dealing with cocaine.

Mr. BEARD. But to your knowledge, in conversations that have been covered by the newspaper, you are not aware of ever having expressed an opinion—

Dr. BOURNE. Not advocating it.

Mr. BEARD. I would like, for the record, also to ask if Dr. Brown or Dr. DuPont at any time had ever expressed—

Dr. BROWN. No.

Mr. BEARD. Let me ask one last question which has been covered off and on, but I would ask if there is any single person on this panel that feels in their personal belief, that feels that as the result of decriminalization of marihuana that the use of marihuana will decrease. Is there any single person who feels that way? Is there anyone on the panel that feels like that it will not increase if decriminalization takes place.

Dr. BOURNE. I think that is an open question. I think that we don't have the facts yet to be able to say absolutely.

Mr. BEARD. I think before the committee, before the panel comes and it was before us, maybe we haven't reached that stage where an administration or anyone should be pushing it until these facts are there.

If it is going to increase it, then I am not sure I want to go that route.

Dr. BOURNE. Obviously, the facts are not going to be there until you decriminalize it. There is no way of telling what is going to happen until you actually try it. I think we may be missing the point here. The issue isn't and we are not making the claim that decriminalization is going to be a deterrent, is going to reduce use. The key issue in this is what is the price we are paying in the lives of young people by putting them in prison for possession of small amounts of this drug. That is the key issue we are concerned about.

Now, decriminalizing may result in a slight increase. We don't know. We don't have the data yet. We won't have it for several years. But the thing we do know is that we will be saving the lives and careers of a lot of young people who would otherwise be destroyed by maintaining criminal penalties and putting people in jail for possession.

Mr. SKUBITZ. Will the gentleman yield?

Mr. BEARD. I would like to get one thing clear in mind. Mr. Rogers, this morning, pointed out that under existing Federal laws first offenders are not prosecuted and that their records are actually destroyed after 1 year.

Now, as I listen to Mr. Civiletti and Mr. Bensinger, both of them say they are not prosecuting these cases anymore. Well if this is true, then does the testimony that either Dr. Bourne or Dr. DuPont gave, or at least inferred from their testimony that there are many juveniles laying around prisons today and if they are there, are—they have to be there because of State laws; is this correct? If they are, the very—you are wanting to turn over to the States the authority to prosecute and they have got it and they are prosecuting.

Mr. ACREE. I was rather surprised to see you shake your head when the question was asked whether there might be an increase in the use of marihuana if we decriminalized it. Don't you think that the very fear that there may be a prosecution, the fear of public opinion doesn't stop a lot of young people from using drugs today?

Mr. ACREE. Yes, sir, and I think I covered that point, Mr. Skubitz.

Mr. SKUBITZ. If you did, why do you shake your head?

Mr. ACREE. I don't remember which—

Mr. SKUBITZ. The question was, do you think marihuana might not increase if we decriminalize and you shook your head, no.

Mr. ACREE. No, sir, I believe to the contrary.

Mr. SKUBITZ. That is what I thought and I wanted to get that into the record. We can't get head shakes in there. Don't you think if we do decriminalize it, your task is going to be more difficult because if there are more users, the profit element is there and the desire to smuggle into the country becomes greater incentive?

Mr. ACREE. Yes.

Mr. SKUBITZ. Thank you very much.

Mr. NELLIS. Would you furnish for the record any information you have with respect to recent public opinion polls or public attitudes toward this subject. We have received a great deal of mail from the public generally both pro and con. We have not received any recent scientific evidence in regard to public opinion. I understand you have that.

Dr. DUPONT. Yes, sir, I would be happy to. I would make one point.

Mr. WOLFF. Without objection.

Dr. DUPONT. The major reason people give for not using marihuana is not because of their concern about the law. It is because they have no interest in the drug. That is by far the leading reason for the public's conservative attitude about the use.

The second major reason people give for not using marihuana is because of their concern about the potential health hazards of the substance. It is only when we get to No. 3 on the list that there is any concern with penalties whatsoever. I think there is a presumption here, perhaps I am reading into the discussion, but a presumption that if we remove or reduce these penalties for simple possession the public would rush out to use the drug marihuana. I think this is simply not the case. The attitudes toward the use of marihuana in the public are extremely conservative as I will show in this documentation that I will present to you.

[The information referred to follows:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

OFFICE OF THE DIRECTOR,  
NATIONAL INSTITUTE ON DRUG ABUSE,  
Rockville, Md.

HON. ROBIN L. BEARD,  
House of Representatives,  
Washington, D.C.

DEAR MR. BEARD: As a result of our discussion at the recent hearings held by the House Select Committee on Narcotics Abuse and Control on the issue of marihuana decriminalization, I asked Dr. Lloyd Johnston of the Survey Research Center of the Institute of Social Research at the University of Michigan to address the issue of why people stop drug using behavior. You will find enclosed his response to that issue, which is particularly interesting in that it points out the importance of legal and social sanctions to quitting among those who have previously used marihuana. However, more importantly, among those who have never used, concern about possible physical and psychological damage is a greater deterrent to marihuana use than fears about being arrested.

If I can provide further information on this issue do not hesitate to call upon me.

Sincerely yours,

ROBERT L. DUPONT, M.D., Director.

Enclosure.



UNIVERSITY OF MICHIGAN,  
INSTITUTE FOR SOCIAL RESEARCH,  
Ann Arbor, Mich., April 8, 1977.

PHYLLIS LESSIN,  
Office of the Director, National Institute on Drug Abuse,  
Rockville, Md.

DEAR Ms. LESSIN: Lloyd Johnston is out of town and asked me to respond to your request for some data from the Monitoring the Future project regarding the reasons that high school seniors give for not using or for stopping use of marijuana.

The question on reasons appears in one form (Form 3, Part D), so the number of cases on which the data are based is about 3,500. Further, only those who have never used, or who have used but are not current users of, marijuana answer the question. The percentages of eligible respondents who checked each reason is given for each of these two groups (non-users, N=1,456, and stoppers, N=404) in the enclosed Table 1.

I hope that this information meets your needs.

Cordially,

PATRICK M. O'MALLEY, Ph. D.,  
Study Director.

TABLE 1.—REASONS FOR NEVER USING MARIJUANA OR FOR STOPPING USE OF MARIJUANA

	Stoppers <sup>1</sup> (percent)	Nonusers <sup>2</sup> (percent)
Concerned about possible psychological damage.....	31.4	60.4
Concerned about possible physical damage.....	33.3	57.9
Concerned about getting arrested.....	41.7	45.5
Concerned about becoming addicted to marijuana.....	18.2	38.4
It's against my beliefs.....	13.0	56.2
Concerned about loss of energy or ambition.....	22.5	29.7
Concerned about possible loss of control of myself.....	21.3	45.1
It might lead to stronger drugs.....	28.2	48.6
Not enjoyable, I didn't like it.....	40.5	18.7
My parents would disapprove.....	43.1	56.5
My husband/wife (or boyfriend/girlfriend) would disapprove.....	25.6	28.1
I don't like being with the people who use it.....	14.0	38.5
My friends don't use it.....	11.4	34.1
I might have a bad trip.....	10.5	21.8

<sup>1</sup> The percentages in this column represent the percentage mentioning each reason for not using marijuana, based on the 404 respondents who have used marijuana and have stopped using it.

<sup>2</sup> The percentages in this column represent the percentage mentioning each reason for not using marijuana, based on the 1,456 respondents who have never used marijuana.

Mr. WOLFF. One final question, Mr. de la Garza.

Mr. DE LA GARZA. Thank you very much, Mr. Chairman. I wanted to follow up on Mr. Skubitz.

Mr. CIVILETTI, is there any way you can find out how many people are in Federal penitentiaries for possession of, let's say, less than half an ounce of marihuana?

Mr. DE LA GARZA. Less than an ounce.

Mr. CIVILETTI. I certainly can try. I don't know if we have the statistics readily available that would reveal that. We can undertake a study if we don't. That might not disclose entirely what you would be seeking, since there might be overlaying circumstances to why they were prosecuted for having an ounce or less than an ounce. I certainly will do so.

[The information referred to follows:]

The number of persons currently incarcerated as a result of a conviction under 21 U.S.C. § 844 (1970) for possession of any drug under the statute is 950. The Department of Justice is unable, however, to determine the number of those persons incarcerated for marihuana possession without an extensive review of

records, and such records would be unlikely to disclose whether the amount possessed was 1 ounce or more. In fiscal year 1976 the United States obtained 251 pleas of guilty to simple possession of a controlled substance, which the reporting agency stipulated to be marihuana; in addition 13 convictions proceeded from trials before the court. There were no jury trial convictions. It is believed that none of the persons included in the above statistics actually is serving a prison sentence.

Mr. DE LA GARZA. It certainly would be helpful. Dr. Bourne, what was your association with the Drug Abuse Council?

Dr. BOURNE. I was a consultant to the Drug Abuse Council which is a nonprofit private organization, supported by various foundations.

Mr. DE LA GARZA. Did that council ever recommend the decriminalization of marihuana, codeine, morphine, and did it go into the use of—whether the Government should, or a study that would provide the Government to, or the Government to provide the drug to the users under legal sanctions?

Dr. BOURNE. The Drug Abuse Council, I think, has taken the position—although I am not sure that this is a formal position—favor decriminalization of marihuana. It was the Drug Abuse Council I think, that was contracted with to conduct the study in Oregon. But I am not aware the Drug Abuse Council has ever taken a position favoring decriminalization of any other drugs.

Mr. WOLFF. The committee will stand in recess until 1:30. We are very appreciative of the time all of you have given here today. Dr. Bourne, I am very happy with your first trip here to the Hill. I use that expression advisedly. We are very happy with the information you have provided for us, as well as that provided the rest of the panel. Thank you very much.

[Whereupon, at 1:05 p.m., the committee recessed until 1:30 p.m., the same day.]

#### AFTERNOON SESSION

Mr. WOLFF. The committee will come to order.

We will continue the session that we started this morning, having as our first witness Chief Edward Davis of the Los Angeles Police Department and president of the International Association of Chiefs of Police.

Mr. Davis, will you please come forward?

#### TESTIMONY OF CHIEF EDWARD DAVIS LOS ANGELES POLICE DEPARTMENT, PRESIDENT, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Chief DAVIS. Thank you, Mr. Chairman.

Mr. WOLFF. Could I ask you to be sworn, please?

[Witness sworn.]

Mr. BEARD. Mr. Chairman, at this time, I was requested so by Dr. DuPont in prior answers he asked that I clear the record when I pointed out to him that he did forget to mention one thing when asked about the illegal aspect as a detriment.

He stated there was a law on the book against marihuana. This was number three as far as detriment.

Dr. DuPont unfortunately failed to mention the entire statement where I must—I felt it necessary to call to his attention, which he acknowledged is true.

It says, "I call"—this is Dr. DuPont talking. He said, "I call your attention to an attachment that I have to my prepared testimony in which we ask a sample of nearly 2,000 23-year-old males—I refer to this study in my testimony—about their reasons for not using marihuana. Among these people who had used marihuana but are not currently using marihuana, the number one reason for stopping use was concern about getting arrested."

So I think that in order to be, to bring the statement up to date, I would like to have that interjected.

Mr. WOLFF. Without objection, the statement will be entered in the record.

Mr. WOLFF. Chief Davis, we are very happy to have you come here today to testify on this problem. Your own personal experiences with the handling of the problem certainly will add immeasurably to the information that we are assembling here today.

You can either summarize your statement or read it in its entirety.

In either case, without objection it will be inserted in the record.

Mr. WOLFF. Please proceed.

Chief DAVIS. Thank you, Chairman Wolff.

I will refer to a few portions of my testimony in making a few additional comments.

I represent the International Association of Chiefs of Police, more than 10,000 members. And we have 41 States that have not subjected themselves to decriminalization.

We have adopted resolutions rather annually on this subject.

Our narcotics committee, of which I have been a member for many years, has been constantly abreast of all of the best research.

We have very strong feelings about this subject.

In California, a few years before decriminalization, the people voted down decriminalization by a two-to-one margin. That was the will of the people in California.

Then, an elitist combination of the legislature and Governor passed decriminalization. A law which has been in effect for 1 full year in 1976.

In the campaign that has been waged over the past 10 years to change our marihuana laws, three main propositions have been set forth.

One was that marihuana and its derivatives are essentially harmless; two, it was suggested that once it was legally available, only a small minority would become marihuana users; three, that it is a fruitless exercise and a waste of the taxpayers' money for the legislature and law enforcement to curb drug abuse.

Let me say on the last point that the typical American police department of any size devotes about 6 percent of its resources to all vice and all narcotics enforcement.

If we allowed all vice and all narcotics to go absolutely rampant, the gain in additional police resources would be about 6 percent.

So that is one of the most fallacious arguments.

On the subject of marihuana research, I wish that you would have had as a witness a physiologist, Dr. Hardin B. Jones, whose



**CONTINUED**

**1 OF 7**

new book, "Sensual Drugs," was published within the last few months.

He has also written many other papers on the subject and I think he could give this committee most substantial evidence.

Medical doctors do not get this kind of information in their education. It takes people who do substantial research of the type Dr. Jones has done for 40 years. I think he should be here.

But essentially his findings, which the International Association of Chiefs of Police is reprinting in our current literature, is that the drugs, most of these drugs, not just marihuana, but heroin and cocaine, work on the very delicate electrochemical processes in the brain, that they short-circuit many of the functions in there, and that there is permanent long-term damage after protracted use of marihuana.

Dr. Jones goes into the half-life of marihuana. There is no dispute, for example, about this, that when you drink booze you exhale it, 1 ounce per hour. On the other hand, when you use pot, it is with you up to 10 months. You don't even really get a good high until after you have smoked it about 5 or 6 times and there is a half-life in the brain that is there long after the use. There is no debate about that.

Any place in the civilized world, going back to the ancient writings of a family of doctors in India, the Chokra, Drs. Chokra, you will find that marihuana has long been and still is a drug that causes great lethargy. South Americans refer to it as galloping lethargy. That is what American youth face if we push this on them.

The Shafer Commission was very ambivalent. But in the end, they finally said we shouldn't encourage the use of marihuana. If we have doctors come in to testify, medical doctors or whatever, they should only come in after having done personal research, not just opinion-gathering. They should give this Congress substantial opinions that come out of medical research.

Dr. Hardin Jones would bring you testimony which would show that in administering marihuana to animals, that birth defects are showing up. None of this has come into the testimony here from the "doctors" whom I have heard.

Another hypothesis is that once drugs are readily available no one is going to use them. It suggests that by decriminalizing that we are not going to really increase the use.

An excellent experience disproved this in Japan after World War II when amphetamines became available through prescription and through black marketing. There was a huge problem in Japan up to 1954 and about half a million Japanese young people were using amphetamines. And half of them injecting it.

The Japanese began strict law enforcement and today there is essentially no problem with amphetamines.

We had something like this in our country; much abuse up until 5 years ago. The Federal Government then began requiring quadruplicate prescriptions and amphetamines virtually disappeared from the market. We have virtually no amphetamine abuse in this country because of vigorous enforcement, first by the Federal Government and then by local government.

It is interesting to me that the countries that have used marihuana for the shortest period of time seem to be the greatest experts. We are one of those countries.

Many other countries have had the problem for thousands of years. And we have about a 10-year experience of heavy marihuana use. We are the experts who are trying to lead the rest of the world into a destructive use of marihuana. We ought to be ashamed of ourselves.

The experience in California which decriminalized in 1976 goes like this: Since about 1971, we were very proud of having begun to conquer the marihuana problem. In 1971, the Los Angeles Police Department seized 16,000 pounds. In 1972, it went down to 15,000. In 1973, 11,000. In 1974, only 5,200. In the beginning of 1975 we had less than 500 pounds. Finally it was 2,000 pounds for the year.

It looked like marihuana was going out in California, because in my city particularly we were doing a very aggressive job.

I totally reorganized dope enforcement in 1970. And the people, the voters, turned down decriminalization. They indicated two-to-one that they supported law enforcement's posture.

Then the pot bill came in. And, as it was being debated, and as it was obvious that our legislature was going that way, the use of marihuana and our seizures, using the same amount of resources, went up. During that 1 year of the pending legislation use and seizures went up.

Then, after the new law became effective on January 1, 1976, seizures really began to skyrocket. Over 3,000 pounds in the first quarter. This was a 539-percent increase compared to the first quarter of 1975. This has been repeated. Use is up over the period when we finally knocked it down.

We needed decriminalization like we needed a hole in the head. Marihuana is big business. There are huge sums of money made on it. There are all sorts of ad hoc cartels existing out of this. It is the cleanest and fastest way to make money in the United States today.

You can look at its being pushed by publications like *Life* and *Time*. It is a well-financed commercialization of marihuana.

The third myth suggests that curbing drug abuse is a fruitless exercise and waste of taxpayers' money. Nothing could be further from the truth.

Law has many functions in a society, and it is partly a control mechanism to restrict behavior of citizens from unhealthy, unacceptable expressions and directing toward healthy and productive ones.

Law serves as a teacher of what is healthy, productive, and acceptable and what is not. The fact that any law is imperfectly kept does not mean it is ineffectual.

I have not heard as yet that God has retracted the Ten Commandments merely because mankind often fails to live up to them.

The fact of the matter is, strong, clear laws recognizing the dire effects of marihuana use are necessary as a stated policy of this Nation and of its member States.

Now, law enforcement perceives decriminalization as but a part of the whole process.

We have seen from experience that users of marihuana are first introduced into a drug-oriented environment and mentality.

With reduced powers of judgment and will, the user functions in an environment where other drugs are available.

He gets into a polydrug culture, in other words. He becomes more susceptible to both peer pressure and the enticing possibility of greater pleasure.

It is all too easy, almost natural, to slide into experiencing a variety of sensations which multiple drug abuse produces.

Marihuana has proven to be the doorway to other even more dangerous drugs. It is the common initiator to the escapism of drug subculture. Yesterday at lunch I talked to one of the men who sits on our drug release board which diverts felons to our California Rehabilitation Center. In every case he said the heroin addict who he is releasing started through the door with marihuana.

In my department we have a program where we attempt to get potential incipient users. We find in the polydrug culture that eventually someone gets on heroin. We go to all the people who were in contact with that person who is into heroin, and we inform them of the dangers of heroin itself.

We know from experience that the use of heroin, which no one really says is very good, initiates in the polydrug culture. And, that particularly includes marihuana.

It should be evident to all that decriminalization in a large urban State like California has been a failure regardless of the recent apology in the press by people in Sacramento. The availability of marihuana with the same enforcement efforts has gone up precipitously. This can only interpret into one logical conclusion. That demand has gone up dramatically.

Demand must be suppressed if use control is a desired objective. Everyone here has said they didn't want to increase use. Remember that pushers don't make users, users create pushers. There is no such thing as a drug pusher. People with a drug habit who have been broken into the habit go out and somebody supplies a demand.

The only way you are going to control marihuana is to control the appetite for it, because pushers are a natural creation of the users.

It is absolutely illogical to legalize or decriminalize at the user end and to hypocritically make it a crime to provide this legalized or decriminalized demand. It is the absolute height of hypocrisy to say there is nothing wrong with this, that our kids should use it but anyone who gives it to them is a no-good so-and-so who should be locked up for 10 years or 20 years.

There is absolutely no intellectual consistency in those two positions.

Moderate criminal penalties can be extremely effective in adjusting human behavior. I am sure many of you have been subjected to the horrendous driving of people in Athens and Paris and Rome where relatively civilized people come at you as if that was their life's mission, to pick you off with their car.

In most parts of America because we enforce traffic laws, particularly in my State, when you step off the curb you hear brakes squeal.

Now, the idea behind that is that trying to run down a pedestrian is a criminal offense. The sanction is a criminal sanction. A viola-



tion involves a traffic ticket. If you don't pay it you go to jail. We make arrests if you don't pay. We haven't taken traffic outside the criminal system. Most decriminalization methods have taken it away.

I have listened to people say too many people want to do something you can't control it. Baloney. Everyone wants to speed. Everyone wants to get through a boulevard stop, and we control it very well in this country.

Decriminalization of marihuana can be counted on to tremendously increase marihuana abuse. We found that in California. Don't forget that drug and tobacco use are both serious problems with a group whose median age is probably 47. Those people are essentially over the hill. They have made their contributions, although some of us think we still may be making a contribution.

But when you talk about the decriminalization of marihuana use you are probably talking about a group with a median age of 17, which means that the impact of what you are doing is going to have an extremely great impact on children in grammar school, junior high, and high schools.

Older Americans who abuse themselves with alcohol have to some extent made their contributions. But the whole future of this Nation depends on our youth who are going to be induced into pot if Washington starts pushing it.

America has carried the torch of freedom through all of this century for all the rest of the world. We are only 5 percent of the population of the world. The few young people we are going to send forth to preserve this world—if they are going to be 50 percent potheads—are going to be in extreme peril.

The International Association of Chiefs of Police absolutely opposes any relaxation of our national marihuana law. We feel strongly that no one from the national level, from the President or any of his staff down through the lowest bureaucrat, or Congress, should in any way attempt to act as a huckster for decriminalization of marihuana in the remaining 41 States that have not gone the decriminalization route. We feel that for anyone at the Federal level to use their power to accomplish this decriminalization at the State level is a serious abuse of the 10th amendment.

I sat at home and read the propaganda that has come out of Washington for the last week to decriminalize marihuana and it had to be a well-contrived barrage of propaganda. That had to be well organized.

Let me say in closing that this foolish statement that we are putting our children in prison is sheer poppycock. I don't think there has been one child or adult put in prison for simple possession of marihuana in the last 5 years.

To hear that kind of claptrap today really infuriates me. The discussion of legalization versus decriminalization is also important. I asked many of our very liberal legislators, those I know very well, about marihuana. I told them they were cowards. "Why didn't you legalize it?" I asked. They said, "Well, that is what I wanted, but we had some people who are too cautious."

I ran into some others who said there is a good reason for not legalizing it. They want to decriminalize it because if we legalize it

the Government would impose taxes on it and would interfere with the free use of marihuana.

Now, you have those two reasons on decriminalization versus legalization. If you read the NORML literature you will see their position is decriminalization, not legalization, to avoid the same kind of taxes and control that come on a legalized substance.

One thing I have heard no mention of from any of these erudite gentlemen is that marihuana ranges from good Mexican stuff at 2 percent THC, the active ingredient, up to 16 percent in Thai sticks, a very powerful 16 percent marihuana wrapped around little twigs with a string. We seized a ship out of Singapore with \$50 million worth of Thai sticks. That is 16-percent stuff.

Young people in this country can't handle that sort of thing. Hash oil is way up over 50 percent THC, a derivative of cannabis or marihuana. So, this who thing could lead to tremendous damage to the youth of this country if it is left in the stupid decriminalization thing. If we have encouraged its use and if we really want to do something bad we should legalize it.

If we want to keep our youth out of it we shouldn't decriminalize it. Decriminalization is the worst of the two. I have a report from Maine where they polled 130 chiefs who all oppose decriminalization. They say it makes it impossible to enforce the cannabis laws in Maine.

I have information from the chief of the State police in Oregon who says their laws make it excruciatingly difficult but their arrests for both possession and trafficking have gone up dramatically. Decriminalization in Oregon, in a relatively rural State, is a failure in the opinion of law enforcement officers.

I would suggest that if there is going to be any further decriminalization, other than those nine States that have, that it take place in the State capitals and in the White House and in Washington, D.C. Let the rest of the Nation observe the impact of heavy marihuana use. That whole thing can be handled then if there is any great deterioration in human beings. We can take care of the problem in two or three elections. I think for the Nation's Capital, for the Federal Government to go out and propagandize the remaining 41 States, who have chosen to have criminal laws against marihuana, is a great abuse of authority.

So that should provoke some reaction.

Thank you very much.

[Chief Davis' prepared statement follows:]

PREPARED STATEMENT OF EDWARD M. DAVIS, CHIEF, LOS ANGELES POLICE  
DEPARTMENT

It was with considerable pleasure that I accepted the opportunity to testify before this committee on a matter that I consider so important and on which I have a decided point of view. As President of the International Association of Chiefs of Police, I consider open hearings, such as this, an ideal way of getting the message to the American public regarding recent research into marijuana abuse along with the experience of one state, California, whose marijuana law has been recently liberalized.

In the intense campaign that has been waged over the past ten years to change our marijuana laws, three major points have been proposed:

1. That marijuana and its derivatives are essentially harmless;

2. That once it was legally available only a small minority would become marijuana users; and

3. That for legislation and law enforcement to curb drug abuse is a fruitless exercise and a waste of the taxpayers' money.

In the course of my testimony today, I will deal with each of these points. First, it must be made clear that the preponderance of research conducted with regard to marijuana use has found that it is harmful to the user. The most recent research has only corroborated what earlier researchers had predicted, but were unable to verify.

In that light, I would like to refer the members of this committee to the wealth of testimony given in 1974 before the Subcommittee on Internal Security of the Senate Committee on the Judiciary and to the books and articles of Dr. Hardin B. Jones of the University of California at Berkeley.

Medical science tells us how communication within the brain and nervous system is based on a complex and delicate balance carried on by electrochemical processes. Research has further shown how the use of marijuana and other drugs disrupts these processes. Marijuana distorts both the sensory information received and the emotional responses of the user. In this state of distortion, the marijuana user's critical judgment is impaired and he may become more vulnerable to external evaluations and suggestions. He experiences a loss of will and conscious control. These effects are often pronounced during a marijuana high, and research has shown that the effects also persist after a period of acute intoxication and accumulate with chronic use. This is one factor which accounts for the amotivational state of the habitual user. Studies of chronic users, who were observed for periods of six to nine years, have documented that this type of user suffers from diminished drive, lessened ambition, decreased motivation, and apathy. The user, himself, ordinarily does not perceive the amotivational effect of his use until a sense of motivation returns subsequent to his giving up marijuana.

What might be termed moderate use (once or twice weekly) has also been found to have enduring and debilitating effects. Regular users show evidence of a continuing low grade intoxication manifested by mood swings, memory impairment, sleep disturbances and a generally lessened level of functioning.

Additionally, researchers have known that some of the more persistent effects of marijuana use are defective motor coordination and poor perceptions of time, distance, and speed. These symptoms become especially hazardous when the marijuana user attempts to drive an automobile.

It was noted by researchers that all accidental deaths increased approximately 30 percent during the 1960s among the category of those 15 to 35 years of age and that the automobile accidental death rate increased more than 30 percent during the same time. That increase was reflected first among college age persons and later in the younger and older groups. I think it is no coincidence that this corresponded very closely with the ages affected by the drug movement in the United States.

Research conducted in 1974 at the University of Utah has also determined that prolonged exposure to marijuana results in significant increases in chromosome breakage. Although broken chromosomes are seldom a genetic hazard to offspring, researchers are concerned that the conditions causing broken chromosomes may also damage the genes in unbroken chromosomes. Due to nature's pairing of genes, a defective gene would not produce a specific genetic disease, but rather a general decline in the vigor of the offspring.

It is certainly time that all the latest research regarding marijuana use and its effects be brought to light and dispassionately examined—not just by legislators, but by the public. The Shafer Commission report has been criticized by many experts in the field of drug abuse. This report ambiguously recommended that private use of marijuana be made legal while public sale, use, and possession remained illegal and yet it also recommended that use of marijuana be discouraged. Although acknowledging that heavy use was dangerous, the Shafer Commission reported that the experience of most Americans was with low doses of weak preparations of the drug. While the Commission did recognize the dangers of heavy use, it failed to realize that users in this country would escalate to higher doses and stronger preparations if they were available. This type of escalation occurred among our servicemen in Germany and Vietnam and has occurred in other countries where marijuana has been used for centuries.

This leads to the second myth in the pro-marijuana argument—that once marijuana is legally available only a small minority would become marijuana users.

History shows us that when drugs are readily available, their use increases. It's a known fact! I have already made mention of the experience of our servicemen in Germany and Vietnam where supplies of marijuana and other drugs were plentiful and cheap. The experience of Japan with amphetamines is another case in point. Prior to World War II, Japan had never had a serious drug problem. But when amphetamines, used during the war to counteract drowsiness and fatigue, were made available to the civilian population, through the black market and liberal prescription policies, the use of this drug increased to where in 1954, about 500,000 young Japanese were using amphetamines and half of these were injecting it intravenously. Government control and strict law enforcement, however, reversed this trend and essentially eliminated Japan's amphetamine abuse by 1968.

It should not go unnoted that the demand for legalizing marijuana has been most vociferous in those countries which have had the shortest experience and the weakest forms of the drug. In countries throughout the world where cannabis use is endemic, responsible individuals are both surprised and disheartened to hear of attempts in the United States to legalize marijuana. In countries like Greece, Turkey, and Egypt where cannabis had long been used, it is considered a scourge and a stupefying drug that is especially harmful to the young. Many consider it a factor in underdeveloped countries for keeping the poor impoverished.

The experience of California, which essentially decriminalized marijuana in 1970, certainly does not bear out this second myth. Let me graphically illustrate what has happened in Los Angeles as a result of the new marijuana laws. The Los Angeles Police Department's marijuana seizures had declined steadily from 1971, when over 16,000 pounds were seized. In 1972 we seized 15,000 pounds; 1973—11,000 pounds; and in 1974—5,240 pounds. The beginning of 1975 initially gave hope of an even further decline when we seized only 474 pounds of marijuana during the first quarter. It was then, however, that new legislation advocating the decriminalization of marijuana was brought into view. During the second quarter of 1975, as passage of the decriminalizing legislation became imminent, 1,119 pounds were seized. In the third quarter, after Governor Brown had signed the legislation on July 9, we seized 1,382 pounds and during the fourth quarter over 2,000 pounds more were seized, bringing the 1975 total to 4,990 pounds. After the new marijuana laws became effective on January 1, 1976, seizures skyrocketed to over 3,000 pounds in just the first quarter. This was a 539 percent increase when compared to the first quarter of 1975. That upward trend has continued, gentlemen, and during 1976, the first year under the new law, the Los Angeles Police Department, alone, has seized 17,916 pounds of marijuana. In the greater Los Angeles area, the Los Angeles Police Department, the Los Angeles Sheriff's Department, the California Bureau of Narcotic Enforcement, and the United States Drug Enforcement Administration have seized 75,438 pounds of marijuana during 1976 as compared to 17,455 pounds in 1975. The terrifying aspect of all this is that one of the methods used to determine the amount of any drug available to potential users is to examine the amount seized by law enforcement. It is a commonly held opinion that law enforcement seizes only ten percent or less of the amount available to the community.

Los Angeles also enjoys the dubious distinction of being a trans-shipment center for the nation's narcotics traffic because of the City's air, sea, and land transportation terminals. Our Administrative Narcotics Division recently seized 442 pounds of marijuana passing through Los Angeles destined for Alaska, which just happens to be another state with relaxed marijuana laws.

Congressmen and the general public should not remain naive to the "big business enterprise" represented by those trafficking in drugs. Even casual perusal of the drug literature now available in above ground and underground publications shows that the intent of the publishers, editors, and advertisers is to introduce as many people as possible to the glories of drug use. Examine publications such as "High Times" and tell me that slick, well financed commercialism of this type is not intended to entice, beguile, legitimize, and thereby initiate others to the drug market. I intensely feel that the ability to "make a buck" off marijuana if it is legitimized, regardless of its social consequences, will lead to an ever expanding market for this drug.

It should be kept in mind that the experience of other countries, as well as our own recent experience, shows that those most vulnerable to marijuana use are the youth and young adults of this nation. The most recent polls have shown that 55 percent of the 1976 high school graduating seniors have experimented with marijuana. This percentage has been growing yearly, aided no doubt by the normal impressionability and rebelliousness of adolescence, but abetted also by the ambivalence of some law makers and responsible adults who recognize the consequences, but are afraid or unwilling to take a stand.

This brings me to the third myth—that for legislation and law enforcement to curb drug abuse is a fruitless exercise and a waste of the taxpayers' money.

Law has many functions in a society. It is partly a control mechanism used to restrict the behavior of citizens from unhealthy, unacceptable expressions and direct them toward healthy and productive ones. Law serves as a teacher of what is healthy, productive, and acceptable and what isn't. The fact that any law isn't perfectly kept does not mean that it is ineffectual. I have not heard, as yet, that God has retracted the Ten Commandments merely because mankind often fails to live up to them. The fact of the matter is that strong, clear laws recognizing the dire effects of marijuana use are necessary as the stated policy of this nation and of its member states.

Here it should be recalled that there are already three major legal drugs of pleasure available to the American public: caffeine, nicotine, and alcohol. Caffeine has proved to be relatively safe, although nutritionally worthless and becoming more expensive every day. Nicotine and alcohol, on the other hand, are accountable for 100,000 to 300,000 deaths annually and are responsible for untold suffering and heartbreak daily. They are also accountable for perhaps 25 billion dollars in economic loss each year. However, the use of these drugs is already deeply imbedded in a wide spectrum of our social structure. Efforts to root them out, such as prohibition and health warnings against smoking, have not met with much success. It is now proposed, however, that in spite of this experience and in spite of our knowledge of marijuana's harmful effects, we head toward adding yet another legal drug of pleasure—marijuana—to the American recreation scene.

As to the enforcement of marijuana laws: here police officers and the young marijuana user, curiously enough see the situation equally well, but from different perspectives. Marijuana advocates admit among themselves and in their publications that decriminalization of marijuana is but just a step in their attempt to fully legalize marijuana. Laws against simple possession go first; next the penalties for cultivation; then marijuana is allowed to be prescribed for medical use. All of these are steps to legitimizing the drug. Advocates also must direct their efforts toward the reclassification of marijuana and cannabis resin from the list of controlled drugs under which this nation is treaty bound to other nations.

Law enforcement also sees this decriminalization as but a part of a whole process. They have seen from experience that the users of marijuana are first introduced into a drug oriented environment and mentality. With reduced powers of judgment and will, the user now functions in an environment where other pleasure drugs are available. He becomes more susceptible both to peer pressure and to the enticing possibility of greater pleasure. It is all too easy, almost natural, to slide into experiencing the variety of sensations which multiple drug use produces. Marijuana has proven to be the doorway to other, even more dangerous drugs. It is the most common initiator to the escapism of the drug subculture.

This step-by-step process of decriminalization brings us to the reality that decriminalization is but the first step—and marijuana the first drug—in a formula to legitimize the use of other pleasure drugs, such as cocaine. Already the arguments for legalizing cocaine are being heard. They begin by saying that cocaine is really harmless. (That) Sounds familiar!

Still another long range implication of decriminalization must be considered. This country is a party to an agreement that was ratified by the United Nations Single Convention of 1961, which stated that marijuana is a harmful drug and included cannabis among the stupefying drugs to be controlled. Just what will be the international implications if this country takes a permissive stand toward marijuana? The United States has frequently voiced its disapproval with the Mexican Government for its lack of enforcement against

narcotic traffickers. We have preached to them and other countries that the reason we have such an enormous narcotics problem is because they grow, process, and deliver it. This accusation has prompted the former President of Mexico to respond that his country did not have a narcotics problem and that little could be done until the United States reduced its demand for drugs. We have only recently achieved the necessary cooperation of the Mexican Government, which is now directing an all out effort to eradicate drug crops and control narcotic traffickers in that country. Decriminalization will only signal to Mexico and all other narcotics producing countries that the United States is not serious about marijuana or any other drug of abuse. They might as well incorporate narcotics production into their economy and export it to us in even greater quantities.

If the cultural and historical currents of this nation were presently flowing strong in the direction of individual self reliance, personal responsibility, and emotional maturity, then the direction of decriminalization legislation would be less alarming. But in an age that is not only experiencing confusion about its goals and purposes, but is also being deluged by media advertising to relieve every ache, pain, or discomfort through some drug or other, I do not believe that the elected leaders of the public should legitimize yet another pleasure drug. Is this what the men and women responsible for the health and welfare of this great nation intend to do?

It should be evident to all that decriminalization in a large urban state like California has been a failure. The availability of marijuana with the same enforcement efforts has gone up precipitously. This interprets into only one logical conclusion—the demand has gone up dramatically. Demand must be suppressed if use control is a desired objective. Remember that pushers don't make users; users create pushers. It is absolutely illogical to legalize or decriminalize at the user end and to hypocritically make it a crime to provide this legalized or decriminalized demand.

Moderate criminal penalties can be extremely effective in adjusting human behavior. The relatively civilized Romans, Greeks, and Parisians are absolute assassins when they get behind the wheel of an automobile. Our relatively savage Americans, because of an American ethic of enforcing traffic laws, behave in a rather civilized fashion, particularly in my State of California. When a citizen steps into a crosswalk, brakes squeal. If a citizen stepped into a crosswalk to cross the street in Athens, Rome, or Paris, he would be considered worthy prey for the motorist. The difference isn't in the basic nature of the driver, it is in the basic nature of traffic law enforcement. Traffic penalties are relatively mild, but there is a great certainty of apprehension if a person is a repeat traffic offender and there is no way of beating the system in California. Everyone must pay his ticket or spend some time in jail. Moderate criminal sanctions have always been useful in bringing about desired public behavior.

Decriminalization or legalization of marijuana can be counted on to tremendously increase marijuana abuse. Don't forget that drug and tobacco use, which are serious problems, deal with a group whose median age is probably 47. Marijuana abuse deals with a median age that is perhaps as low as 17. Older Americans who abuse themselves with alcohol and tobacco have to some extent made their contributions to society and hopefully can be replaced if they kill themselves. Our youngsters, however, if they become habituated to the use of marijuana, will become social and economic derelicts at relatively early ages.

America has carried the torch of freedom—certainly through all of this century—for all the rest of the world. We constitute only five percent of the population of the world. It is important that every American function at his best. Decriminalization would merely expand the already serious marijuana drug abuse problem of our youth and will surely undermine America's effectiveness at home and abroad.

The International Association of Chiefs of Police absolutely opposes any relaxation in our national marijuana law and we feel very strongly that no one from the national level, from the President down through the lowest bureaucrat, should in any way attempt to act as a huckster for the decriminalization of marijuana in the 41 remaining states that have not gone the decriminalization route. We feel that for anyone at the federal level to use their power to accomplish state decriminalization is a serious abuse of the Tenth Amendment.

Mr. WOLFF. Thank you, Chief Davis.

I might say that my members here, champing at the bit, want to know whether they go to the 5-minute rule, which is the practice on the committee.

I am just going to ask a few questions so we can pass the questioning on to other members.

In passing you did say something about the fact that you did not agree with the information that had come out of Sacramento. I take it you are familiar with the story that appeared in today's Washington Post relative to the fact that California's more lenient marihuana laws cut marihuana use in half last year, resulting in savings of more than \$10 million.

The report from the Office of Narcotics and Drug Abuse, Justice and Health Departments, also referred to in this story states that less than 3 percent of the people surveyed had first tried—first tried marihuana within the past year since the new law became effective. The report said, "but only one in eight of those new users indicated more willingness to try marihuana because legal penalties had been reduced."

I take it you don't agree with that.

Chief DAVIS. I absolutely disagree. We do drug enforcement buying processes on our school grounds. I have taken video tapes of children on school grounds, using marihuana. Under this decriminalization, they are not just smoking marihuana, they are smoking hashish, snorting coke, all of those things have come up since decriminalization. There has been some decrease in my department in the early months of decriminalization because filling out the traffic ticket and then having to take the evidence and turning the fellow loose, then having to take the evidence down and book it was a great discouragement to policemen. Our rate of arrests now for simple possession is about the same as it was before decriminalization. But we had to really simplify our forms to do that. It has not decreased police work.

I think it has greatly increased use because the manpower and efforts we put into seizure, which have gone up from a rate of 2,000 pounds, as I indicated earlier, in a year up to 18,000 pounds. The general rule is that police probably get about 10 percent in their seizures. So, there is a horrendously greater availability and use of marihuana in the State of California.

Many agencies, particularly with liberal local legislative bodies and mayors will say, forget it.

So, police are just like any other set of bureaucrats. They will say, "Well, they don't want us to do it; we will lay off."

It has that kind of an impact, too. It sets lethargy into the enforcement.

Mr. WOLFF. I wonder, Chief Davis, whether or not you might be able to furnish for the committee some statistics from your own city so we can have this information for the record.

Chief DAVIS. You do have the seizure figures.

Mr. WOLFF. You indicated they are about 10 percent of the total use or abuse.

Unfortunately, most of the time we do get figures—this 10 percent figure seems to crop up all over the place whether it be on inter-

national trafficking or local trafficking or what have you. I wonder if we could get a little harder information. Maybe some of the surveys the department has accomplished will help us in our determinations.

One other factor. Have you sufficient funding at the present time or have you sufficient resources to apprehend the major drug traffickers? One of the points made before this committee and has constantly been made, is the that because of the heavy emphasis that has been exerted in the past on marihuana, it has depleted the resources that are available.

The Assistant Attorney General today indicated he does not have the resources to be able to prosecute the casual user of marihuana and therefore he must give priority to the major offenders.

Have you found that difficult in your own police department?

Chief DAVIS. That was Mr. Civiletti?

Mr. WOLFF. Yes, sir.

Chief DAVIS. I think he's been at work for about 2 weeks, hasn't he? He's been in this business for 2 weeks or 1 month. I find that absolutely untrue.

Mr. WOLFF. In other words, you have adequate resources available to you to prosecute?

Chief DAVIS. In 1969 I became chief of police and found my department had 60 men assigned to narcotics in toto. They all worked downtown. They were working on users.

I asked, "Who are the 20 biggest traffickers?" because by then we had a greatly emerging drug problem.

They could only give me three.

The long and short is that I went to my city council and we created an administrative narcotic operation that works out of headquarters with the Feds and with the sheriff and with the State and with the adjoining agencies. We have concentrated on cutting off the major sources of supply into the city. With an international airport and harbor, we are subject to an awful lot of that.

It took about 150 men. They have another 150 men, this is since 1970, who essentially have worked at the level, the local level in the 17 precincts. We consider that adequate resources if we can get backing in the courts.

We find for major traffickers that there is not sufficiently tough punishment on the part of the judges. It is a big problem. But if you added up all of those narcotic people and all the vice people you come up with like 7 or 8 percent of the strength of a department. There is no freeing up.

This myth that you don't have resources to do it is foolishness. You can't afford not to do it. I have checked with other police departments, enough of a cross section, that American police spend less than about 6 percent on vice and drugs. That is adequate if you have a good backup in court.

Mr. WOLFF. Thank you.

My time has expired.

Mr. BEARD. Chief Davis, let me read you the conclusion of the task force on organized crime put by the National Advisory Committee on Criminal Justice, December 1976.



States and localities should exercise caution in considering the legalization or decriminalization of so-called victimless crimes such as gambling, drug use, prostitution, pornography, which are known to provide income to organized crime because there is insufficient evidence that legalization or decriminalization of such crimes will materially reduce the income of organized crime.

On the contrary, evidence does exist that the elimination or reduction of legal restraints can encourage the expansion of organized crime activities. Do you agree with this and do you have a comment?

I guess the thing that hits me is, would not decriminalization be somewhat the best of both worlds for organized crime, even almost more so than legalization? Do you see, would there be an increase along these lines?

Chief DAVIS. I agree that it is the best of all worlds for organized crime. We have the Mexican Mafia, which is a product of our California prison system, that is one of the principal importers and sellers of marihuana and other drugs in southern California. The number of murders they commit is really incredible. We are investigating up to 20 murders in that outfit now.

If we recriminalize we could control it a great deal because we would have some control on use. If we legalize, then the Federal Government would step in with a taxation and all these moonshiners would be paying and it would be packaged and so forth. This decriminalization is the best of all worlds for organized crime. Or for organized traffickers.

I can't think of anything that is more intellectually dishonest, that is less satisfactory, that is more hypocritical and is more disastrous to the future of the Nation than to perpetuate the nine States, their failures, into the other 41.

Mr. BEARD. I am sorry?

Chief DAVIS. I am saying the worst thing we could do would be to push this decriminalization into the other 41 States.

Mr. BEARD. I think you mentioned that decriminalization in Oregon and Maine, the facts, the figures, and statistics are there that just show there is an increased problem, increased usage?

Chief DAVIS. That's right.

In the professional opinion of the officers of Maine, their State Chiefs' Association, decriminalization makes it impossible for them to enforce the law.

You are going to have testimony from Alaska.

It becomes impossible to enforce the law. In California, it becomes almost impossible to enforce the law.

Mr. BEARD. The thing that concerns me is, why didn't—the witnesses we had this morning, Dr. Bourne and several other individuals, really pretty well expressed to the committee that from all indications there weren't any real repercussions or ramifications on having it decriminalized.

Yet here your organization is saying, you are saying there are.

Why are the two, where do the disparities come from, why?

Chief DAVIS. Usually you should get an opinion from several different doctors. You have to get the right kind of a specialist. One of the specialists we listen to is a physiologist, Dr. Hardin Jones of the University of California, who has been at it for 40 years, and who has extensive experience. I think those are the kinds of wit-

nesses you should hear from. I think young M.D.'s who grew up in an era where most of their colleagues probably smoked marihuana tend to be a part of the younger culture that looks on it in a rather benign fashion. I think we ought to get some of the hardheaded old researchers in here and listen to what they have to say.

Mr. BEARD. Thank you, Mr. Chairman.

Mr. WOLFF. Mr. Stark.

Mr. STARK. Thank you, Mr. Chairman.

Welcome, Chief Davis, and fellow Californian, to the committee.

Chief Davis, in the same article our chairman was referring to, the United Press International report, the California Offices of Narcotics and Drug Abuse and Justice and Health Departments and other State agencies estimated that there was a saving to police agencies of some \$10 million. Obviously, you might agree there is a saving but that it is at the expense of letting people run loose. Have you noticed in your own police department any saving of funds, since marihuana has been decriminalized in California?

Chief DAVIS. Let me, first of all, say, you know that the people who put out that report are the appointees of a governor who, as one of his first official acts, was to decriminalize marihuana.

I doubt the objectivity of the report. There was absolutely no consultation with my department on that finding. I have the largest police department in the State. My city has 3 million people in it. I am active in my profession and I don't think it has saved anyone a nickel. I think when you look at the tremendously increased trafficking, when you go from 2,000 pounds seizure in a year to 18,000 pounds, that an awful lot more work has been generated there in working on big traffickers because we have had to setup a big supply mechanism to take care of a huge new increased need.

I would absolutely challenge that data. In some cases because of political pressures some police departments have virtually gone out of the marihuana enforcement business just as some departments have gone out of the gathering of intelligence on terrorists. So, they have reduced the cost of gathering terrorist intelligence. And we will pay a hell of a price for that as well.

Mr. STARK. Chief Davis, you talked about intellectual honesty, dishonesty, and objectivity. Another article that appeared a month or so ago in the San Francisco Chronicle quoted you as saying: "Think about the great probability of youngsters finding these plants, marihuana plants, figuring out what they are and ingesting marihuana, chewing it or taking it by some form, and you will get them hooked when they are two or three years old."

Does that qualify, in your opinion, as an objective and intellectually honest statement?

Chief DAVIS. Absolutely.

Mr. STARK. Thank you very much.

I have no further questions. Mr. Chairman. [Applause.]

Mr. WOLFF. We cannot have any demonstrations or indications of support or disapproval of the witnesses' remarks. It is important we have an objective hearing here.

Mr. SKUBITZ. Mr. Chairman?

Mr. BURKE. I would like to ask the—

Mr. WOLFE. I think it's your time now.

Mr. BURKE. Thank you.

I would like, Chief Davis, to give you the opportunity of responding to the question.

Chief DAVIS. OK. The proposal in California is—and some of the witnesses before you here today, one of them, at least, advocates a “victory garden” bill for potheads. So it doesn’t take one with any amount of brains to realize that if you let people grow marihuana out in the backyard, curious little kids are going to find out that there is a funny kind of a weed there. What do you do; you go out behind the barn and smoke it, or out behind the garage. Little kids have tried cigarettes, anyone who can’t visualize little kids trying the marihuana cigarette, has something wrong with them.

We are going to try to defeat in California the victory garden thing. I think it’s extremely dangerous to the little ones who normally wouldn’t get into marihuana. That bill will send it down to the lower school grades, in my opinion.

Mr. BURKE. Thank you. What, if any, are the social values, in your opinion, of the use of marihuana?

Chief DAVIS. Social values? Absolutely none. For glaucoma there are other drugs that have no side effects that are better. I have talked to distinguished ophthalmologists about that. For the treatment of glaucoma, while marihuana does offer some advantage, it has all the disadvantages of the side effects—

Mr. BURKE. But that treatment is under the direction of a physician.

Chief DAVIS. That’s right.

Mr. BURKE. Do you know of any country in the world that actually authorized the use of marihuana, or other similar drugs, as an authorized government—

Chief DAVIS. There is no organized, civilized government which has legalized marihuana. There are some countries, a few of them now, who, under new interpretations of the 1961 Single Convention Treaty, have decriminalized, like some States in the Nation have done. I know this.

I presented a plaque of appreciation to the outgoing attorney general just a few months ago before the change of administration in Mexico. He shared with me his extreme concern about the attitude of leading people in politics in America who were the pied pipers of marihuana, because in countries like Mexico heroin is not a big problem and they do a great deal to defoliate poppy fields for us so we don’t have the heroin problem. Their big problem in those countries, because of the poverty of the people and all, is marihuana use, and they are dead set against it.

I know of no other country, that I have visited and discussed the subject with, that thinks there is any merit in marihuana whatsoever.

Mr. BURKE. Chief, let me ask you, in almost any area, even in the use of alcohol, there is a regulation with regard to the age at which it can be purchased and used.

Chief DAVIS. Right.

Mr. BURKE. Would there be any with the so-called idea of decriminalization?

Chief DAVIS. Absolutely not.

Mr. BURKE. In other words, as you indicated earlier to Mr. Stark's question, that there is factual reason to believe that if you decriminalize it, that young people, extremely young people, can go from one thing, for instance smoking, that, when we say cigarette smoking is harmful to the lungs, is there anything about getting this in your lungs that could also be harmful?

Chief DAVIS. Dr. DuPont will testify to research which shows that it creates emphysema. He has a great concern about that. Dr. Bourne will not stipulate to anything other than it will get you intoxicated and you might be a drunk driver. I was on a panel with both of these gentlemen and I pinned them down as best I could. That is the limit—so Dr. DuPont can report to you on research that shows emphysema, and it's very carcinogenic, in terms of creating cancer.

Now, the next man who will testify will tell you that the Alaska law says—you know, none of those laws apply under 18, yet they have had a tremendous increase in use by kids under 18 because juvenile laws tend to be very munificent.

Mr. BURKE. You have had a great deal of experience, I know, in this field, both from the point of view of law enforcement and your observations, what you have seen. In your own candid opinion, does, or is there a great reason to believe that, the use of this may lead into harder drugs, use of harder drugs?

Chief DAVIS. I watched that very closely in the first year of decriminalization, and I know that heroin users grow out of the polydrug culture. We haven't found one heroin user who started by using heroin. The old myth used to be if you used pot that you would go into heroin. What all the scientists understand now and all agree on is, that heroin users come out of a polydrug culture where they have used almost everything and anything interchangeably.

The increase in heroin overdose deaths during our first year of decriminalization went up precipitously—we go to the coroner and get this data on a regular basis—it went up precipitously for the first 9 months. Then it tapered off in the last quarter. We think that in the last quarter the tremendous crop defoliation program in Mexico was responsible for that.

But I don't think there is any doubt that, if you stimulate the polydrug culture, you are going to stimulate the use of all drugs, including marihuana.

Mr. BURKE. Let me ask you one final question because my 5 minutes is almost up. Do you recommend decriminalization of marihuana?

Chief DAVIS. I absolutely do not. I recommend against the decriminalization. I think we should actively perpetuate the criminalization of marihuana as the best protection for our youth.

Mr. BURKE. Thank you.

No further questions.

Mr. WOLFF. Mr. Mann?

Mr. MANN. No questions, thank you.

Mr. WOLFF. Mr. Badillo?

Mr. BADILLO. No questions.

Mr. WOLFF. Mr. Gilman?

Mr. GILMAN. Thank you, Mr. Chairman.

Chief Davis, we certainly welcome some of your thinking today. Is there really any significant advantage to the police agencies to decriminalize marihuana? We have heard a lot of comment that it would be helpful to police agencies who are strapped for funds and manpower that, if we decriminalize, we would make them available for other aspects of narcotic trafficking. What are your thoughts about that?

Chief Davis. I think there is absolutely no advantage to a police agency. Let me give you an example.

In my city I have enforced the marihuana laws at rock concerts. And despite political pressure to the contrary, in my city if you break the law, you go to jail. What they have done to me in controlling that—you can imagine getting 100,000 people in a coliseum and you want to enforce the law, which means you write traffic tickets, versus physical arrests. You make it extremely difficult under decriminalization for the police officer to perform his duty. They say, "Go out and write your tickets."

What happens with most officers and many chiefs, either through political pressure in their own local city or because it's just not worth it, they get caught up in this thing of writing a traffic ticket and having people laugh at you just sort of turns down the level of enforcement. It does not add one iota of manpower because then the increase in the supply system coming in which you can't disregard, which is still a felony and which has to be worked, increases geometrically. So let me just say once again, policemen don't go around arresting potheads.

I had a survey conducted recently and about 80 percent of the individual prosecutions for personal possession of marihuana grew out of the police coming in contact with a person for some other offense. I have never, nor have my predecessors in the Los Angeles Police Department ever, sent somebody out saying, "We are going to go out and catch somebody smoking grass tonight." I know of no police department that's ever done that.

We have concentrated, where it has come to our attention, by taking some other police action, by making another arrest, and will be going after traffickers. So in order for it to give us more manpower, we would have had to have been deploying people specifically to suppress pot. I know of no police department that ever did that.

Mr. GILMAN. Today most of the efforts, then, are devoted toward getting the larger seller, isn't that correct?

Chief DAVIS. Major traffickers and peddlers, with virtually zero effort on the individual users.

Mr. GILMAN. Proponents of decriminalizing and legalizing marihuana, of course, equate it with alcohol and tobacco and say they should all be treated equally. You may have touched on that earlier in your testimony. I regret I was a bit delayed in getting in.

How do you confront that argument?

Chief DAVIS. Well, it just won't wash. With liquor, alcohol, through the process of metabolism of the body, you respire about 1 ounce of alcohol out of your system per hour. If you drink 10 ounces, in 10 hours you are free of it.

With marihuana, it has a half-life and the first puff you take is going to take 10 months before the final marihuana is out of your system.

When you are a heavy user, it accumulates in the fat tissue in the brain and stays there.

It doesn't metabolize, except over a very long period of time. Liquor and marihuana are two totally different drugs.

They are both dangerous drugs. The cost of alcohol abuse is, as I point out in my paper, probably more than \$25 billion a year.

Our current cost of all drug abuse, about \$11 billion.

We can make it totally exceed the cost of alcohol abuse. But you can't equate the two.

There are many people who use alcohol in a moderate fashion, and who suffer no consequences whatsoever.

One who uses any marihuana suffers that residue in his brain and suffers the adverse consequences.

You can't say that for liquor. The two are totally separate. One is a very dangerous drug to the functioning of the human mind. The other one can apparently be used in moderation while some become alcoholics. But you can't proscribe use for everyone, because there are many who have an excellent record of never having abused it.

Mr. GILMAN. Many of us are being urged, we should just put a warning on the package of marihuana cigarettes and say it is dangerous to their health and allow it to be sold.

What are your thoughts about that argument?

Chief DAVIS. I think anytime the Government starts living off the weaknesses of its people that Government is bound to fail.

I don't think this committee has done enough to get the experts to come in here to testify to it about all of the true dangers of marihuana.

Dr. Bourne would apparently say that if you smoke it, it is liable to intoxicate you, and you might get into a traffic accident.

Dr. DuPont will say if you smoke it, you might get emphysema. That is about as far as Dr. DuPont is going to go.

Mr. WOLFF. The gentleman's time has expired.

Chief DAVIS. If you get all the warnings from all the researchers, then you might have something.

Mr. GILMAN. Thank you. Thank you, Mr. Chairman.

Mr. WOLFF. Mr. English?

Mr. ENGLISH. Thank you, Mr. Chairman.

Chief DAVIS, I would like to go over this 10 months. This is the first time, at least I have heard this figure in which there is some residue left from using marihuana.

Is there any indication, there may not be any way to tell for sure as far as traffic accidents are concerned, what part may have been brought on due to this factor.

Chief DAVIS. We are engaging in research with UCLA Medical Center, and we hope within a couple of years to have a practical method of giving a blood test that would tell whether or not there is any THC present.

The problem with that is that it is in the brain. It is not in the blood. Eventually, when it finally gets out of the system and goes

through the kidneys, it is so much later that it doesn't subject itself to the same kind of an analysis as blood alcohol.

However, the researchers are very optimistic with the prospect of coming up with a practical test.

They can do it under very strained laboratory conditions now, but there is nothing that can be administered simply in a police station like you can with alcohol.

Mr. ENGLISH. Is there any indication or peculiarities as far as marihuana is concerned, as far as you know, with regard to traffic accidents or through the use of marihuana? What I am getting at is, say, a person uses marihuana and 6 hours later or 24 hours later is involved in an accident.

Are there any peculiarities about marihuana in which a person would think that they are in perfectly good shape and not feeling any of the effects and then through the process of driving—

Chief DAVIS. There are some objective symptoms having to do with the aperture and pupil of the eye and bloodshot nature of the rest of the eyeball.

But that is rather a tenuous type testimony and I don't think it is sufficiently good to establish consistently good cases—although we do get doctors to do it on occasion.

We point out in the full paper which I didn't read in totality, that there is a coincidental increase in accidents among age groups in which there seems to be the greatest use of marihuana.

Everyone is concerned about that. I think Dr. DuPont shares my concern and I think Dr. Bourne shares my concern in that area.

But you can't really establish in individual cases, unless you do an autopsy on the subject, and that would be perhaps too much punishment.

We will in a few years have those kinds of tests.

Mr. ENGLISH. Thank you.

Mr. WOLFF. Mr. Nellis?

Mr. NELLIS. Brief question.

Chief DAVIS, you didn't have many more arrests when California had a criminal penalty, did you, than you have now? Did you understand my question?

Mr. WOLFF. You are smoking too much. [Laughter.]

Chief DAVIS. We had more. Did we have more arrests prior than now?

Mr. NELLIS. Yes.

Chief DAVIS. By about maybe 20 percent for the first year. We think that was because we had to give the officers a scale to weigh whether it was an ounce or less, and the reports were too cumbersome. We have revised those, and our rate of arrest now is as high as it was prior to decriminalization.

Mr. NELLIS. What do you want to do about the decriminalization of youthful offenders who have a criminal record, after they smoke one cigarette?

Chief DAVIS. Well, no one, as I indicated, has gone to prison for smoking a marihuana cigarette, or for its possession.

Mr. NELLIS. You have no one in jail in California who has smoked one cigarette or been arrested for a small amount?

Chief DAVIS. That is absolutely right. I have checked the prison population. It's never happened, even in the past. Before decriminalization and perhaps this is something that is significant, even possession was a felony.

The logical step would have been instead of going to a traffic ticket decriminalization, would have been to go from a felony to a misdemeanor. Even a misdemeanor where there would be the discretion on the part of the officer to write a traffic ticket.

Instead, California went from felony to a civil ticket sort of thing, where you never get in the criminal justice system.

Mr. NELLIS. How would it be any better if you had it a misdemeanor?

Chief DAVIS. I think it would have all the full tremendous impact that that very low level use of the criminal law has in traffic offenses.

Mr. NELLIS. But you still have a criminal record with a misdemeanor, don't you?

Chief DAVIS. It's made by the person who violates the law.

Mr. NELLIS. I understand that; what I am getting at is the societal policy which the committee is concerned about which is criminalizing young people for the possession of a small amount of marihuana.

Chief DAVIS. Well, you can provide for what is in our decriminalization law, that if you don't repeat within a amount of time, then that record is destroyed.

You could provide for that sort of thing without decriminalizing and still have it criminalized.

You don't have to go to decriminalization to, in effect, wipe out a record. That can be part of legalized legislation, removing it from a felony to misdemeanor and allowing for expunging from the record.

Mr. NELLIS. Would you be in favor of a misdemeanor statute instead of a decriminalization statute in California?

Chief DAVIS. Yes, I think it would have been the logical compromise.

Mr. NELLIS. Then later on it would have been a compromise to go to decriminalization at some later time?

Chief DAVIS. Right.

Mr. NELLIS. Finally, to legalization?

Chief DAVIS. Right.

I think that is what you are faced with ultimately is the desire for total legalization.

Mr. SCHEUER. One quick question. Would you have considered it preferable for the California State Legislature to have gone straight to legalization, rather than the halfway step of decriminalization?

Chief DAVIS. I think it would have been intellectually more honest.

Mr. SCHEUER. That isn't what I am asking you.

Would it have been more desirable from society's point of view?

Chief DAVIS. I would have been absolutely against total legalization, but I think that is what they wanted and that would have been more intellectually more honest.

Mr. SCHEUER. You don't know what they wanted?



Chief DAVIS. I talked to him. I interviewed him.

Mr. SCHEUER. You only know what a legislature wants when you see what a legislature does.

Do you know what the vote was for decriminalization?

Chief DAVIS. It was strictly along party lines, and we have fewer Republicans than Democrats, so it was overwhelming, but every Republican voted against it.

Mr. SCHEUER. You said before this was an elitist group comprised of the Governor and legislature.

Chief DAVIS. Right.

Mr. SCHEUER. Do you consider the Democrats in California elitists?

Chief DAVIS. I think that is a well-put statement.

Mr. WOLFF. The Chair wants to make sure this does not become a political forum by any means. [Laughter.]

Mr. Skubitz, we are running very late now.

Mr. GILMAN. I am asking if the gentleman would yield for a moment.

Mr. WOLFF. The gentleman's time has expired.

Maybe you can get some time from Mr. Skubitz.

Mr. SKUBITZ. Mr. Chairman, first I would want to commend the chief on his statement. Although, chief, I agree with many of the points you have made with regard to the effects of marihuana, I can't see you—or me—as experts in that field. I thought you were honest, when you said we ought to be calling researchers in here and having them testify.

Chief DAVIS. Right.

Mr. SKUBITZ. You made one statement that rather stuck. You said to get researchers in here, rather than opinion gatherers.

Do I gather from that what you were saying is that the witnesses who appeared before us this morning, that even though they may carry the title "doctor," that doesn't make researchers, or does it make them, experts in the field?

Chief DAVIS. Right.

Mr. SKUBITZ. Am I correct there?

Chief DAVIS. That is absolutely correct.

Mr. SKUBITZ. Mr. Chairman, if I am correct, Mr. Chairman.

Mr. WOLFF. Yes, sir.

Mr. SKUBITZ. I ask unanimous consent that I be permitted to address a number of questions to the witnesses that appeared this morning, and that they be placed in the record at this point.

Mr. WOLFF. Without objection it is so ordered.

[The information referred to follows:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
OFFICE OF THE DIRECTOR, NATIONAL INSTITUTE ON DRUG ABUSE,  
*Rockville, Md., April 4, 1977.*

Hon. JOE SKUBITZ,  
House of Representatives,  
Washington, D.C.

DEAR MR. SKUBITZ: This is in response to your letter of March 18 requesting clarifying information on my testimony before the Select Committee on Narcotics Abuse and Control at the recent hearings on marihuana decriminalization. Responses to the questions you raise are as follows:

(1) Briefly summarize your medical background, giving special attention to your expertise in pharmacology and research.

I have enclosed a copy of my curriculum vitae outlining in detail my professional career.

(2) While attending college, and since graduation, have you performed research relating to marihuana and its effects on the human body? If so, did you publish any papers relating to the results of your research? If papers of this nature were published, please provide a copy of each.

(3) In your opinion, what qualifications are necessary for an individual to be considered an expert or an authority on the effects of any substance on the human body?

A wide range of scientists and professionals might possess some qualification to comment on the effects of a substance on the human body, if one includes effects on various human performances, social behavior, and the like. They could include such diversified professionals as physicians, psychologists, human factors scientists, pharmacologists, biologists, toxicologists, psychiatrists, social workers, police (in relation to law enforcement issues) and many others.

In addition to the published material indicated in my resume, I have administrative responsibility as Director of the National Institute on Drug Abuse for the preparation of Marihuana and Health (the Secretary's report to Congress on the health implications of marihuana use) and a wide range of other materials describing the possible health implications of various kinds of drug abuse.

(4) What, to your knowledge, is the generally accepted practice in this country regarding testing a drug or narcotic substance that is being considered for public human consumption? To what extent are laboratory tests under controlled conditions required before a narcotic becomes generally available?

The evaluation of data to support safety and efficacy of a drug before it can be marketed is the responsibility of the Food and Drug Administration (FDA). The route a chemical takes from the chemistry laboratory until it becomes available for use by the public as a drug is long, arduous, and complicated. The synthesis, identification, assay methods, chemical stability, and manufacture of the drug in its dosage form must meet rigorous standards set by the FDA.

After initial gross behavioral screening and single-dose lethality determinations in rats, mice, dogs, cats, or even monkeys, the drug undergoes extensive pharmacologic screening in several species to establish its pharmacologic profile and to compare it to known drugs for pharmacologic potency, dose ranges, and side effects. These tests then establish a scientific rationale for the drug and point the way to possible clinical indications in man.

Toxicity testing includes single-dose lethality determinations in as many as four animal species as well as repeated dose toxicity testing. To support safety for marketing, a drug is administered to rats daily for 18 months and to dogs or monkeys daily for 12 months. Parameters monitored included body weight, behavior, food consumption, hemograms, coagulation tests, liver and kidney function tests, blood glucose, urinalysis, and eye examinations. At the end of the experimental period, the animals are sacrificed and autopsies done. The organs and tissues are studied grossly and microscopically. Untreated controls are run simultaneously with treated animals.

Studies to determine absorption, metabolism, and excretion of the drug are done in several animal species as well as in man as part of clinical trails.

Studies on the effects of the drug upon fertility and general reproductive performance of the parents, on the developing fetus, and on the perinatal and postnatal periods are done in rats and/or mice and rabbits to assess any potential adverse reactions. These data are used to estimate a benefit/risk ratio for the drug in women of childbearing age.

Studies to assess abuse liability of the agent, if it appears to have such potential on the basis of its chemical structure or pharmacologic profile, are done as well. For narcotics, the opiate-dependent monkey serves as a useful experimental model.

This discussion covers only chemical, pharmacologic, toxicologic, reproduction, metabolic, and abuse liability studies in animals. Extensive clinical studies must be run as well. These start usually after extensive pharmacologic studies and 30-90 day toxicity studies in two animal species. The time typically required from

when a drug is synthesized until it is approved for marketing is usually about 5 to 7 years.

A copy of FDA's views on toxicity testing of drugs is attached.

(5) Are there, to the best of your knowledge, substances currently in use in other countries that are not acceptable in the United States, based on current standards?

A variety of drug substances are available in other countries that are not permitted to be used in the United States under current regulations. Heroin, for example, is a legal drug in England and other countries for the treatment of pain and, for limited numbers, as a maintenance drug for addicts. The degree of restriction on the use of cannabis also varies markedly from country to country. While it is nominally illegal in all to at least some extent, some countries are relatively permissive to the extent of permitting use of lower potency materials. The plant source of the drug cocaine, coca leaves, is widely used legally in South America as an energizer similar to North American coffee use. Finally, countries differ widely in the strictness of their requirements with respect to therapeutic drugs, with some having few standards of efficacy and many having fewer restrictions relating to safety than ours.

(6) What is the current status of laboratory testing of marijuana and what clinical information has been produced from those tests that lead you to endorse its use?

The attached 6th Annual Marihuana and Health report summarizes the present state of our knowledge concerning marihuana research and its implications for health. I have in no sense endorsed the use of marihuana and have repeatedly stressed the known and potential hazards which this drug poses. There are serious limitations to our present knowledge particularly regarding the implications of more chronic use of marihuana or the use of stronger materials.

(7) In your opinion, should a medical doctor, without research support be considered qualified to make recommendations on permitting general public use of a substance of questionable safety?

A physician may well have a qualified opinion on the use of a substance of questionable safety based on his clinical experience or general observations. Any such opinion must be weighed in the light of other opinion as well as in the light of more systematic research investigation.

(8) Do you believe that the general public should be permitted to use any substance whose safety is open to question? As it relates to the first part of this question, is it your position that marihuana is completely safe and has no detrimental effect on the human mind or body?

At the present time the general public is permitted to use a variety of substances whose safety is not only open to question but which have been demonstrated to be clearly injurious. The most obvious examples of this are tobacco and alcohol. However, safety is not nor can it be the only consideration in restricting availability of a substance. Social custom and other pragmatic considerations such as the efficacy of the restrictive efforts, possible social and economic implications of the restrictive policy pursued are all considerations that must be considered in adopting a workable social policy. At no time have I said that marihuana is completely safe and has no detrimental effect on the human mind or body. While the extent of these hazards is not yet known with precision, I have repeatedly stressed the known and potential hazards of this substance.

(9) Would you please prepare for the Committee a list, and brief summary, of all the cases you are aware of where an individual has been imprisoned for possession of a miniscule amount of marihuana, solely and exclusive of any other related circumstance.

I am not aware of a listing of the type that would be necessary to reply to this question. It should, however, be noted that apart from imprisonment, the effects of being branded "criminal" or a felon can be serious for a young person. These may include denial of admission to professional training or licensure as a result of a felony conviction, potential employment discrimination, as well as the psychological impact on the individual as a result of becoming involved with the criminal justice system.

(10) What, to your knowledge, are the psychological and physiological effects of marihuana on the human body from the moment of inhalation? Is your answer to this question based on reading, actual observation, or in-depth clinical research?

As indicated above, a copy of the 6th Annual Marihuana and Health report is appended which summarizes our present knowledge of marihuana and its effects.

If I can be helpful to the Committee in any other way, please do not hesitate to contact me.

Sincerely yours,

ROBERT L. DUPONT, M.D., *Director.*

[Enclosures as stated are in the Select Committee files.]

DEPARTMENT OF STATE,  
Washington, D.C., April 5, 1977.

HON. JOE SKUBITZ,  
House of Representatives,  
Washington, D.C.

DEAR MR. SKUBITZ: I am writing in response to your letter of March 18 regarding my testimony before the Select Committee on Narcotics Abuse and Control at the recent hearings on marijuana decriminalization.

As you will see from the enclosed curriculum vitae, I have no formal medical training. However, I have spent much of the past six years learning about pharmacology and clinical effects of many of the psychotropic drugs, including marijuana.

I have never performed research relating to marijuana and its effects relating to the human body although I have studied all of the recent research with interest.

A wide range of professional people, particularly scientists and doctors, might possess the appropriate qualifications to be considered an expert on the effects of various substances on the human body.

Regarding the procedure for pre-market testing of any drugs, the Food and Drug Administration has authority under the Food, Drug, and Cosmetic Act to ascertain that new drugs are both safe and effective for human use. Except for those drugs which were not in general use prior to the adoption of the Food and Drug Act Amendments of 1962, the FDA requires that very thorough animal studies be conducted on any investigational new drug before the drug can be administered even for limited research purposes in humans.

There are a number of substances currently in use in other countries which are not approved for use in the United States, the best known example of which is Laetrile.

I do not now nor have I ever endorsed the use of marijuana. Marijuana, like any drug improperly used, has potential harmful effects. However, most current research, including that conducted by the National Institute on Drug Abuse, indicates that no major deleterious effects have been found to be related to marijuana use.

I do not believe that a medical doctor must have conducted actual research himself in order to be qualified to make recommendations regarding the use of a substance. His clinical experience and general background may well suffice as the basis for such recommendations.

As you know, the American people have the freedom to use a variety of substances whose safety is not only open to question but which have been demonstrated by repeated studies to be extremely dangerous. Alcohol and tobacco are the most obvious examples. As I have said, I have never endorsed the use of marijuana and do not consider it or any other drug completely safe under all circumstances.

Unfortunately, I do not have a summary available to me of all the cases involving imprisonment of individuals for possession of small amounts of marijuana. Perhaps the National Organization for the Reform of Marijuana Laws, located in Washington, D.C., could provide you with this information.

If I can be of further assistance to you, please let me know.

Sincerely,

MATHEA FALCO,  
Senior Adviser and Coordinator,  
International Narcotics Matters.

THE WHITE HOUSE,  
Washington, D.C., April 8, 1977.

Hon. JOE SKUBITZ,  
U.S. House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN SKUBITZ: Thank you for your letter of March 18th. The following is in response to the specific questions that you posed.

(1) Briefly summarize your medical background giving special attention to your expertise in pharmacology and research.

I am enclosing my curriculum vitae and a list of my scientific publications. I would like to draw your attention to the three years that I spent at the Walter Reed Army Institute of Research from 1964 to 1967. In addition to my recent appointment in the Federal Government, I have for the last three years, as part of my faculty affiliation with Harvard, served on the staff of the Addiction Research Center at McLean Hospital in Boston.

(2) While attending college and since graduation have you performed research relating to marihuana and its effects on the human body? If so, did you publish any papers relating to the results of your research? If papers of this nature were published, please provide a copy of each.

I have not personally conducted pharmacological research on the effects of marihuana on the human body. However, I have remained for ten years extensively involved in the review of such research and have published a number of papers relating to the policy implications of the research findings relating to the physiological effects of many drugs on the human body. I have had extensive clinical experience with those using marihuana.

(3) In your opinion, what qualifications are necessary for an individual to be considered an expert or an authority on the effects of any substance on the human body?

I believe that any professional with a background in pharmacology, medicine or the behavioral sciences who has devoted a significant part of their professional career to studying the effects of marihuana on the individual and society is qualified. In making government policy I have drawn heavily on the talents of such people.

(4) What, to your knowledge, is the generally accepted practice in this country regarding testing a drug or narcotic substance that is being considered for public human consumption? To what extent are laboratory tests under controlled conditions required before a narcotic becomes generally available?

The evaluation of data to support safety and efficacy of a drug before it can be marketed is the responsibility of the Food and Drug Administration. The route a chemical takes from the chemistry laboratory until it becomes available for use by the public as a drug is long, arduous, and complicated. The synthesis, identification, assay methods, chemical stability, and manufacture of the drug in its dosage form must meet rigorous standards set by the Food and Drug Administration.

After initial gross behavioral screening and single-dose lethality determinations in rats, mice, dogs, cats, or even monkeys, the drug undergoes extensive pharmacologic screening in several species to establish its pharmacologic profile and to compare it to known drugs for pharmacologic potency, dose ranges, and side effects. These tests then establish a scientific rationale for the drug and point the way to possible clinical indications in man.

Toxicity testing includes single-dose lethality determinations in as many as four animal species, as well as repeated dose toxicity testing. To support safety for marketing, a drug is administered to rats daily for 18 months and to dogs or monkeys daily for 12 months. Parameters monitored included body weight, behavior, food consumption, hemograms, coagulation tests, liver and kidney function tests, blood glucose, urinalysis, and eye examinations. At the end of the experimental period, the animals are sacrificed and autopsies done. The organs and tissues are studied grossly and microscopically. Untreated controls are run simultaneously with treated animals.

Studies to determine absorption, metabolism, and excretion of the drug are done in several animal species, as well as in man as part of clinical trials.

Studies on the effects of the drug upon fertility and general reproductive performance of the parents, on the developing fetus, and on the perinatal and postnatal periods are done in rats and/or mice and rabbits to assess any potential adverse reactions. These data are used to estimate a benefit/risk ratio for the drug in women of childbearing age.

Studies to assess abuse liability of the agent, if it appears to have such potential on the basis of its chemical structure or pharmacologic profile, are done as well. For narcotics, the opiate-dependent monkey serves as a useful experimental model.

This discussion covers only chemical, pharmacologic, toxicologic, reproduction, metabolic, and abuse liability studies in animals. Extensive clinical studies must be run as well. These start usually after extensive pharmacologic studies and 30-90 day toxicity studies in two animal species. The time typically required from when a drug is synthesized until it is approved for marketing is usually about 5 to 7 years.

I would like to point out, however, that marihuana is not a narcotic substance.

(5) Are there, to the best of your knowledge, substances currently in use in other countries that are not acceptable in the United States, based on current standards?

There are many substances used in other countries which are not currently accepted in the United States. This includes the drug laetrile which has generated considerable publicity recently. In the narcotics area, opium is widely used in certain parts of the world, and is banned in the United States. In addition, in Bolivia and certain parts of Peru, coca leaves are chewed and used legally by the indigenous population for the stimulating effects of the cocaine which they contain. Cocaine is, of course, an illicit drug in this country.

Congress has passed laws which provide for strict government regulation of any products that are considered medicinal in nature, to assure that the public is protected from products that are unsafe or lacking in efficacy. This question is largely unrelated to the issue of marihuana as the use of marihuana remains against the law, a position which this Administration strongly supports. The evidence to date shows that marihuana can be a serious hazard to people driving automobiles, that it may cause some minor health problems in the form of bronchitis and acute intoxication. There is no evidence to date, however, despite extensive medical research, that marihuana causes any damage comparable to that caused by the chronic use of alcohol or tobacco. It would be wrong, however, to create the impression that we may not subsequently find serious medical consequences; and marihuana, like all drugs, should be treated with great caution. That is why we feel that we should keep marihuana use illegal and maintain laws that would penalize its use.

(9) Would you please prepare for the Committee a list and brief summary of all the cases you are aware of where an individual has been imprisoned for possession of a miniscule amount of marihuana, solely exclusive of any other related circumstance.

Please find enclosed the FBI Crime Reports from 1970-1975. I have also enclosed some press clippings about people who have been given jail sentences. I would like to stress that the damage to an individual is not only from the jail term but also from the criminal records that are incurred upon conviction.

Under Federal law in recent years virtually no arrests have been made for possession of very small amounts of the drug making the law largely redundant and raising the question as to whether we should maintain on the books a law that is essentially never enforced. It is our feeling that such a course only served to lower respect for the law.

(10) What, to your knowledge, are the psychological and physiological effects of marihuana on the human body from the moment of inhalation? Is your answer to this question based on reading, actual observation, or in-depth clinical research?

The psychological and physiological effects of marihuana are discussed in the enclosed report on marihuana and health. My own knowledge in this area is based on many years of experience reviewing research studies, personal clinical observation, and involvement in governmental policy decision making.

Thank you for the opportunity to provide you with the answers to the questions that you raised.

Sincerely,

PETER G. BOURNE, M.D.,  
*Director-Designate,  
 Office of Drug Abuse Policy.*

[Enclosures as stated are in the Select Committee files.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
NATIONAL INSTITUTE OF MENTAL HEALTH,  
Rockville, Md., April 20, 1977.

Hon. JOE SKUBITZ,  
House of Representatives,  
Washington, D.C.

DEAR MR. SKUBITZ: Thank you for the opportunity to expand on my recent testimony before the Select Committee on Narcotics Abuse and Control. Since your first three questions, at least implicitly, seem to question my expertise in the drug abuse area, I am enclosing my complete curriculum vitae. This CV provides you with a complete record of my education, training, and experience in public health, mental health, and the drug abuse field.

The following is my response to your other questions:

(4) What, to your knowledge, is the generally accepted practice in this country regarding testing a drug or narcotic substance that is being considered for public human consumption? To what extent are laboratory tests under controlled conditions required before a narcotic becomes generally available?

In view of our respective responsibilities within the Public Health Service, this question should be directed to Dr. Robert DuPont, the Director of the National Institute on Drug Abuse.

(5) Are there, to the best of your knowledge, substances currently in use in other countries that are not acceptable in the United States, based on current standards?

Yes.

(6) What is the current status of laboratory testing of marijuana and what clinical information has been produced from those tests that lead you to endorse its use?

I do not endorse the use of marijuana.

(7) In your opinion, should a medical doctor, without research support, be considered qualified to make recommendations on permitting general public use of a substance of questionable safety?

No.

(8) Do you believe that the general public should be permitted to use any substance whose safety is open to question? As it relates to the first part of this question, is it your position that marijuana is completely safe and has no detrimental effect on the human mind or body?

The first question cannot be answered in the abstract. You would have to give me an example of a specific substance and the severity of its danger to individual health.

In response to your second question under number 8, the answer is no.

(9) Would you please prepare for the Committee a list, and brief summary, of all the cases you are aware of where an individual has been imprisoned for possession of a minuscule amount of marijuana, solely and exclusive of any other related circumstance.

We do not keep records on cases related to marijuana and the law. However, I am sure that many of the law schools, such as at the University of Virginia which had a specific interest in this area, could provide you with a history of such cases.

(10) What, to your knowledge, are the psychological and physiological effects of marijuana on the human body from the moment of inhalation? Is your answer to this question based on reading, actual observation, or in-depth clinical research?

Your best summary resource in this area is the 1976 Report to Congress on Marijuana and all of the previous Reports to Congress since 1971.

Please advise if I may be of further assistance.

Sincerely yours,

BERTRAM S. BROWN, M.D., Director.

[Enclosure as stated is in the Select Committee files.]

Mr. GILMAN. Chief, just so there won't be any misunderstanding in the record, some questions were addressed to you before about the gradual process of leading toward legalization. It is my impression that you are opposed to legalization?

Chief DAVIS. That is correct.

Mr. GILMAN. And that you don't endorse that graduated process; is that correct?

Chief DAVIS. That is correct.

Mr. GILMAN. I just wanted the record to be clear on that point.

Mr. SKUBITZ. Mr. Chairman, one other statement and then I am through.

Chief, when you testified I had the same feeling that you have this morning, that many of the witnesses that appeared before us this morning where the boys that were on the college campuses back in the 1960's when there was quite a protest movement on, and that maybe what they were trying to do now was to justify the conclusions that they drew in the 1960's rather than give us information upon what their research is today.

That is why I want to submit these questions, Mr. Chairman, to the witnesses that appeared this morning.

Thank you.

Mr. WOLFF. Thank you.

Thank you, Chief Davis.

Chief DAVIS. Thank you very much. I thank all the members of the committee.

Mr. WOLFF. Our next witness is Hon. Richard Hatcher, mayor of Gary, Ind.

Mayor HATCHER. Thank you, Mr. Chairman.

Mr. WOLFF. Mayor Hatcher, we are delighted to have you here today.

Mayor HATCHER. Thank you very much, Mr. Chairman.

Mr. WOLFF. I ask that you be sworn, sir.

[Witness sworn.]

#### TESTIMONY OF HON. RICHARD GORDON HATCHER, MAYOR OF GARY, IND.

Mr. WOLFF. Please proceed. You may read your statement or summarize it.

Mayor HATCHER. Thank you very much, Mr. Chairman, members of the committee.

My name is Richard Hatcher and I am the mayor of the city of Gary. To be absolutely candid with you, my credentials for testifying before this committee are somewhat suspect.

I have never personally experimented with marihuana, I have no intention of doing so any time soon. Until very recently I thought that grass was something that grew on lawns, and that a joint was something connecting the knee bone to the thigh bone. My recent research indicates that I have led a cloistered and incomplete life.

Despite my inexperience, I am here today to present the National League of Cities' position on marihuana use and controls and to briefly discuss marihuana issues from the standpoint of a mayor.

The National League of Cities represents some 15,000 municipalities of all sizes across the Nation through a network of State associations and direct members. The league is a broadly based and extremely diverse group.

At present, league policy calls for the deemphasis of law enforcement against marihuana use. Our policy statement on this matter



says that, "while pursuing an active policy to discourage marihuana use, less emphasis should be placed on enforcing marihuana laws when casual users and small amounts are involved, so that limited enforcement resources can be directed toward large-scale trafficking in addictive and/or socially destructive drugs."

I would like to make it clear that wide and substantive differences can be found among members of the league on the marihuana issue. Some league activists want the marihuana laws to be stiffened; others believe marihuana laws are archaic, unnecessarily harsh, and virtually unenforceable. I suspect this diversity might also emerge from a national opinion survey.

There is, however, latent irony in the league's fragmentation on the marihuana issue. While some strong sentiment remains for holding firm in the battle against marihuana, most cities across the country are already cutting back on the enforcement of marihuana laws. In short, public opinion is lagging behind public activity. Or so the results of recent League of Cities' survey would seem to indicate.

During the spring of 1976 a questionnaire concerning local drug abuse needs and priorities was mailed to league members in cities with 30,000 or more residents.

A total of 429 municipalities responded to the survey, and a total of 414 cities answered a question concerning local trends in marihuana enforcement.

Overall, some 58 percent of the cities queried said they were moving toward either decriminalization or less stringent enforcement of drug laws when small amounts of marihuana were involved.

Approximately 3 of every 4 cities with a population of at least 250,000 were following this trend, as were 54 percent of the smaller cities, with populations of 100,000 or less.

In fact, fewer than 10 percent of the cities involved were enforcing marihuana laws more stringently today than in the past.

In short, in most cities across the country, gentlemen, large and small, located in the East and West and everywhere in between, the de facto decriminalization of marihuana has already, by and large, taken place. There are many reasons for this shift. Perhaps the experience of my city, Gary, Ind., will help explain what has been happening and why.

In 1972, the school district of Gary surveyed the school population in grades 9 through 12 to determine drug use patterns.

Student responses indicated that approximately 27 percent of the Gary youngsters in the senior grades had used marihuana at least once during the previous year. Boys were twice as likely to have used the drug. A total of 29 percent of the boys queried said they had used marihuana, while only 15 percent of the girls involved in the survey had experimented with the drug.

There were 40,000 senior students in Gary in 1972. Based upon the survey results, 10,000 of these students had used marihuana. Usage patterns were the same for inner-city schools and semi-suburban schools.

Although the 1972 study has not been repeated, school administrators believe that the pattern has not altered materially over the last 5 years.

In school year 1975 through 1976, a grand total of 22 youngsters were expelled from school for marihuana-related offenses. This year, to date, there have been 15 expulsions. In other words, perhaps 1 of every 500 students using marihuana is penalized by school authorities for disobeying drug laws. Questions of due process and selective enforcement arise from this enforcement ratio, and school authorities in Gary are extremely uncomfortable with the present state of marihuana affairs.

According to one school administrator who demanded anonymity before agreeing to discuss this matter, school building administrators, generally principals, decide whether they are going to take a hard stand—or a soft stand—when a youngster is found smoking pot in the lavatory. This puts considerable discretion in the hands of the principal, perhaps more discretion than any individual administrator should possess.

Once a decision is made to discipline a student, a cumbersome process tying up a half dozen administrators for at least several weeks is begun. Hearings are held. The police department is contacted. Thousands of desperately needed school dollars are encumbered and spent. And the entire process of education is side-tracked. The school officials I contacted, without exception, called for the decriminalization of marihuana when small amounts are involved.

I was not terribly surprised by their liberalism, but I was surprised when, upon checking with the detectives in the Gary Police Department, I also found that Gary policemen believe our marihuana laws are arbitrary and unenforceable.

In 1976 there were 2,000 drug arrests in the city of Gary. Nearly one-quarter of these arrests involved marihuana violations. In many cases the marihuana is turned up as a byproduct of a traffic violation or another violation unrelated to drug trafficking.

Many marihuana cases are dropped on the spot. As a narcotics detective asked me: "What should we do when we find a productive citizen, holding down a job and supporting his family, with a nickel bag stashed in his pocket? In most cases," this detective said, "we do absolutely nothing."

Indiana law allows the courts to sentence marihuana violators from 1 to 20 years in prison for the first marihuana offense.

In most cases violators never enter the criminal justice system. In the 471 instances where charges were filed in 1976, the case was tried in the Gary City court, and the defendant was given a small fine and then received a year of probation.

The issue of selective enforcement that I raised earlier is certainly applicable in most police cases referred to the court. Beyond that, the Gary Police Department simply does not have the time, the manpower, or the desire to pursue marihuana infractions.

My city is permitted 380 policepersons. At present, there are 345 on our police force. We simply do not have enough money to employ all the security personnel we are authorized to hire. Our manpower shortage does not permit us the luxury of diverting limited personnel to what is basically a victimless crime.

And I might mention, Mr. Chairman, that last year Gary had one of the largest decreases in major crime of any city in the country.

After listening to the school administrators and police officials discuss marihuana laws and their enforcement, I decided to turn to

the experts—to the youngsters in Gary's public schools who possess firsthand and extensive knowledge of the drug situation.

One student at Roosevelt School, located in Gary's inner city, said that lawmakers should, "legalize marihuana, concentrate more on why there is widespread use of drugs—problems at home and parents—these are more important than the use of drugs themselves."

And another Gary student at Lew Wallace School, located in the affluent area of Gary, told us: "This survey took a long time in coming, and so will the end of drug use. Marihuana drug laws should be suspended. Other drug laws should be stiffened."

As people say, out of the mouths of babes comes much common sense. To date, eight States have started on the path toward decriminalization of marihuana. In my judgment the other 42 States would be wise to follow these progressive jurisdictions. Our marihuana laws, and their enforcement across the Nation, are arbitrary, capricious and, by and large, unenforceable.

In the teens and the twenties of this century, prohibition was tried and found to be an abomination. The cure proved much worse than the disease. I believe that it is time to drop our Volstead Act approach to marihuana use in this country. That is my opinion, and based upon data received from other cities in this country, that is the de facto direction American cities have already begun to take. To put it another way one might say decriminalization is an idea that has come and gone.

Thank you.

Mr. WOLFF. Thank you, Mayor Hatcher.

I am going to pass at this point to the ranking minority member, Mr. Burke.

Mr. BURKE. How long have you been mayor of Gary?

Mayor HATCHER. I am starting my 3d term. This will be my 9th year.

Mr. BURKE. Did I understand you testimony to say that until recently you believed grass grew on lawns?

Now, you knew better than that. Nine years isn't recent, is it?

Mayor HATCHER. I think it is true that much of my knowledge of this particular drug has been of recent vintage.

Mr. BURKE. How recent is recent?

Mayor HATCHER. I would say in the last several years.

Mr. BURKE. I know, but you are testifying for a league now, I presume. Your testimony is being accurate. How long is several years to you?

Mayor HATCHER. I would estimate I have been fully aware of this problem some 6 or 7 years.

Mr. BURKE. Even before you became mayor because you had the problem in Gary, I happen to have been born and raised in Chicago. I know something about Gary, though I lived in Florida for a longer period of time. I do know that you have had a serious drug problem in Gary, Ind., for a long period of time and, in fact, you campaigned on part of that issue 7 years ago, is that it?

Mayor HATCHER. Sir, I might point out Gary has had a serious drug problem. The problem has not been marihuana.

Mr. BURKE. No; but you say, what was your law enforcement—how many, when you became mayor, how many police members of the police department and law enforcement did you have?

Mayor HATCHER. Total?

I believe at the time I became mayor we had a total of 275.

Mr. BURKE. Now, you have 345.

Mayor HATCHER. Yes, sir.

Mr. BURKE. Yet you say you have no inclination to enforce the marihuana arrests in the city?

Mayor HATCHER. No, sir, that is not what I am saying. No; what I am saying is that our policemen in talking to members of our narcotics bureau they have indicated a disinclination to enforce strictly the laws regarding marihuana.

Mr. BURKE. You also finished your testimony with this was your opinion.

Now, you were, I know, at one time, I am not sure you were president of the league, but I know you were very active in the league. Now, in your capacity now with the National League of Cities, what is your capacity?

Mayor HATCHER. I am the immediate past chairman of the Human Resources Committee that had the responsibility last year of developing or revising the league's policy on drug abuse. That policy, our committee met for a period of a year to review our existing policy, and made recommendations to the body in December. And at that time most of those recommendations were adopted. This particular recommendation or policy regarding marihuana, in fact, was adopted at that meeting in Denver.

Mr. BURKE. Did you pass a resolution to this effect.

Mayor HATCHER. Yes, sir.

Mr. BURKE. Would you do me the favor, would you put in the record the name of those cities that recommended decriminalization of marihuana and those that did not?

Mayor HATCHER. I believe the vote on this particular question, and I hope I am not incorrect, I believe the vote was unanimous.

Mr. BURKE. You, you don't say that. You say a total of 429 municipalities responded to the survey and a total of 414 cities answered a yes concerning local trends in law enforcement. Marihuana enforcement. Overall some 58 percent of the cities queried said they were moving toward either decriminalization or less stringent enforcement of drug laws. Which, by the way, is much broader than just marihuana. When you use the words "drugs laws," when small amounts of marihuana were involved. Approximately 3 of every 4 cities with a population of at least 250,000 were following this trend, as were 54 percent of the smaller cities with populations of 100,000 or less.

Now, this is a statement before this committee, which is looking into the fact and we hope to get the true facts.

So, would you be kind enough with the approval of this committee, and I would like the unanimous consent, that Mr. Hatcher put the names of those cities that voted for or against, as you say, either decriminalization or less enforcement of drug laws.

Mayor HATCHER. Sir, if I might, I think that there may be some confusion in terms of your understanding of what I am saying.

Mr. BURKE. Clarify it for me.

Mayor HATCHER. The section that you have just quoted relates to a survey, a study, that was done by the National League of Cities last year. And I would be more than happy to obtain a copy of that

study and submit it to this committee so that the committee itself review the study itself.

With regards to league policy, I quoted specifically the league policy on this question that was adopted at the Congress of Cities in December 1976 in Denver, Colo. That policy, if I just might state it again says:

While pursuing an active policy to discourage marihuana use, less emphasis should be placed on enforcing marihuana laws when casual users and small amounts are involved. So that limited enforcement resources can be directed toward large-scale trafficking and addictive and/or socially destructive drugs.

That is the policy.

Mr. BURKE. Mr. Hatcher, I don't disagree but on page 1 you said that you are here to present the National League of Cities' position on marihuana use and control. Then, you say "to briefly discuss marihuana issues from the standpoint of an urban administrator."

Mayor HATCHER. That's correct.

Mr. BURKE. Then, on page 3 of your testimony, you mention the policy of the league with regard to what the survey was.

Now, I want to distinguish or have you distinguish, if you will, when you are speaking for the league and when you are speaking for yourself from a standpoint of an urban administrator, which is a mayor of Gary, Ind. That is all I want you to do, please.

Mayor HATCHER. Yes, sir, I hope that I have done that. I have attempted to do that. The information that you have quoted once more comes from a survey. And in my testimony I point out that a questionnaire concerning local drug abuse needs and priorities was mailed to league members. I cite the number of league members who responded to that questionnaire. And I cite the results or the conclusions that would be drawn from those responses.

Now, I pointed out that is not league policy, sir. That is the result of a survey. I simply cited—

Mr. BURKE. I see. Would you put that, sir, as the sentence you mention in your testimony—

Mr. WOLFF. If the gentleman would yield, we have that survey in the record of our interim report.

Mr. BURKE. All right. I haven't seen it yet. So, if it is, I should like to see it from the chairman.

I would like to ask one other question, if I can. Did the league ever pass a resolution of any kind with regard to the decriminalization of marihuana?

Mayor HATCHER. I believe the only thing that the league passed in the way of policy on this question is the policy that I have cited to you. They did not pass a specific resolution calling for the decriminalization of marihuana.

Mr. BURKE. What you are really doing then, Mayor Hatcher, is expressing your opinion as a member of the League of Cities.

Mayor HATCHER. I pointed out at the end that the question of decriminalization was, in fact, my opinion.

Mr. BURKE. Yes; it was the end, the last thing you stated there that made me ask the question.

Thank you very much.

Mayor HATCHER. If I might, sir, I might also point out that there was discussion of what language to use in terms of policy and the body made a decision that it would use the language that I have

just described as opposed to using the term "decriminalization." In fact, the language that I just described certainly suggests decriminalization.

Mr. BURKE. Have you discussed this with your chief of police?

Mayor HATCHER. Yes, sir.

Mr. BURKE. When I heard Chief Davis from Los Angeles give his testimony, although you got here late and maybe you didn't.

Mayor HATCHER. I heard the chief's testimony.

Mr. BURKE. Is it your recommendation then that we decriminalize marihuana offenders?

Mayor HATCHER. Yes, sir, that is my personal—my personal belief is that the decriminalization of marihuana would, in fact, be beneficial both from a law enforcement point of view, as well as from a social point of view.

Mr. BURKE. Thank you very much.

Mr. WOLFF. Time of the gentleman has expired.

Mr. Scheuer.

Mr. SCHEUER. I was interested in your testimony and impressed by it. Can you explain why there is such a tremendous deviation in approach between your testimony and the representative of the IACP?

I ask you that especially since you quote the police chiefs of our large cities as having formed some kind of a consensus supporting the decriminalization of marihuana.

Mayor HATCHER. I should point out that my contact with the police in this particular instance has been confined to my own police department.

I cannot explain the difference between my position, the position that I think generally has been adopted by most mayors in the country, and the position of the International Association of Chiefs of Police. I believe that it is true, though, that mayors have the responsibility to respond to citizens who are concerned. And I find, for example, in my own community that the major concern deals with major criminals. It does not deal with marihuana.

It deals with whether a citizen is going to be robbed or whether they might be subject to some kind of assault.

I find that most people in our community are interested in seeing people who perpetrate that kind of crime apprehended, as opposed to, they feel marihuana, for the most part, if it harms anyone harms the person who makes a conscious choice to use it.

Mr. SCHEUER. Thank you very much.

Mr. WOLFF. Mr. Beard.

Mr. BEARD. I will reserve my time for a phone call.

Mr. WOLFF. Mr. Stark?

Mr. STARK. I would just like to welcome Mayor Hatcher here and express my appreciation for his testimony. I was impressed by it. Thank you for being with us.

Mr. WOLFF. Mr. Gilman?

Mr. GILMAN. Thank you, Mr. Chairman.

Mayor, I was interested in the policy statement that was adopted by the league. You are saying that the casual use in the small amounts, something you feel should be set aside and that we should concentrate on the large-scale trafficking in addictive and/or socially destructive drugs.

I would assume that you still find a need for emphasizing enforcement efforts in large-scale sale of marihuana, are you not.

MAYOR HATCHER. Well, I think there would be a role for enforcement in—if that is your question, even though the decriminalization took place. I think there would be a role for enforcement. The question is what would be the nature of that enforcement, and how extensive would it involve law enforcement resources that perhaps might better be directed to other types of crimes.

MR. GILMAN. Well, the league, it was my understanding the league suggests deemphasizing the casual use.

MAYOR HATCHER. Yes.

MR. GILMAN. Small sale, someone who takes a joint or two or something of that nature. But they are certainly not deemphasizing the need to enforce large-scale trafficking—

MAYOR HATCHER [interrupting]. No.

MR. GILMAN [continuing]. Of marihuana or any other drug, are they not?

MAYOR HATCHER. No. As a matter of fact at the time they adopted this policy they reaffirmed their commitment to stepped up or intensified enforcement of large-scale trafficking in drugs.

MR. GILMAN. Including marihuana.

MAYOR HATCHER. Well, I would assume marihuana is a drug.

MR. GILMAN. You are not suggesting we deemphasize large-scale trafficking enforcement, are you, in marihuana?

MAYOR HATCHER. Well, I am not sure that I find the expenditure of major law enforcement resources for that purpose the most efficient use of those resources.

MR. GILMAN. For the seller of marihuana?

MAYOR HATCHER. I think I would take the same position as applied to that. But that is purely a personal position.

MR. GILMAN. Our committee has heard a number of reports, many of the traffickers in hard drugs rely to a great extent on the sale of marihuana to keep their organization funded. I assume you probably heard similar reports. The league isn't suggesting legalization of marihuana, but a lesser penalty, isn't that correct?

MAYOR HATCHER. No, the league is not suggesting legalization of marihuana. The league is suggesting only the lessening of emphasis on enforcement of marihuana laws.

MR. GILMAN. But at the same time trying to discourage the use of marihuana.

MAYOR HATCHER. Absolutely. I don't think anyone encourages, at least no one that I have spoken with, encourages the use of marihuana.

MR. GILMAN. Isn't there, then, some inconsistency in your proposition that while we are going to try to discourage use and deemphasize penalty for the casual use, that we at the same time—you are suggesting we not focus any attention on the large-scale sale of marihuana?

MAYOR HATCHER. Well, as I pointed out, I think that first of all the notion of not focusing any major law enforcement resource on large-scale trafficking is a personal opinion. That is my opinion.

I am not sure that that is an efficient use of the best use of law enforcement resources given many of the other major problems that law enforcement agencies are confronted with today. But in terms

of the league's position, the league's position is simply that if we utilize the personnel that we have to deal with large-scale trafficking, that is, that we have available large-scale trafficking in addictive and/or socially destructive drugs, then that would be the best use of those resources and that we should lessen the enforcement of those laws as they apply to casual users of small amounts of marihuana.

Mr. GILMAN. Just so the record is clear, is the league suggesting we do not enforce large-scale trafficking of marihuana?

Mayor HATCHER. No, it is not.

Mr. GILMAN. Thank you.

Thank you, Mr. Chairman.

Mr. WOLFF. Mr. Beard?

Mr. BEARD. Thank you, Mr. Chairman.

Mr. WOLFF. I am sorry. I would like to call on Mr. Mann.

Mr. MANN. Just one short question, Mayor.

You know when we talked about less emphasis be placed on enforcing marihuana laws, is the league saying, that from the standpoint of resources available to a municipality these days, we want to take a united front and mutual support in seeing that we don't neglect that part of the law enforcement picture?

Mayor HATCHER. Are you asking me if that is what they are saying?

Mr. MANN. Yes.

Mayor HATCHER. I am not sure that is all they are saying. But I think they are saying that they want to be certain that we continue to enforce the laws as they presently exist. There are some areas that the league perhaps feels that we should be more vigorous in terms of enforcement than others. And marihuana happens to be one that they are suggesting that we not enforce as vigorously as perhaps the laws as they apply to major traffickers in drugs and especially drugs such as heroin, cocaine, and so on.

Mr. MANN. And into that conclusion goes an assumption or perception that the casual use of marihuana is not contributing to society's problems in any substantial way, at least to the law enforcement problems of the community?

Mayor HATCHER. All right.

Mr. BEARD. Mr. Chairman, Mayor, the International Association of Chiefs of Police for which Chief Davis testified, this is the national organization for all the police chiefs in the country.

Chief Davis made it clear that the overwhelming majority, I think it was over 2 to 1, or whatever, of his members shared the views that he projected in his testimony. I know in your statement now that you said that "I also found Gary policemen believe our marihuana laws are arbitrary and unenforceable."

Is it a legitimate statement to say that your police officers or your police association there in Gary or your police chief would testify to this committee that they were for decriminalization of marihuana?

Mayor HATCHER. Yes, I think he would. I went to the members of the department that have the responsibility of enforcing narcotics laws. They are the ones that I spoke to about this. And their response was that they did not feel the laws were enforceable; and



besides that they didn't feel that they were—they felt they could use their time more expeditiously.

Mr. BEARD. I can understand the arbitrary aspect of it, the fact they are arbitrary and unenforceable. I can understand someone saying that. I think it is a different ball game to a certain extent, it may be just a play on words, but when that police officer would come out and say, "I am for decriminalization of marihuana," you feel that is the way the police chief would testify?

Mayor HATCHER. Yes, I think that our chief of police would.

Mr. BEARD. I will yield.

Mr. SCHEUER. About 7 or 8 years ago when Pat Murphy, who is now president of the Police Academy in Washington, was police commissioner in New York City, he announced that the police henceforward would make no further marihuana arrests, but if there was an arrest for hard drugs and marihuana were found on the individual, that would be another count in the indictment. However, because the New York City police were so undermanned and understaffed at that time, they would make no further marihuana arrests.

I think that was tantamount to decriminalization in New York. That policy has never been reversed since then and I think, in effect, it has been replicated in a number of other American cities.

Mr. BEARD. Well, I was talking to some police officers when we were going through Harlem, just regular on-the-street-type police officers. They just said, "Whatever you do, please don't do what they have done in some of the areas of this country and decriminalize marihuana."

These were just guys who just happened to be the ones who had the job of carrying it out.

I would like to ask also, as chairman of the Committee for the League of Cities, would you tell me who some of the witnesses were that came before different mayors? Did Dr. Bourne come before your committee?

Mayor HATCHER. Yes, Dr. Bourne appeared before our committee.

Mr. BEARD. Dr. DuPont?

Mayor HATCHER. No; I believe we had the—an attorney general from Colorado. I believe the attorney general from Colorado before our committee.

Mr. BEARD. How does he stand on it?

Mayor HATCHER. I believe his position was that the matter warranted further—I should point out that a good deal of our discussion related, did not stop with marihuana, in all fairness to you.

And that we were discussing the possible decriminalization of heroin, heroin maintenance programs and so much of the testimony related to that, because most people viewed that as the more serious.

Mr. BEARD. Would you say the overall attitude of your particular committee in the end, was it for the maintenance programs for heroin or decriminalization of cocaine or heroin?

Mayor HATCHER. Well, when we started, our committee, I suppose if a poll had been taken the vote would have been about 99.9 percent opposed to any kind of decriminalization, heroin or anything else.

At the end of the year of study and hearings that we held across the country, that position had almost completely reversed itself.

With one or two exceptions, the committee voted—in fact, I think the vote was unanimous on the committee to recommend to the full body the question of heroin maintenance and this policy that I have just read with respect to marihuana.

The two major committees of the National League of Cities voted unanimously to adopt those positions, and—

Mr. BEARD. I am sorry. The position of decriminalization?

Mayor HATCHER. The position of decriminalization went through two major committees, was voted for adoption through two major committees.

Mr. BEARD. Marihuana and heroin?

Mayor HATCHER. And heroin, that's right.

Mr. SCHEUER. Decriminalization?

Mayor HATCHER. It was decriminalization of heroin.

What happened was that on the floor of the Congress, when the final vote was being taken on this issue, the section, or the paragraph dealing with decriminalization, was stricken, was stricken out, but the section dealing with heroin maintenance was left in unchanged.

Mr. BEARD. But it came out of the two subcommittees?

Mayor HATCHER. That's right.

Mr. BEARD. For—in support of decriminalization of marihuana, decriminalization of heroin also?

Mayor HATCHER. That's correct.

Mr. SCHEUER. No, not the—

Mr. BEARD. I am sorry, Mr. Chairman. He has stated it was stricken in the whole committee, but it came out of two committees calling for the decriminalization.

Mr. SCHEUER. No. Heroin maintenance is far different.

Mr. BEARD. I would like to let the witness who was the chairman of the committee answer.

Mayor HATCHER. I am sorry, Mr. Chairman, because I understand the confusion on this question. But the fact was that the original recommendation involved both heroin maintenance and decriminalization.

Mr. SCHEUER. Right.

Mayor HATCHER. The decriminalization was stricken on the floor. The full Congress voted to eliminate the section dealing with decriminalization. It left the section dealing with heroin maintenance intact and adopted that unanimously and it also adopted this section dealing with marihuana, the lessening of enforcement of marihuana laws.

Mr. BEARD. I just want to let you know I think the shocking part about it is here we are talking about decriminalization of marihuana and already several of the committees on the League of Cities has presented—has approved decriminalization of heroin.

Mr. SCHEUER. No, they have not.

Mr. BEARD. I am sorry. It was stricken out in the full committee by the Congress, but the witness has so stated, and I don't know why we keep getting confused about it.

But they stated that they submitted decriminalization of heroin. What is the confusion?

Mr. SCHEUER. Is that what the witness meant to say?

Mr. BEARD. He just said it 15 times.

Mr. SCHEUER. He said they instituted a heroin maintenance program.

Mr. BURKE. Are we going to allow the witness to testify or do you want to get down there and testify for him?

Mr. SCHEUER. No, I would like the witness to clarify what I think is a misunderstanding.

Mayor HATCHER. Mr. Chairman, if I could just outline the procedure that the standing committees of the National League follow, perhaps it will be better understood.

The Human Resources Committee along with—there are approximately, I think, eight standard committees—

Mr. SCHEUER [interrupting]. Excuse me. We have a rollcall vote on a very important bill and we have a minute or two until the second bell, at which point we will have to leave.

Why don't you just clarify very simply?

As I understand it, they came out for decriminalization of marihuana. Did they come out for decriminalization of heroin or did they come out for heroin maintenance programs?

Mayor HATCHER. I believe the specific language was decriminalization of drugs without specifying heroin or the—but that did not—the full body eliminated decriminalization of drugs. The section on that. But it retained, adopted heroin maintenance and retained the language I have just read on marihuana.

Mr. SCHEUER. Thank you very much.

Are there any further questions?

Yes?

Mr. SKUBITZ. Thank you, Mr. Chairman.

Mayor, you understand, of course, that it is the administration's position to permit the States to determine whether they should decriminalize marihuana.

Now, the law that you have in Indiana, your testimony indicates, is a 1 to 20 years' penalty for first offenders.

Did you at any time ever appear before the legislative committee within your State opposing this legislation or recommending change?

Mayor HATCHER. The answer is yes. That law has been on the books in Indiana for quite a number of years before I became mayor, but during this last year, session of the legislature, I have met with various members of the legislature to discuss—

Mr. SKUBITZ [interrupting]. But you never appeared before a committee of any kind to state the same position you have stated here today?

Mayor HATCHER. There is not a bill before the State legislature.

Mr. SCHEUER. Excuse me. We have got to get to this vote.

The committee will be in recess for 15 minutes.

[Recess.]

Mr. WOLFF. The committee will come to order.

Mayor Hatcher, is there something you would like to say to conclude, sir?

Mayor HATCHER. Thank you, Mr. Chairman.

Just for the record, I would like to clarify the question of the policy that was adopted on heroin maintenance. We did not recom-

mend heroin maintenance as such, but what we did recommend was research on heroin maintenance, including a small number of carefully controlled experiments to determine whether or not heroin maintenance was in fact a viable alternative to some of the approaches we were taking today.

I do not want to mislead the committee in that respect.

Mr. WOLFF. We thank you very much.

Mr. SKUBITZ. Mr. Chairman, I was questioning the gentleman when we adjourned. May I complete my questioning?

Mr. WOLFF. Indeed.

Mr. SKUBITZ. Mayor, there are two statements here that confused me a little. One, on the first page of your testimony, "I am here to present the National League of Cities position on marihuana use and control, and to briefly discuss marihuana issues."

Then, on the last page of your testimony, that "In my opinion, and based upon data received from other cities in this country, that is the de facto direction American cities have already begun to take."

Mayor HATCHER. Yes, sir.

Mr. SKUBITZ. Are you expressing your opinion or the league's opinion?

Mayor HATCHER. I am expressing my opinion.

Mr. SKUBITZ. Is your opinion based upon the surveys that were made of the cities over 30,000?

Mayor HATCHER. My opinion is based upon my own experience and my own city, my own community and the survey that I make reference to in this testimony.

Mr. SKUBITZ. If I understood your testimony, there was—there are 15,000 cities.

Mayor HATCHER. No, sir.

Mr. SKUBITZ. National League of Cities represents some 15,000 municipalities. Is that wrong.

Mayor HATCHER. No, that is wrong. That is not what it says. It says the National League of Cities represents cities of 15,000 or more, and I point out later with respect to this survey that I believe the response, we received a response from about 400—

Mr. SKUBITZ [interrupting]. Let us get to that next. I am trying to get a point established here. "I am here today to represent the National League of Cities position on marihuana use and controls and briefly discuss marihuana issues."

Now, the next paragraph, "The National League of Cities represents some 15,000 municipalities of all sizes across the Nation."

Is that a true statement or not?

Mayor HATCHER. You are correct.

Mr. SKUBITZ. All right, then, the next question.

Mayor HATCHER. That is not correct, 15,000. It should be cities of 15,000 or more.

Mr. SKUBITZ. How many cities are in that league, then?

Mayor HATCHER. Approximately in terms of direct member cities there are approximately 629 cities.

Mr. SKUBITZ. Then your survey that you are talking about really does not cover 15,000 or 20,000 cities. It covers only about 600 cities.

Mayor HATCHER. As a matter of fact, sir, if you will look on page 2, you will see that I point out a total of 429 municipalities responded to the survey.

Mr. SKUBITZ. That was going to be my next point. If you represented 15,000 cities and received a response from 429 of them, and 58 percent of them took your position on this, what we are talking about is about 1 percent of the cities. You know, when I run for office, when 1 percent of the returns were in, I never considered I had lost or won.

Thank you, Mr. Chairman.

Mr. WOLFF. Thank you.

Thank you, Mayor Hatcher, for coming in with us today.

Mayor HATCHER. Thank you.

Mr. WOLFF. Because of time limitations, as well as the fact that we had intended to treat both the morning and afternoon sessions as panels, we are going to take the next three witnesses as a panel.

I will ask them to make their statements and then all three will be then questioned by our committee.

**TESTIMONY OF CHIEF INVESTIGATOR JOSEPH TURNER, ALASKA STATE TROOPERS; DR. JEROME JAFFE, PROFESSOR OF PSYCHIATRY, COLUMBIA UNIVERSITY; AND DR. HENRY BRILL, ISLIP, N.Y.**

[Witnesses sworn.]

Mr. WOLFF. Our first witness is Chief Investigator Joseph Turner of the Alaska State Troopers.

Mr. Turner, you may either summarize your statement or read it. We will see to it that the entire statement, however, is included in the record. Whichever you prefer.

Mr. TURNER. I will basically summarize.

Mr. WOLFF. Thank you. Could you speak up a little bit.

Mr. TURNER. Mr. Chairman and other honorable members of the committee, I am Joseph Turner of the Alaska State Troopers.

The State of Alaska was relatively free of any significant form of illicit drug abuse until the late 1960's. During that period Alaska began experiencing an increase in the number of arrests relating to narcotic and drug abuse violations, which included all types of illicit drugs.

In 1969, Alaska was one of the first States to reduce marihuana possession from a felony crime to a misdemeanor. There was considerable opposition—however, unheeded—by law enforcement agencies throughout the State.

The number of arrests for marihuana-related violations increased along with the weight seizure of the drug. The abuse flourished and drug-related problems appeared in an increasing frequency in the high schools and among the younger age groups.

The problem grew to such an intensity that illicit drugs were coming into Alaska by every conceivable means imaginable. Virtually every city and village within Alaska was affected in one way or another.

Due to the rising narcotic and drug-abuse related problems, the 1973 Alaska Legislature appropriated funds to the Department of Public Safety for the primary purpose of establishing narcotic and dangerous drug enforcement units within the Criminal Investigation Bureau of the Alaska State Troopers.

The units were given the responsibility and authority to detect and apprehend individuals involved in the illicit sale and major distribution of narcotics and dangerous drugs throughout the State. As a result of the funds, major Metropolitan Drug Enforcement Units were formed in the two largest cities within the State.

At approximately the same period of time, the legislature appropriated a comparable amount of funds for various rehabilitative types of programs to be initiated with the primary purpose of rehabilitating drug abuse offenders. Funds for both functions have continued until the present year with annual increases allotted to cover inflation.

Marihuana abuse increased dramatically after the 1969 decision to reduce possession from a felony to a misdemeanor. In 1975 the Alaska Legislature modified the Alaska laws to decriminalize possession of 1 ounce or less while in public, punishable as a civil violation with a fine of \$100. Just prior to the decriminalization, the Alaska courts were, on the average, imposing a fine of \$25 and a suspended imposition of sentence for a period of 6 months for minor infractions of the law. With no similar violations for the 6-month period, the majority of defendants would have the arrest removed from their criminal records entirely.

Shortly after the Alaska Legislature decriminalized possession of 1 ounce or less of marihuana, the Alaska Supreme Court rendered an opinion that went even further toward the decriminalization of marihuana.

The petitioner in this case was an Irwin Ravin versus the State of Alaska. Ravin was arrested on December 11, 1972, in connection with a traffic-related offense where a small amount of marihuana was found in his vehicle. Ravin attacked the constitutionality of the Alaska statutes and entered a motion to dismiss in which he asserted that the State had violated his right of privacy, in violation of both the Federal and Alaska constitutions.

In essence, the opinion rendered by the Alaska Supreme Court states that the right to privacy in a specifically protected area, such as the home, is a right guaranteed by the Alaska Constitution.

That decision was rather lengthy, and I have enclosed a copy with the report. That decision virtually legalized possession of any amount of marihuana within the confines of one's residence or place of abode.

The decision as rendered literally opened a Pandora's box as far as law enforcement efforts are concerned. As of this date there is a great deal of confusion and chaos as to the actual interpretation of the rulings. Not only is there confusion within the law enforcement segment, but also from the various district attorneys throughout the State.

Within Alaska it is still a violation of Federal laws to possess marihuana, and there is no legal way to acquire the drug. The exception, pursuant to Alaska State law, would be growing within one's dwelling. Actual growing of the plant on one's property outside the dwelling or in a greenhouse that is not connected to the residence is still subject to many different interpretations by the State prosecutors.

It is anticipated, and states so in the *Ravin* decision, that additional rulings will be rendered by the court as cases are presented.

The Alaska marihuana laws are covered under the Alaska statutes, title 17, Food and Drug, dated October 1975. I will delete the initial portion and go to the portion that deals explicitly with the civil citations.

A person who: (1) uses marihuana on a public street or sidewalk or on the premises of a public carrier or business establishment or any other public place, or (2) possesses or controls more than an ounce of marihuana on a public street or sidewalk or on the premises of a public carrier or business establishment or any other public place, or (3) possesses any amount of marihuana while operating a motor vehicle or airplane, or (4) while under the age of 18, possesses, controls or uses any amount of marihuana is, upon conviction, guilty of a misdemeanor punishable by a fine of not more than \$1000.

A person 18 years of age or older who violates this chapter by possession or control of any amount of marihuana in other than a public place, when his possession or control is for his own use, or by possession of one ounce or less of marihuana in a public place, is punishable by a civil fine of not more than \$100. Punishment under this subsection shall be initiated only by civil complaint or citation. The court may establish procedures for payment of fines by mail.

As of this date the court has yet to enact any procedures for implementing the issuance of civil citations as outlined in the Alaska statutes. Without this citation, law enforcement agencies have no means of bringing the matter to the attention of the courts. For this reason, it is extremely difficult to gather any comparative data to be utilized as a basis for determining whether or not there has been an increase in the use of the drug.

As previously mentioned, the *Ravin* decision went even further toward the legalization of the marihuana laws within Alaska, so the present statute as outlined was outdated before it was even put into print.

During the time of the decriminalization and the *Ravin* decision it was felt by many law enforcement officials that the decriminalization of marihuana was just a stepping stone toward the decriminalization of the laws with reference to other drugs of abuse.

In the latter months of 1976, an Anchorage superior court judge rendered a decision that the legal classification of cocaine was improper, and the immediate result was his decision to dismiss charges against six defendants.

At the present time all State charges with reference to cocaine violations are presently pending criminal proceedings, awaiting a decision from the the Alaska Supreme Court or action by the State Legislature. There are efforts being made to draft a Uniform Control Substance Act which is to be presented to the present legislative body. This may prevent cocaine violations from running along the same lines as the decriminalization of marihuana.

The decision as rendered had no bearing whatever on the law as far as juveniles are concerned. The decision stated that the State of Alaska had a legitimate concern with avoiding the spread of marihuana use to adolescents who may not be equipped with the maturity to handle the experience prudently and did not condone the use by adolescents or juveniles.

Interviews were conducted with the various school principals located within the larger metropolitan areas in Alaska as well as some of the bush areas. There was a difference of opinion as to whether or not there was any substantial increase in the number of users since the decriminalization of marihuana. There were no reports that there was any decrease in the number of users among the students;

however, the general consensus of opinion was that the students were more sophisticated in their use and more open about their use of the drug.

There were several comments made that problems were encountered when attempting to administer discipline to the students for the use of marihuana in and around school, whereas they were told by the students that the parents actually condoned the use of marihuana. In some cases, the students told the school officials that they obtained the drug from their parents. Some of the principals did indicate that the use appeared to be reaching into the lower age brackets.

General consensus of opinion among law enforcement officials throughout the State of Alaska is that the number of users of the drug has increased. To further substantiate this opinion is the fact that the pound seizures of marihuana increased in 1976 approximately 37 percent over 1975.

Some of the other problems police have with reference to enforcement of the law, citizen complaints with regard to marihuana smoke coming from one apartment to another, where it is nauseating not only to themselves but their children.

As mentioned previously, the Pandora's box has been opened and only the future can tell whether or not the decision as rendered by the legislature and the Alaska Supreme Court was a proper and valid one.

We would go on record, the Alaska State Troopers, are opposed to decriminalization of marihuana.

Mr. WOLFF. Thank you.

[Mr. Turner's prepared statement follows:]

PREPARED STATEMENT OF JOSEPH L. TURNER, CHIEF INVESTIGATOR, CRIMINAL INVESTIGATION BUREAU, ALASKA STATE TROOPERS

#### MARIJUANA DECRIMINALIZATION WITHIN ALASKA

The State of Alaska was relatively free of any significant form of illicit drug abuse until the late 60's. During that period Alaska began experiencing an increase in the number of arrests relating to narcotic and drug abuse violations, which included all types of illicit drugs.

In 1969 Alaska was one of the first states to reduce marijuana possession from a felony crime to a misdemeanor. There was considerable opposition (however unheeded) by law enforcement agencies throughout the State. The number of arrests for marijuana-related violations increased along with the weight seizure of the drug. The abuse flourished and drug-related problems appeared in an increasing frequency in the high schools and among the younger age groups.

The problem grew to such an intensity that illicit drugs were coming into Alaska by every conceivable means imaginable. Virtually every city and village within Alaska was affected in one way or another.

Due to the rising narcotic and drug abuse related problems, the 1973 Alaska Legislature appropriated funds to the Department of Public Safety for the primary purpose of establishing narcotic and dangerous drug enforcement units within the Criminal Investigation Bureau of the Alaska State Troopers. The units were given the responsibility and authority to detect and apprehend individuals involved in the illicit sale and major distribution of narcotics and dangerous drugs through the State. As a result of the funds, major Metropolitan Drug Enforcement Units were formed in the two largest cities within the State.

At approximately the same period of time, the Legislature appropriated a comparable amount of funds for various rehabilitative types of programs to be initiated with the primary purpose of rehabilitating drug abuse offenders. Funds for both functions have continued until the present year with annual increases allotted to cover inflation.



For an overall view of the drug violations occurring throughout Alaska, an annual drug report for the period of 1976 is attached to this report. Also attached to the report will be various charts and breakdowns depicting marijuana violations throughout the State.

Marijuana abuse increased dramatically after the 1969 decision to reduce possession from a felony to a misdemeanor. In 1975 the Alaska Legislature modified the Alaska laws to decriminalize possession of one ounce or less while in public punishable as a civil violation with a fine of \$100.00. Just prior to the decriminalization, the Alaska Courts were, on the average, imposing a fine of \$25.00 and a suspended imposition of sentence for a period of six (6) months for minor infractions of the law. With no similar violations for the six-month period, the majority of defendants would have the arrest removed from their criminal records entirely.

Shortly after the Alaska Legislature decriminalized possession of one ounce or less of marijuana, the Alaska Supreme Court rendered an opinion that went even further towards the decriminalization of marijuana. The petitioner in this case was an Irwin Ravin versus the State of Alaska. Petitioner Ravin was arrested on December 11, 1972 in connection with a traffic related offense where a small amount of marijuana was found in his vehicle. Ravin attacked the constitutionality of the Alaska Statutes and entered a motion to dismiss in which he asserted that the State had violated his right of privacy in violation of both the Federal and Alaska Constitutions, and further violated the equal protection provisions pursuant to both State and Federal Constitutions. The opinion is rather lengthy and a copy of the same is attached to this report. In essence, the opinion rendered by the Alaska Supreme Court states that the right to privacy in a specifically protected area, such as the home, is a right guaranteed by the Alaska Constitution. The decision virtually legalized possession of any amount of marijuana within the confines of one's residence or place of abode. The decision as rendered literally opened a Pandora's box as far as law enforcement efforts are concerned. As of this date there is a great deal of confusion and chaos as to the actual interpretation of the rulings. Not only is there confusion within the law enforcement segment, but also from the various District Attorneys throughout the State.

Within Alaska it is still a violation of federal laws to possess marijuana and there is no legal way to acquire the drug. The exception, pursuant to Alaska State law, would be growing it within one's dwelling. Actual growing of the plant on one's property outside the dwelling or in a greenhouse that is not connected to the residence is still subject to many different interpretations by the State prosecutors. It is anticipated that additional rulings will be rendered by the Court as cases are presented.

The Alaska marijuana laws are covered under the Alaska Statutes, Title 17, Food and Drug, dated October 1975. Penalties for simple marijuana possession are contained within AS 17.12.110:

Section. 17.12.110. *Penalties.* (a) A person who violates a provision of this chapter relating to the possession or control of depressant, hallucinogenic and stimulant drugs, other than marijuana, when his possession or control is for his own use, is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$1,000, or by both.

(b) A person who violates a provision of this chapter other than one mentioned in (a) of this section, or a person who violates a provision of this chapter relating to the possession or control of depressant, hallucinogenic and stimulant drugs, when his possession or control is for the purpose of sale or other disposal to another person, is guilty of a felony and upon conviction is punishable as follows:

●(1) For the first offense, by imprisonment for not more than 25 years, or by a fine of not more than \$20,000, or by both;

(2) For the second and subsequent offense, by imprisonment for any term of years or life, or by a fine of not more than \$25,000, or by both.

(c) A person who violates a provision of this chapter by selling or otherwise disposing of a depressant, hallucinogenic or stimulant drug to a person less than 19 years of age is guilty of a felony and upon conviction is punishable by imprisonment for any term of years or life, or by a fine of not more than \$25,000, or by both.

(d) A person who: (1) uses marijuana on a public street or sidewalk or on the premises of a public carrier or business establishment or any other public place, or (2) possesses or controls more than an ounce of marijuana

on a public street or sidewalk or on the premises of a public carrier or business establishment or any other public place, or (3) possess any amount of marijuana while operating a motor vehicle or airplane, or (4) while under the age of 18, possesses, controls or uses any amount of marijuana is, upon conviction, guilty of a misdemeanor punishable by a fine of not more than \$1,000.

(e) A person 18 years of age or older who violates this chapter by possession or control of any amount of marijuana in other than a public place, when his possession or control is for his own use, or by possession of one ounce or less of marijuana in a public place, is punishable by a civil fine of not more than \$100. Punishment under this subsection shall be initiated only by civil complaint or citation. The court may establish procedures for payment of fines by mail.

(f) In this section, "public place" means a place which is either in public ownership or a place available to public access.

As of this date the Court has yet to enact any procedures for implementing the issuance of civil citation as outlined in the Alaska Statutes. Without this citation, law enforcement agencies have no means of bringing the matter to the attention of the courts. For this reason it is extremely difficult to gather any comparative data to be utilized as a basis for determining whether or not there has been an increase in the use of the drug.

As previously mentioned, the Ravin decision went even further towards the legalization of the marijuana laws within Alaska, so the present statute as outlined is outdated.

During the time of the decriminalization and the Ravin decision it was felt by many law enforcement officials that the decriminalization of marijuana was just a stepping stone towards the decriminalization of other drugs of abuse.

In the latter months of 1976, an Anchorage Superior Court Judge rendered a decision that the legal classification of cocaine was improper and the immediate result was his decision to dismiss charge against six defendants. At the present time all State charges with reference to cocaine violations are presently pending criminal proceedings, awaiting a decision from the Alaska Supreme Court or action by the State Legislature. There are efforts being made to draft a Uniform Control Substance Act which is to be presented to the present legislative body. This may prevent cocaine violations from running along the same lines as the decriminalization of marijuana.

Neither the decriminalization by the 1975 Legislature nor the Ravin decision had any bearing whatsoever on the law as far as juveniles are concerned. The Court was very explicit in the Ravin decision that the State had a legitimate concern with avoiding the spread of marijuana use to adolescents who may not be equipped with the maturity to handle the experience prudently and did not condone the use by adolescents or juveniles.

Information was received from one of the Juvenile Intake Officers in the Anchorage area with reference to any significant changes in the abuse of the drug by juveniles. He indicated that there was no substantial change in the number of cases handled by his office during a four-year period. However, it is his opinion that the decriminalization of marijuana, as enacted within the State of Alaska, was not in the best interest of society. He was very much in opposition to the decriminalization of marijuana. He indicated changes in the attitudes of the offenders he came in contact with, and that acquisition of the drug was easier and more prevalent.

Interviews were conducted with the various school principals located within the larger metropolitan areas in Alaska as well as some of the bush areas. There was a difference of opinion as to whether or not there was any substantial increase in the number of users since the decriminalization of marijuana. There were no reports that there was any decrease in the number of users among the students; however, the general consensus of opinion was that the students were more sophisticated in their use and more open about their use of the drug. There were several comments made that problems were encountered when attempting to administer discipline to the students for the use of marijuana in and around school whereas they were told by the students that the parents actually condoned the use of marijuana. In some cases, the students told the school officials that they obtained the drug from their parents. Some of the principals did indicate that the use appeared to be reaching into the lower age brackets.

General consensus of opinion among law enforcement officials throughout the State of Alaska is that the number of users of the drug has increased. To further substantiate this opinion is the fact that the pound seizures of marijuana increased in 1976 approximately 37% over 1975. In 1976 there were 780 pounds seized as opposed to 571 pounds in 1975. In 1974 there were approximately 446 pounds seized which is indicative of a 75% increase in 1976 as opposed to 1974.

The decision as rendered in the Ravin matter virtually legalized any amount within the privacy of one's residence. The only exception would be corroborating evidence to substantiate a charge of possession for the purposes of sale. In addition, there is still a great deal of controversy as to the possession of marijuana in motor homes, campers, tents or mobile homes that are used as dwellings. Growing marijuana on private lands or greenhouses not confined to a dwelling adds to the confusion and misinterpretation of the laws. Courts in the Ravin decision did clarify that marijuana, other than the actual leafy substance, is a violation. This in essence would include hashish, hash oil, or any other cannabis derivatives with the higher percentage of tetrahydrocannabinol.

There have been numerous articles written by magazines throughout the country with reference to the Alaska marijuana laws. Some of the information contained in these magazines is misconstrued and is not valid. This adds to the confusion, not only among law enforcement officers within Alaska, but the general public as well.

Some figures that were obtained from U.S. Customs Officials indicate that in 1974 there were approximately 201 seizures at the Alaska Border Station. In 1975 this increased to approximately 281. In 1976 the increase in the number of seizures soared to 603. Many of the comments rendered during these seizures and other seizures by various law enforcement officials throughout the State are that, "I thought it was legal in Alaska."

In addition, complaints are received rather frequently from citizens that the marijuana smoke emitting from one residential apartment into theirs is nauseating to themselves or their family members. In addition, police officials receive numerous complaints from parents as to their children's involvement in marijuana abuse and the easy accessibility of the drug.

As mentioned previously, the Pandora's box has been opened and only the future can tell whether or not the decision as rendered by the Legislature and the Alaska Supreme Court was a proper and valid one.

#### MARIHUANA ABUSE VIOLATIONS—1968-76

Age	1976	1975	1974	1973	1972	1971	1970	1969	1968
11 to 12.....	1	3		1	1		1		
13 to 14.....	23	24	17	18	12	8	3		
15.....	31	32	37	29	18	14	8	7	6
16.....	33	37	53	46	33	13	13	5	2
17.....	34	60	63	46	44	17	7	6	5
Total, ages 11 to 17.....	122	156	170	140	108	52	32	18	13
18.....	18	40	58	65	17	21	6	3	5
19.....	23	40	57	61	17	32	9	5	3
20.....	26	29	47	43	29	19	7	9	7
21.....	20	32	43	48	23	13	18	6	7
22.....	15	36	34	40	16	18	3	6	2
23.....	16	19	31	36	17	9	8	2	1
24.....	15	34	22	26	12	8	2	3	1
25 to 29.....	44	82	75	58	28	15	11	4	8
30 to 34.....	8	24	14	11	5	6	2	2	
35 to 39.....	8	8	8	2	2	2	3	2	1
40 to 44.....	2	2	3	4	2	2		1	
45 to 49.....	1	3	2	1	1	1			1
50 to 54.....	4		1		1		1		
55 to 59.....									1
60 to 64.....	1								
Total, ages 18 to 64.....	201	349	395	396	170	146	70	43	37
Combined total, all ages.....	323	505	565	536	278	198	102	61	50

Note.—Figures reflect Alaska State Troopers jurisdiction only. The sale and possession of marihuana offenses are combined totals.

## MARIHUANA ABUSE VIOLATIONS BREAKDOWN BY SEX—1968-76

	Under 18			18 and over			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Grand total
Year:									
1976	95	27	122	169	32	201	264	59	323
1975	127	29	156	306	43	349	433	72	505
1974	142	28	170	353	42	395	495	70	565
1973	105	35	104	332	64	396	437	99	536
1972	86	22	108	137	33	170	223	55	278
1971	35	17	52	140	6	146	175	23	198
1970	23	9	32	56	14	70	79	23	102
1969	17	1	18	42	1	43	59	2	61
1968	5	8	13	36	1	37	41	9	50

Note.—Figures reflect Alaska State Troopers jurisdiction only. The sale and possession of marihuana offenses are combined totals.

## POSSESSION OF MARIHUANA BY SEX AND AGE—1974-76

Age	1976			1975			1974		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
15 and under	51	18	69	118	26	144	86	12	98
16	53	8	61	77	11	88	61	16	77
17	39	6	45	120	22	142	90	15	105
Total, 17 and under	143	32	175	315	59	374	237	43	280
18	36	3	39	95	16	111	84	8	92
19	36	7	43	76	13	89	76	7	83
20	24	1	25	72	10	82	80	11	91
21	23	2	25	69	11	80	53	7	60
22	17	2	19	45	4	49	41	3	44
23	17	1	18	42	5	47	33	3	36
24	9	3	12	60	6	66	27	5	32
25 to 29	45	4	49	102	6	108	92	12	104
30 to 35	13		13	41	2	43	26	3	29
36 to 40	3		3	10		10	4		4
41 to 50	1		1	5	1	6	7		7
50 and over	2		2	1	1	2	2		2
Total, 18 and over	226	23	249	618	75	693	525	59	584
Combined total, all ages	369	55	424	933	134	1,067	762	102	864

Note.—Figures are depictive of offenses statewide and includes State and local jurisdictions.

## COMBINED TOTALS, POSSESSION OF MARIHUANA—1974-76

Age	1976	1975	1974
15 and under.....	69	144	98
16.....	61	88	77
17.....	45	142	105
Total, 17 and under.....	175	374	280
18.....	39	111	92
19.....	43	89	83
20.....	25	82	91
21.....	25	80	60
22.....	19	49	44
23.....	18	47	36
24.....	12	66	32
25 to 29.....	49	108	104
30 to 35.....	13	43	29
36 to 40.....	3	10	4
41 to 50.....	1	6	7
50 and over.....	2	2	2
Total, 18 and over.....	249	693	584
Combined total, all ages.....	424	1,067	864

Note.—Figures are depictive of offenses statewide and includes State and local jurisdictions.

## SALE OF MARIHUANA BY SEX AND AGE—1974-76

Age	1976			1975			1974		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
15 and under.....	1		1	2		2			
16.....	1	1	2	5		5	4		4
17.....	7	2	9	2	1	3	11	3	14
Total, 17 and under.....	9	3	12	9	1	10	15	3	18
18.....	11		11	10	2	12	15	2	17
19.....	9	2	11	11		11	13		13
20.....	13		13	11	1	12	23	1	24
21.....	7	1	8	8	2	10	23	3	26
22.....	11	1	12	6		6	23	3	26
23.....	10		10	4		4	7		7
24.....	5	1	6	9	1	10	14		14
25 to 29.....	18	1	19	32	1	33	17	1	18
30 to 35.....	6	1	7				5		5
36 to 40.....	2		2	3		3	1		1
41 to 50.....				1		1			
50 and over.....				1		1			
Total, 18 and over.....	92	7	99	95	8	103	141	10	151
Combined total, all ages.....	101	10	111	104	9	113	156	13	169

Note.—Figures are depictive of offenses statewide and includes State and local jurisdictions.

## COMBINED TOTALS, SALE OF MARIHUANA—1974-76

Age	1976	1975	1974
15 and under.....	1	2	4
16.....	2	5	14
17.....	9	3	14
Total, 17 and under.....	12	10	18
18.....	11	12	17
19.....	11	11	13
20.....	13	12	24
21.....	8	10	26
22.....	12	6	26
23.....	10	4	7
24.....	6	10	14
25 to 29.....	19	33	18
30 to 35.....	7	3	5
36 to 40.....	2	1	1
41 to 50.....	1	1	1
50 and over.....	1	1	1
Total, 18 and over.....	99	103	151
Combined total, all ages.....	111	113	169

Note.—Figures are depictive of offenses statewide and includes State and local jurisdictions.

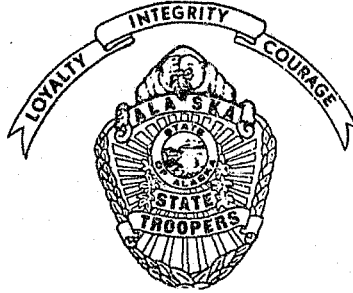
## MARIHUANA

## COMBINED TOTALS FOR SALE AND POSSESSION—1974-76

Age	1976	1975	1974
15 and under.....	70	146	98
16.....	63	93	81
17.....	54	145	119
Total, 17 and under.....	187	384	298
18.....	50	123	109
19.....	54	100	96
20.....	38	94	115
21.....	33	90	86
22.....	31	55	70
23.....	28	51	43
24.....	18	76	46
25 to 29.....	68	141	122
30 to 35.....	20	43	34
36 to 40.....	5	13	5
41 to 50.....	3	7	7
50 and over.....	2	3	2
Total, 18 and over.....	350	796	735
Combined total, all ages.....	537	1,180	1,033

Note.—Figures depictive of offenses statewide and includes State and local jurisdictions.

ALASKA STATE TROOPERS  
ANNUAL DRUG REPORT



PRESENTED TO

Richard L. Burton, Commissioner  
Department of Public Safety

PREPARED BY

Colonel J. P. Wellington  
Director, Alaska State Troopers

# Bullets Fly During Drug Arrests

Officers Seize Cocaine, Heroin

Drug Raid Nets  
Heroin, Cocaine

Cocaine Sale  
Brings Fine

Cops Are Losing  
War Against Drugs

Drug bust said  
state's largest

Trooper Report Charts Crime Increase

Judge Passes  
Drug Sentences

Judge Tells Club

Crime Rate Rise  
Is Public's Fault



Seal Off The Drug Flow

Fairbanks report tells  
Interior drug arrests

Heroin 'Mule' To Pack  
Load Of Seven Years

Metro unit begins drug bust  
Marijuana Ruling Adds To Confusion

21 Persons Held  
On Drug Charges

Drug Sweep Cases  
Reach U.S. Court

Six charged in drug bust

HERE'S THE VOTES

\$150,000 Bails Set ON 'POT' BILL  
In Drugs, Guns Arrests

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF STATE TROOPERS

JAY S. HAMMOND, GOVERNOR

RICHARD L. BURTON  
COMMISSIONER

POUCH N - JUNEAU 89811

P.O. Box 6188 Annex  
Anchorage, Alaska 99502  
January 14, 1977

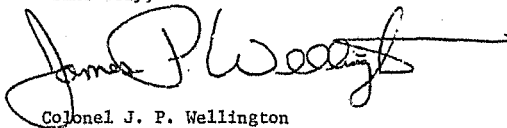
Richard L. Burton, Commissioner  
Department of Public Safety  
Juneau, Alaska 99811

Dear Commissioner Burton:

The attached report is submitted to you for distribution to the State Legislators in accordance with Alaska Statute 18.65.085.

Each reader, I am sure, will realize that the combined efforts of law enforcement within the State is the only successful method of combating the illicit narcotics traffickers. It is evident that the positive enforcement efforts of the Drug Enforcement Unit have been felt by the narcotics underworld during the past year.

Sincerely,



Colonel J. P. Wellington  
Director

Attachment

## DRUG ENFORCEMENT PROGRAM

## SUMMARY STATEMENT

This report summarizes the combined law enforcement agencies efforts throughout the State of Alaska as to activities and accomplishments during the year of 1976. For comparison purposes statistical information pertaining to narcotic and drug law enforcement from 1973 to the present period is included.

Increased narcotic and drug abuse related problems began coming to the attention of law enforcement officials within the State of Alaska around the year 1968. Sporadic efforts by local law enforcement agencies made attempts to curtail the ever increasing problem. One of the more successful originated in the Fairbanks area where a joint team consisting of an Alaska State Trooper Investigator and a Fairbanks City Police Detective were combined and the primary goal or target was an attempt to eliminate major distributors of illicit drugs.

The problem grew to such a magnitude that illicit drugs were coming into Alaska by every conceivable means imaginable, and the drugs were being distributed to virtually every city and village in Alaska. Local jurisdictions lack the expertise and funds to effectively combat the rising drug problem. Usually a good undercover operative would be advantageous in only one area. Due to the lack of an exchange policy, personnel rules, and a shortage of funds, an undercover operation was generally used in only one area.

Due to the rising narcotic and drug abuse problems the 1973 legislature appropriated \$350,000.00 to the Department of Public Safety for the purpose of establishing a Narcotic and Dangerous Drug Enforcement Unit within the Criminal Investigation Bureau. This Narcotic and Dangerous Drug Enforcement Unit was given the responsibility and authority to detect and apprehend individuals involved in the illicit sale and distribution of narcotic and dangerous drugs throughout the state. Statutory basis for this authority is title 18.65.085 of the Alaska Statutes.

As a result of the funds, major Metropolitan Drug Enforcement Units were formed in the two largest cities within the state, that being Fairbanks and Anchorage. In addition, a state Drug Supervisor/Coordinator was assigned and began the responsibility of coordinating drug enforcement activity throughout the state. The primary objectives of the units were to prohibit illicit importation and sale of narcotic and dangerous drugs and to detect and apprehend traffickers in the illicit drug distribution market.

At approximately the same period of time the legislature also appropriated a comparable amount of funds for various rehabilitative programs to be initiated with the primary purpose of rehabilitating drug offenders. Funds for both functions have continued until the present year with annual increases allotted to cover inflation.

The funds for the enforcement efforts were broken down to fund positions for eight (8) enforcement officers, two (2) clerical positions, in addition to funding for a fluctuating number of undercover officers. Funding also included monies to be utilized for specialized equipment, field and administrative travel, equipment rental, professional fees and services, professional and scientific supplies and other supplies which included drug buy money and funds for the payment of informants. Procedural guidelines were implemented with reference to rental cars, equipment, administrative and record keeping functions, et cetera for the units throughout the state.

Personnel selected for these various units periodically receive formal training through seminars conducted by the Department of Justice of the United States Government. The primary emphasis is to have personnel that are specialized and trained to work in the areas of major drug investigations.

Since the inception of the program, it has been determined that the most effective way to infiltrate within the various drug cultures is with the utilization of experienced undercover drug officers. The primary criteria is to find individuals who can easily infiltrate within this particular culture and make drug buys assisted by the regularly assigned officers of the units. Efforts are made to find individuals with law enforcement background and expertise or experience in the area of narcotic investigations. There has been a considerable amount of turnover in this area for the following reasons: individuals involved in drug distribution are usually extremely mobile and travel throughout the state attempting to infiltrate as many groups as possible. As a result of the continued exposure to the criminal element, the officer becomes fairly well known over a relatively short period of time. In addition we have had undercover agents who have, during the course of employment and sometimes after a considerable amount of money has been expended, committed criminal acts which would make presentation of the cases extremely difficult, if not impossible. In addition, we must comply with the Alaska criminal rules which set certain time limits as to the amount of time expended between a drug buy and actual prosecution and or arrest. The philosophy to completely bury an agent and leave him for an extended period of time in order to effectively infiltrate into the major traffickers is extremely difficult. To bury an individual for the amount of time required to successfully infiltrate, you may either lose him to the criminal element or you are unable to work within the frame work of the present judicial system, which requires time periods of four to eight months. An example is a case involving an agent in the Anchorage area charged with several felonies. The matter was resolved and the subject was convicted.

There have been numerous changes since the actual inception of the program within Alaska such as the decriminalization of the marijuana laws and the recent controversy over our present cocaine laws. This will be discussed more in detail in the conclusion of this report.

The majority of the drug violations and drug related problems center around major metropolitan areas such as Fairbanks, Juneau and Anchorage. As a result, the strongest emphasis for drug enforcement is placed in these areas. Periodically undercover operations are

conducted throughout the state utilizing agents and manpower from the Metro units. The concept of area wide drug enforcement within the large metropolitan areas has been termed extremely successful. By attacking a law enforcement problem in a unified way, statewide, the results have been continued pressure being exerted on individuals who are desirous of operating in the illicit narcotic and drug trafficking.

Due to Alaska's geographic location, the majority of the illicit drugs originate from outside the state. There have been major Narcotic Information Networks formed in various states throughout the country. Alaska is a member of the Washington State Narcotic Information Network, California Narcotic Information Network and the Arizona Narcotic Information Network. Membership in these outside organizations has proven extremely beneficial. Major traffickers have been identified and targeted and are presently being worked by various agencies throughout the country.

With respect to the numerous problems that are encountered within our Alaska State Judicial System, it is necessary to rely on the Federal prosecutors for successful prosecution in areas where the subject travels to other states or countries for the purpose of importing illicit drugs to Alaska. The Metro units work extremely close with the Federal Drug Enforcement Administration personnel that are assigned to Alaska. As a result of the liaisons established with the Federal agencies and other state agencies. A considerable amount of illegal drugs were seized during the year of 1976. In addition, many sources were severed from their base of origin.

This unified concept will continue and the general consensus of opinion among law enforcement agencies throughout Alaska and other states is that such joint efforts have fostered a better spirit of cooperation between law enforcement agencies and at the same time made better use of our limited police resources.

An example of the effectiveness of a joint venture is an operation conducted during the spring of 1976. The Anchorage Metropolitan Drug Unit was able to secure the services of an informant who had been in and around the Alaska criminal element for approximately ten years. The subject at that time was a former heroin addict and had been involved in other criminal acts during this ten year period. He agreed to assist (for monetary reasons) the Metropolitan Drug Unit by infiltrating into some of the heroin traffickers in and around Anchorage, accompanied by a Police Undercover Agent. At that particular time there were no Alaska Agents available that would be beneficial or conducive to the operation. Contact was made with officials of the Seattle Police Department, whereas details were worked out for the assistance of a Seattle Police Narcotic investigator for an approximate two week period. The State of Alaska agreed to reimburse the City of Seattle as to the salary and expenses incurred during the operation and subsequent criminal proceedings. The police officer, working with the informant, was able to infiltrate within the hard narcotic trafficker element within a relatively short two week period of time. The results were approximately seventeen defendants arrested and charged federally with narcotics trafficking. The subjects were subsequently prosecuted in the Federal Courts and the majority of the defendants received lengthy prison sentences, which in itself has proven to be very detrimental to some of the major traffickers that were operating within the state. Without the assistance and cooperation of the Seattle Police authorities and the Federal Prosecutors, this venture would not have been feasible at that time. This cooperation was indeed beneficial for the law enforcement agencies and more so to the citizens of Alaska.

## STATISTICAL OVERVIEW

A statistical record is one of the primary mandates concerning the drug enforcement program. It is essential that statistical information be available on an annual basis so as to locate the strengths and weaknesses of the Drug Enforcement Units. For comparative purposes, charts and statistical information are provided.

The following narrative briefly explains each chart and significant changes noted.

Chart 1 reflects the total number of investigations, arrests and dispositions for the period of December 1974 through November 1975. For comparative purposes Chart number 10 depicts the statewide totals of drug law violation information for the period of 1976. There is a significant decrease in the grand total primarily due to the liberalization of the marijuana laws within Alaska. Marijuana possession cases dropped by 642 arrests. For comparative purposes there were a total of 1,245 misdemeanor arrests for the 1975 period as opposed to 523 misdemeanor arrests for 1976.

Charts 2 and 3 reflect the breakdown of male and female arrests, ages and corresponding charges for the period of 1975. Excluding other criminal arrests, it is interesting to note that persons age 21 or under accounted for approximately 61 percent of the total number of arrests.

Charts 4, 5 and 6 depict statewide totals as to the number of investigations, arrests, dispositions and numbers arrested by sex, age and charges for the period of December 1974 through November 1975. This excludes the total numbers of the Metropolitan Drug Units. The figures reflected are results of routine police duties and investigations throughout the state.

Chart 7 depicts the total number of investigations, arrests and dispositions for the period of December 1974 through November 1975 for the Metropolitan Drug Units only.

Charts 8 and 9 reflect the breakdown of male and female arrests, ages and corresponding charges for Metropolitan Drug Unit cases only, for the period of November 1975 through December 1976.

Chart 10 depicts the total number of investigations, arrests and dispositions for the period of December 1975 through November 1976 for the entire state. The Anchorage area, as expected, had the largest figures with a total of 514 persons arrested. The more heavily populated areas are the nucleus of drug related activity.

Charts 11 and 12 reflect the breakdown of male and female arrests, ages and corresponding charges for the 1976 reporting period. The total number arrested under the age of 21 accounted for approximately 54 percent of the total number arrested.

Charts 13, 14 and 15 depict the total number of investigations, arrests, dispositions and breakdown of male and female arrests, ages and corresponding charges for the reporting period of 1976. The figures are statewide, excluding the Metropolitan Drug Units' arrests and cases. The total number arrested under the age of 21 accounted for approximately 65 percent of the total number arrested.

Chart 16 depicts the total number of investigations, arrests and dispositions for the Metropolitan Drug Units for the reporting period of 1976. Although the statewide number of arrests decreased -50 percent from the previous year, Metro Unit arrests increased approximately 17 percent.

Charts 17 and 18 reflect the breakdown of number of persons arrested by age, sex and charge for 1976. The totals reflected are arrests made by the Metropolitan Drug Units only and the number of arrests for Sale of Heroin and Cocaine amount to 188 out of a total of 331 total arrests or approximately 57 percent.

Charts 19 and 20 reflect the narcotic and drug seizures statewide for the periods of 1975 and 1976. There were additional drugs seized in addition to the ones listed on the charts, however, the amounts were not significant enough for reporting purposes. There were changes as far as the actual street value of heroin and cocaine in 1976 as opposed to 1975. Heroin in 1976 increased to approximately \$125.00 per gram. Cocaine decreased in actual street value in 1976 to approximately \$100.00 per gram. During 1975, cocaine was approximately \$120.00 per gram. Actual availability of street heroin decreased, which accounted for the increase in price. Actual seizures of cocaine reflect that a considerable amount of cocaine was available at street level which is reflected in the reduction in price at street level. The total street value of all drugs seized in 1976 amounted to \$1,175,060.10, as opposed to the 1975 figure of \$934,826.00. This amounts to a total of \$240,234.10 increase from the preceding year. The total weight amount of cocaine seized more than doubled in the year of 1976. It is interesting to note that in light of the liberalized view reference marijuana by the Alaska Courts, the actual weight of marijuana seizure in 1976 increased approximately 209 pounds over the preceding year. Utilizing the amount seized as an indication of amounts used within the state, it would appear that we are experiencing an increase in the use of marijuana and cocaine throughout the State of Alaska.

Chart 21 depicts the total number of charges for various offenses for a three year period. Statistical information available as to the reporting period of 1976 as opposed to 1975 indicates a total of 1,245 misdemeanor arrests in 1975 as opposed to 523 in 1976. This is an approximate -58 percent decrease in misdemeanor arrests. There were 349 felony arrests in 1975 as compared to 439 for the reporting period of 1976. This reflects a 26 percent increase of felony drug arrests in 1976. Marijuana possession arrests dropped from 1067 in 1975 to 425 in 1976. This is a decrease of 642 or -60 percent. From the total number of 425 arrested in 1976 for marijuana possession, 214 were age 18 or under or approximately 50 percent. Out of the total number of charges for the various offenses in 1976, the Metropolitan Drug Enforcement Units account for approximately 8.3 percent of the total number of misdemeanor arrests and approximately 71.5 percent of the total number of felony arrests. The primary emphasis for enforcement by the Metropolitan Drug Enforcement Units continue to be the felony drug arrests mainly in the area of sale and distribution of illicit drugs and narcotics.

ALASKA STATE TROOPERS  
NARCOTIC AND DRUG ABUSE UNIT  
DRUG LAW VIOLATIONS INFORMATION, BY STATE, CITY, AND POST

MONTH DEC. - NOV. YEAR '74 - '75

## Statewide Totals

	INVESTIGATIONS			NUMBER ARRESTS AND DISPOSITIONS				
	OPENED	CLOSED	PENDING	ARRESTS	PENDING TRIAL	CONVICTIONS	DISMISSALS	ACQUITTALS
<b>B JUNEAU</b>	21	20	1	17	6	10	1	
JUNEAU/C	133	133		163	79	69	16	
KETCHIKAN	15	15		18	11	7		
KETCHIKAN/C	28	28		28	5	21	2	
PETERSBURG	1	1		1	1			
WRANGELL	18	18		22	7	15		
SITKA	14	14		16	1	11	4	
HAINES	2	2		2		2		
YAKUTAT	1	1						
<b>C ANCHORAGE</b>	282	280	2	225	30	163	24	
SPENARD/C	188	173	15	63	23	22	8	
ANCHORAGE/C	681	654	27	390	64	231	85	
EAGLE RIVER	2	2		1		1		
<b>D KENAI/SOLDOTNA</b>	3	3		2		2		
SOLDOTNA/C								
KENAI/C	1	1		1	1			
COOPER LANDING								
HOMER/C	8	8		14	11	3		
SEWARD	3	3		5	1	2	2	
NINILCHIK	1	1						
<b>E KODIAK/ALEUTIAN</b>	10	10		17	3	12	2	
KODIAK/C	1	1		1	1			
DILLINGHAM	1	1						
NAKNEK	1	1		3		3		
SAND POINT	1	1						
BETHEL	3	3		1		1		
BETHEL/C								
<b>G PALMER</b>	4	4		6	2	3		
PALMER/C								
BIG LAKE	1	1		1		1		
NANCY LAKE	2	2		3		3		
TALKEETNA	1	1						
WASILLA								
<b>H GLENNALLEN</b>	32	32		36	8	10	8	
CORDOVA								
PAXSON	3	3		3		1	2	
ERNESTINE	2	2		2	2			
TOK	2	2						
TOK BORDER	215	215		231	5	223	3	
VALDEZ	5	5		4		3	1	
<b>I FAIRBANKS</b>	125	125		71	11	47	13	
FAIRBANKS/C	201	201		172	48	116	8	
BARROW	1	1		1		1		
CANTWELL								
FORT YUKON								
KENAI	2	2		3		3		
ANDERSON	2	2		2	1		1	
TANANA								
DELTA	19	19		23	9	10	2	2
NOME	2	2		2	2			
NOME/C	11	11		14	4	9	1	
SAVOONGA	1	1		1			1	
KOTZEBUE	1	1		1			1	
<b>GRAND TOTAL</b>	2,062	2,007	45	1,556	345	1,014	195	2

NOTE: C-Denotes arrests within city limits only. All other statistics are carried under Detachment or Post designators.

Chart 1



ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

MALES

MONTH DEC.-NOV. YEAR 74-75

STATEWIDE TOTALS

CHARGE	AGE	14-15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over
<u>POSSESSION:</u>																				
MARIJUANA		118	77	120	95	76	72	69	45	42	60	29	30	18	19	6	41	10	5	1
LSA/HALLUCINOGENICS		1	1	2	2		2	1		5	1	1	1	1	1			1		
STIMULANTS		2		3	1	7	7	8	9	3	6	4	8	2	4	4	14		3	1
DEPRESSANTS			1	1	2	1	1		2	1				1	1	1	2			
HEROIN		1						2		2		2			2				1	
COCAINE		2	2	3	3	3	4	5		2		3	2	3	2		3			
OTHER NARCOTICS			2							2					1					
<u>SALE:</u>																				
MARIJUANA		2	5	2	10	11	11	8	6	4	8	12	5	3	10	2		3	1	
LSA/HALLUCINOGENICS		1			2	2	5	2	1	1	4	2	1		1			1		
STIMULANTS				1	3	4	4	5	2	3		3		1	1		2	4		
DEPRESSANTS		1																		
HEROIN				1		2	2	2	5	5	7	5			2	1	3	1	1	1
COCAINE					2	4	3	3	1	5	2	3		5	1	3	2			
OTHER NARCOTICS							1		2				1							
<u>TOTAL DRUG ARRESTS:</u>		126	90	133	120	110	112	103	73	75	89	64	49	36	45	18	67	20	11	3
<u>OTHER CRIMINAL ARRESTS</u>																				
ASSAULT				1	1			1	1	2	2						1			
CCW					1	1	2	1		1	2		2	1			1			
CTDM							3													
OTHER		17	13	29	21	7	10	11	6	4	10	8	3	7	2		9	1	2	1
<u>TOTAL ARRESTS:</u>		143	103	163	143	118	127	116	79	82	103	72	64	42	47	18	78	21	13	4

Chart 2

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

FEMALES

MONTH DEC. - NOV. YEAR '74-'75

STATEWIDE TOTALS

CHARGE	AGE	15-16	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
POSSESSION:																				
MARIJUANA		26	11	22	16	13	10	11	4	5	6	2	1	1	1	1	2		1	1
LSD/HALLUCINOGENICS					1															
STIMULANTS		1	1	1	2		3	2	1	3			1		1				2	
DEPRESSANTS					1			1						1						
HEROIN					1					1		1							1	
COCAINE		2						1			1	1								
OTHER NARCOTICS					1		1													
SALE:																				
MARIJUANA				1	2		1	2			1	1								1
LSD/HALLUCINOGENICS		1	1		3															
STIMULANTS			1					1		1										
DEPRESSANTS																				
HEROIN					4	4	2	2				1	1			1	4	1		
COCAINE		1		4	1			1		3	1						1			
OTHER NARCOTICS																				
TOTAL DRUG ARRESTS:		31	14	28	31	18	17	21	5	13	9	6	3	2	2	2	7	1	4	2
OTHER CRIMINAL ARRESTS																				
ASSAULT																				
CCW																				
CTDM																				
OTHER		5		3	3	1							1						1	
TOTAL ARRESTS:		36	14	31	34	19	17	21	5	13	9	6	4	2	2	2	7	1	5	2

Chart 3

ALASKA STATE TROOPERS  
NARCOTIC AND DRUG ABUSE UNIT  
DRUG LAW VIOLATIONS INFORMATION, BY STATE, CITY, AND POST

MONTH: DEC. NOV. YEAR: 21.75

TOTALS EXCLUDING METRO

INVESTIGATIONS				NUMBER ARRESTS AND DISPOSITIONS				
	OPENED	CLOSED	PENDING	ARRESTS	PENDING TRIAL	CONVICTIONS	DISMISALS	ACQUITTALS
B JUNEAU	21	20	1	17	6	10	1	
JUNEAU/C	115	115		140	78	48	16	
KETCHIKAN	15	15		18	11	7		
KETCHIKAN/C	28	28		28	5	21	2	
PETERSBURG	1	1		1	1			
WRANGELL	18	18		22	7	15		
SITKA	14	14		16	1	11	4	
HAINES	2	2		2		2		
YAKUTAT	1	1						
C ANCHORAGE	169	167	2	195	24	148	23	
SPENARD/C	10	10		7	1	5	1	
ANCHORAGE/C	358	357	1	327	42	294	81	
EAGLE RIVER	2	2		1		1		
D KENAI/SOLDOTNA	3	3		2		2		
SOLDOTNA/C								
KENAI/C	1	1		1	1			
COOPER LANDING								
HOMER/C	9	9		14	11	3		
SEWARD	3	3		5	1	2	2	
NINILCHIK	1	1						
F KODIAK/ALEUTIAN	10	10		17	3	12	2	
KODIAK/C	1	1		1	1			
DILLINGHAM	1	1						
NAKNEK	1	1		3		3		
SAND POINT	1	1						
BETHEL	3	3		1		1		
BETHEL/C								
G PALMER	4	4		5	2	3		
PALMER/C								
BIG LAKE	1	1		1		1		
NANCY LAKE	2	2		3		3		
TALKEETNA	1	1						
WASILLA								
H GLENNALLEN	32	32		36	8	20	8	
*CORDOVA								
PAXSON	3	3		3		1	2	
ERNESTINE	2	2		2	2			
TOK	2	2						
TOK BORDER	215	215		231	5	223	3	
VALDEZ	5	5		4		3	1	
I FAIRBANKS	43	43		31	7	21	3	
FAIRBANKS/C	80	80		92	4	86	2	
BARROW	1	1		1		1		
CANTWELL								
FORT YUKON								
NENANA	2	2		3		3		
ANDERSON	2	2		2	1		1	
TANANA								
DELTA	19	19		23	9	10	2	2
NOME	2	2		2	2			
NOME/C	11	11		14	4	9	1	
SAVOONGA	1	1		1			1	
KOTZEBUE	1	1		1			1	
GRAND TOTAL	1,217	1,213	4	1,273	235	879	157	2

NOTE: C-Denotes arrests within city limits only. All other statistics are carried under Detachment or Post designators.

Chart 4

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

MALES

MONTH DEC. NOV. YEAR 74-75

TOTALS EXCLUDING METRO

CHARGE	AGE	15 OR UNDER	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<u>POSSESSION:</u>																				
MARIJUANA		113	75	115	92	72	71	65	43	40	58	25	29	16	19	6	38	7	5	1
LSD/HALLUCINOGENICS		1	1	2	2		2	1		3	1	1	1	1	1			1		
STIMULANTS		2		3	1	7	7	8	9	3	6	4	8	2	4	4	14		3	1
DEPRESSANTS			1	1	2	1	1		2	1			1	1	1		1			
HEROIN		1						1		1		1								
COCAINE		2	2	1	3	2	3	2		2		2	1	1	1		1			
OTHER NARCOTICS			2							2					1					
<u>SALE:</u>																				
MARIJUANA		1	3	1	8	4	1	4	1	1	1	6	1	2	1			1		
LSD/HALLUCINOGENICS		1			1	1	3				3	1						1		
STIMULANTS				1	2	3	2	5	1											
DEPRESSANTS			1																	
HEROIN								1				1					1			
COCAINE							1	1	1	1										
OTHER NARCOTICS					2															
<u>TOTAL DRUG ARRESTS:</u>																				
		120	85	124	113	90	81	86	57	54	69	41	41	23	28	19	55	10	8	2
<u>OTHER CRIMINAL ARRESTS</u>																				
ASSAULT				1	1			1	1	2	2							1		
CCW					1	1	2	1		1	2		2	1			1			
CTDM							3													
OTHER		17	13	29	21	7	10	11	5	4	10	8	3	7	2		9	1	2	1
<u>TOTAL ARRESTS:</u>																				
		137	99	154	136	98	106	99	63	61	83	49	46	31	30	10	66	11	10	3

Chart 5

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

FEMALES

MONTH DEC. - NOV. YEAR '74 - '75

TOTALS EXCLUDING METRO

CHARGE	AGE	15 OR Under	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<b>POSSESSION:</b>																				
MARIJUANA		25	11	19	15	11	10	10	3	5	5	2	1	1	1	1	2		1	1
LSD/HALLUCINOGENICS						1									1					
STIMULANTS		1	1	1	2		3	2	1	3				1					2	
DEPRESSANTS					1			1					1							
<b>HEROIN</b>																				
COCAINE		2			1			1			1									
OTHER NARCOTICS					1		1													
<b>SALE:</b>																				
MARIJUANA				1	1		1				1									
LSD/HALLUCINOGENICS		1			2															
STIMULANTS																				
DEPRESSANTS																				
<b>HEROIN</b>																				
COCAINE		1		3																
OTHER NARCOTICS																				
<b>TOTAL DRUG ARRESTS:</b>		30	12	24	24	12	15	14	4	8	7	2	2	2	2	1	2		3	1
<b>OTHER CRIMINAL ARRESTS</b>																				
ASSAULT																				
CCW																				
CTDM																				
OTHER		5		3	3	1							1						1	
<b>TOTAL ARRESTS:</b>		35	12	27	27	13	15	14	4	8	7	2	3	2	2	1	2		4	1

Chart 6

ALASKA STATE TROOPERS  
NARCOTIC AND DRUG ABUSE UNIT  
DRUG LAW VIOLATIONS INFORMATION, BY STATE, CITY, AND POST

MONTH DEC. - NOV. YEAR '74-'75

METRO TOTALS

	INVESTIGATIONS			NUMBER ARRESTS AND DISPOSITIONS			
	OPENED	CLOSED	PENDING	ARRESTS	PENDING TRIAL	CONVICTIONS	DISMISSALS
B JUNEAU	18	18		23	3	20	
JUNEAU/C							
KETCHIKAN							
KETCHIKAN/C							
PETERSBURG							
WRANGELL							
SITKA							
HAINES							
YAKUTAT							
C ANCHORAGE	113	113		31	15	15	1
SPENARD/C	178	163	15	46	22	17	7
ANCHORAGE/C	323	297	26	63	22	27	14
EAGLE RIVER							
D KENAI/SOLDOTNA							
SOLDOTNA/C							
KENAI/C							
COOPER LANDING							
HOMER/C							
SEWARD							
NINILCHIK							
E KODIAK/ALEUTIAN							
KODIAK/C							
DILLINGHAM							
NAKNEK							
SAND POINT							
BETHEL							
BETHEL/C							
G PALMER							
PALMER/C							
DIG LAKE							
NANCY LAKE							
TALKEETNA							
WASILLA							
H GLENNALLEN							
CORDOVA							
PAXSON							
ERNESTINE							
TOK							
TOK BORDER							
VALDEZ							
I FAIRBANKS	82	82		40	4	26	10
FAIRBANKS/C	121	121		60	44	30	6
BARROW							
CANTWELL							
FORT YUKON							
NENANA							
ANDERSON							
TANANA							
DELTA							
NOME							
NOME/C							
SAVOONGA							
KOTZEBUE							
GRAND TOTAL	835	794	41	283	110	135	38

NOTE: C-Denotes arrests within city limits only. All other statistics are carried under Detachment or Post designators.

Chart 7

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

MALES

MONTH DEC.-NOV. YEAR '74-'75

METRO TOTALS

CHARGE	AGE	15 OR Under	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over50
<u>POSSESSION:</u>																				
MARIJUANA		5	2	5	3	4	1	4	2	2	2	4	1	2			3	3		
LSD/HALLUCINOGENICS										2										
STIMULANTS																				
DEPRESSANTS																	1			
<u>HEROIN</u>																				
COCAINE								1		1		1			2				1	
OTHER NARCOTICS			2		1	1	3					1	1	2	1		2			
<u>SALE:</u>																				
MARIJUANA		1	2	1	2	7	10	4	5	3	8	0	4	1	0	2		2	1	
LSD/HALLUCINOGENICS					1	1	2	2	1	1	1	1	1		1					
STIMULANTS					1	1	2		1	3		3		1	1		2	4		
DEPRESSANTS																				
<u>HEROIN</u>																				
COCAINE				1		2	2	1	5	5	7	4			2	1	2		1	1
OTHER NARCOTICS						4	2	2		4	2	3		5	1	3	2	1		
<u>TOTAL DRUG ARRESTS:</u>																				
		6	4	9	7	20	21	17	16	21	20	23	8	11	17	6	12	10	3	1
<u>OTHER CRIMINAL ARRESTS</u>																				
ASSAULT																				
CCW																				
CTDM																				
OTHER																				
<u>TOTAL ARRESTS:</u>																				
		6	4	9	7	20	21	17	16	21	20	23	8	11	17	6	12	10	3	1

Chart 8

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE  
FEMALES

MONTH DEC. - NOV. YEAR '74-'75

METRO TOTALS

CHARGE	AGE	15 OR UNDER	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<b>POSSESSION:</b>																				
MARIJUANA		1		3	1	2		1	1		1									
LSD/HALLUCINOGENICS																				
STIMULANTS																				
DEPRESSANTS																				
HEROIN										1		1							1	
COCAINE												1								
OTHER NARCOTICS																				
<b>SALE:</b>																				
MARIJUANA					1			2				1								1
LSD/HALLUCINOGENICS			1		1															
STIMULANTS			1					1		1										
DEPRESSANTS																				
HEROIN					3	4	2	2				1	1			1	4	1		
COCAINE				1	1			1		3	1						1			
OTHER NARCOTICS																				
<b>TOTAL DRUG ARRESTS:</b>		1	2	4	7	6	2	7	1	5	2	4	1			1	5	1	1	1
<b>OTHER CRIMINAL ARRESTS</b>																				
ASSAULT																				
CCW																				
CTDM																				
OTHER																				
<b>TOTAL ARRESTS:</b>		1	2	4	7	6	2	7	1	5	2	4	1			1	5	1	1	1

Chart 9



ALASKA STATE TROOPERS  
NARCOTIC AND DRUG ABUSE UNIT  
DRUG LAW VIOLATIONS INFORMATION, BY STATE, CITY, AND POST

MONTH DEC NOV. YEAR 75-76

STATEWIDE TOTALS

	INVESTIGATIONS			NUMBER ARRESTS AND DISPOSITIONS			
	OPENED	CLOSED	PENDING	ARRESTS	PENDING TRIAL	CONVICTIONS	DISMISSALS
<b>B JUNEAU</b>	6	6		9		9	
JUNEAU/C	31	31		31		23	8
KETCHIKAN	33	33		45	5	37	3
KETCHIKAN/C	28	28		28	14	12	2
PETERSBURG	2	2		3		3	
WRANGELL	6	6		5		5	
SITKA	6	6		5		4	1
HAINES	2	2		1		1	
YAKUTAT							
<b>C ANCHORAGE</b>	231	231		193	20	162	11
SPENARD/C	239	239		52	14	35	3
ANCHORAGE/C	674	674		269	49	180	49
EAGLE RIVER							
<b>D KENAI/SOLDOTNA</b>	2	2		1		1	
SOLDOTNA/C							
KENAI/C	11	11		15	1	14	
COOPER LANDING	1	1		1	1		
HOMER/C	22	22		10		10	
SEWARD	3	3		5		5	
NINILCHIK							
<b>F KODIAK/ALEUTIYAN</b>	1	1					
KODIAK/C							
DILLINGHAM							
NAKNEK							
SAND POINT	1	1		1		1	
BETHEL	4	4		4		4	
BETHEL/C	5	5		6		5	1
<b>G PALMER</b>	7	7		8		8	
PALMER/C	20	20		25	2	22	1
BIG LAKE	1	1		1		1	
NANCY LAKE	1	1					
TALKEETNA	1	1		1		1	
WASILLA	3	3		3		3	
<b>H GLENHALLEN</b>	27	27		33	10	22	1
CORDOVA	2	2		1		1	
PAXSON	3	3		4	2	2	
ERNESTINE							
TOK	1	1		1		1	
TOK BORDER	35	35		40		38	2
VALDEZ	7	7		7	1	5	1
<b>I FAIRBANKS</b>	61	61		24	5	26	3
FAIRBANKS/C	161	161		103	54	45	4
BARROW							
CANTWELL	1	1		2		2	
FORT YUKON	1	1		1		1	
NEENANA							
ANDERSON							
TANANA	1	1		1		1	
DELTA	6	6		6		5	1
NOME	6	6		5	1	4	
NOME/C	2	2		2		2	
SAVDONGA							
KOTZEBUE							
<b>GRAND TOTAL</b>	1659	1655		962	170	701	61

NOTE: C- Denotes arrests within city limits only. All other statistics are carried under Detachment or Post designators.

Chart 10

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

MALES

MONTH DEC. - NOV. YEAR '75 - '76

STATEWIDE TOTALS

CHARGE	AGE	14-17 youth	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<b>POSSESSION:</b>																				
MARIJUANA		61	83	39	36	36	24	23	17	17	9	8	12	8	4	13	13	3	1	2
LSD/HALLUCINOGENICS						1	1	1							2		1			
STIMULANTS		3	3	4		4	7	6	0	1	4		1			1	4	2	1	1
DEPRESSANTS							1	1					2		1	1	1			1
HEROIN								2			1		1		3	3	1	1	2	1
COCAINE		1	1		3	7	3	4	1	6	2			3		2				
OTHER NARCOTICS								1												
<b>SALE:</b>																				
MARIJUANA		1	1	7	11	9	13	7	11	10	6	6	5	4		3	6	2		
LSD/HALLUCINOGENICS				1	2					1	1			1	1		1			
STIMULANTS			3		2	5	10	2	2	2	2	2	1		1	1	3			
DEPRESSANTS								2		1										
HEROIN			2	1					2	1	5	1	1	6	2	9	6	0	8	5
COCAINE			1	2	2	16	12	10	16	14	10	0	2	3	2	6	9	4		1
OTHER NARCOTICS																			1	
<b>TOTAL DRUG ARRESTS:</b>		60	64	64	66	78	71	68	55	63	47	25	25	25	18	39	45	21	13	11
<b>OTHER CRIMINAL ARRESTS</b>																				
ASSAULT																				
CCW																				
CTDM				1		1	2	1		1										
OTHER			1	1		1	1		1			1				1		1	1	
<b>TOTAL ARRESTS:</b>		60	65	66	68	80	74	69	66	64	47	26	25	25	18	40	45	22	14	11

Chart 11

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

FEMALES

MONTH DEC. - NOV. YEAR 75 - 78

STATEWIDE TOTALS

CHARGE	AGE	14-15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<b>POSSESSION:</b>																				
MARIJUANA		10	8	6	3	7	1	2	2	1	3	2	2	1						
LSD/HALLUCINOGENICS																				
STIMULANTS		2		1			4	1			1	1	1						1	
DEPRESSANTS									1			2		1			1		1	
HEROIN						1	1	3		1	1						1	1		
COCAINE		1											1		1	2				
OTHER NARCOTICS								1												
<b>SALE:</b>																				
MARIJUANA			1	2		2		1	1		1		1				1			
LSD/HALLUCINOGENICS				2																
STIMULANTS		1		1			2		3											1
DEPRESSANTS																		1		
HEROIN							1	2	1	3			3	1	1		3	2		
COCAINE															1		1	1		
OTHER NARCOTICS						1														
<b>TOTAL DRUG ARRESTS:</b>		22	9	12	3	11	9	10	3	5	6	6	9	3	3	2	7	6	2	1
<b>OTHER CRIMINAL ARRESTS</b>																				
ASSAULT																				
CCW																			1	
CTDM																				
OTHER				1				1												
<b>TOTAL ARRESTS:</b>		22	9	13	3	11	9	11	3	5	6	6	9	3	3	2	7	6	3	1

Chart 12

ALASKA STATE TROOPERS  
NARCOTIC AND DRUG ABUSE UNIT  
DRUG LAW VIOLATIONS INFORMATION, BY STATE, CITY, AND POST

MONTH - DEC-NOV YEAR 75-76

TOTALS EXCLUDING METRO

	INVESTIGATIONS				NUMBER ARRESTS AND DISPOSITIONS			
	OPENED	CLOSED	PENDING	ARRESTS	PENDING TRIAL	CONVICTIONS	DISMISSALS	ACQUITTALS
<b>B JUNEAU</b>	6	6		9		9		
JUNEAU/C	31	31		31		23	8	
KETCHIKAN	33	33		45	5	37	3	
KETCHIKAN/C	5	5		5	1	2	2	
PETERSBURG	2	2		3		3		
WRANGELL	6	6		5		5		
SITKA	6	6		5		4	1	
HAINES	2	2		1		1		
YAKUTAT								
<b>C ANCHORAGE</b>	123	123		153	9	133	11	
SPENARD/C	21	21		24	4	19	2	
ANCHORAGE/C	131	131		129	4	92	33	
EAGLE RIVER								
<b>D KENAI/SOLDOTNA</b>	2	2		1		1		
SOLDOTNA/C								
KENAI/C	11	11		15	1	14		
COOPER LANDING	1	1		1	1			
HOMER/C	14	14		2		2		
SEWARD	3	3		5		5		
NINTILCHIK								
<b>F KODIAK/ALEUTIAN</b>	1	1						
KODIAK/C								
DILLINGHAM								
NAKNEK								
SAND POINT	1	1		1		1		
BETHEL	4	4		4		4		
BETHEL/C	5	5		5		5	1	
<b>G PALMER</b>	5	5		5		5		
PALMER/C	19	19		25	2	22	1	
BIG LAKE	1	1		1		1		
NANCY LAKE	1	1						
TALKEETNA	1	1		1		1		
WASILLA	3	3		3		3		
<b>H GLENNALLEN</b>	21	21		28	5	19	1	
CORDOVA	2	2		1		1		
PAXSON	3	3		4	2	2		
ERNESTINE								
TOK	1	1		1		1		
TOK BORDER	35	35		40		39	2	
VALDEZ	7	7		7	1	5	1	
<b>I FAIRBANKS</b>	30	30		27	2	23	2	
FAIRBANKS/C	26	26		29	2	27		
BARROW								
CANTWELL	1	1		2		2		
FORT YUKON	1	1		1		1		
NENANA								
ANDERSON								
TANANA	1	1		1		1		
DELTA	5	5		5		4	1	
NOME	6	6		5	1	4		
NOME/C	2	2		2		2		
SAVOONGA								
KOTzebue								
<b>GRAND TOTAL</b>	579	579		631	41	521	69	

NOTE: C-Denotes arrests within city limits only. All other statistics are carried under Detachment or Post designators.

Chart 13

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

MALES

MONTH DEC. - NOV. YEAR '76 - '78

TOTALS EXCLUDING METRO

CHARGE	AGE	14 OR UNDER	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
POSSESSION:																				
MARIJUANA		50	53	38	36	35	23	22	16	16	9	7	12	8	4	13	13	3	1	2
LSD/HALLUCINOGENICS						1	1	1							1		1			
STIMULANTS		3	3	4		4	6	5	6	1	4					1	4	2	1	1
DEPRESSANTS						1	1						2		1	1	1			1
HEROIN								1								2	2			
COCAINE		1	1		2	6	3	4	1	4	1			3						
OTHER NARCOTICS								1												
SALE:																				
MARIJUANA		1	1	4	7	5	3	4	4	2	1		2	2			2	2		
LSD/HALLUCINOGENICS					2															
STIMULANTS					1	3	1		1			1				1	1			
DEPRESSANTS								2		1										
HEROIN																				
COCAINE									1	1	5	1	1		2	3	1			
OTHER NARCOTICS																				
TOTAL DRUG ARRESTS:		55	58	46	48	54	38	41	29	25	20	9	17	13	10	21	23	7	2	4
OTHER CRIMINAL ARRESTS																				
ASSAULT																				
CCW																				
CTDM				1		1	2	1		1										
OTHER			1									1				1			1	
TOTAL ARRESTS:		55	59	47	48	55	40	42	29	26	20	10	17	13	10	22	23	7	3	4

Chart 14

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE  
FEMALES

MONTH DEC., NOV. YEAR '75-'78

TOTAL EXCLUDING METRO

CHARGE	AGE	15-17	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<b>POSSESSION:</b>																				
MARIJUANA	18	8	6	3	7	1	2	2	1	3	2	2	1							
LSD/HALLUCINOGENICS																				
STIMULANTS	2		1			4	1			1	1	1							1	
DEPRESSEDENTS								1			2		1				1		1	
HEROIN									2											
COCAINE	1												1		1	2				
OTHER NARCOTICS								1												
<b>SALE:</b>																				
MARIJUANA			1	2		2							1				1			
LSD/HALLUCINOGENICS				2																
STIMULANTS	1			1					1											
DEPRESSEDENTS																			1	
HEROIN																			1	
COCAINE																				
OTHER NARCOTICS																				
<b>TOTAL DRUG ARRESTS:</b>		22	9	12	3	9	5	4	6	1	4	5	6	2	1	2	3	2	2	
<b>OTHER CRIMINAL ARRESTS</b>																				
ASSAULT																				
CCW																			1	
CTDM																				
OTHER				1				1												
<b>TOTAL ARRESTS:</b>		22	9	13	3	9	5	5	6	1	4	5	6	2	1	2	3	2	3	0

Chart 15

ALASKA STATE TROOPERS  
NARCOTIC AND DRUG ABUSE UNIT  
DRUG LAW VIOLATIONS INFORMATION, BY STATE, CITY, AND POST

MONTH DEC-NOV YEAR 76-78  
METRO TOTALS

	INVESTIGATIONS			NUMBER ARRESTS AND DISPOSITIONS				
	OPENED	CLOSED	PENDING	ARRESTS	PENDING TRIAL	CONVICTIONS	DISMISSALS	ACQUITTALS
<b>B JUNEAU</b>								
JUNEAU/C								
KETCHIKAN								
KETCHIKAN/C	23	23		23	13	10		
PETERSBURG								
WRANGELL								
SITKA								
HAINES								
YAKUTAT								
<b>C ANCHORAGE</b>	108	108		40	11	29		
SPENARD/C	218	218		29	10	17	1	
ANCHORAGE/C	543	543		140	36	88	16	
EAGLE RIVER								
<b>D KENAI/SOLDOTNA</b>								
SOLDOTNA/C								
KENAI/C								
COOPER LANDING								
HOMER/C	8	8		8		8		
SEWARD								
NINILCHIK								
<b>E KODIAK/ALEUTIAN</b>								
KODIAK/C								
DILLINGHAM								
NAKNEK								
SAND POINT								
BETHEL								
BETHEL/C								
<b>G PALMER</b>	2	2		3		3		
PALMER/C	1	1						
BIG LAKE								
NANCY LAKE								
TALKEETNA								
WASILLA								
<b>H GLENNALLEN</b>	6	6		7	4	3		
CORDOVA								
PAXSON								
ERNESTINE								
TOK								
TOK BORDER								
VALDEZ								
<b>I FAIRBANKS</b>	31	31		7	3	3	1	
FAIRBANKS/C	135	135		74	52	18	4	
BARROW								
CANTWELL								
FORT YUKON								
NENANA								
ANDERSON								
TANANA								
DELTA	1	1		1		1		
NOME								
NOME/C								
SAVOONGA								
KOTZEBUE								
<b>GRAND TOTAL</b>	1076	1076		331	129	180	22	

NOTE: C-Denotes arrests within city limits only. All other statistics are carried under Detachment or Post designators.

Chart 16

ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

MALES

MONTH DEC. - NOV. YEAR '75 - '76

METRO TOTALS

CHARGE	AGE	14-15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<b>POSSESSION:</b>																				
MARIJUANA		1		1		1	1	1	1	1		1								
LSA/HALLUCINOGENICS															1					
STIMULANTS							1					1								
DEPRESSANTS																				
HEROIN								1			1		1		1	1	1	1	2	1
COCAINE					1	1				2	1					2				
OTHER NARCOTICS																				
<b>SALE:</b>																				
MARIJUANA				3	4	4	10	3	7	8	4	6	3	2		3	4			
LSA/HALLUCINOGENICS				1						1	1			1	1		1			
STIMULANTS			3		1	2	9	2	1	2	2	1	1		1		2			
DEPRESSANTS																				
HEROIN			2	1					2	1	5	1	1	6	2	9	6	9	8	5
COCAINE			1	2	2	16	12	10	15	13	13	7	1	3		3	8	4		1
OTHER NARCOTICS																			1	
<b>TOTAL DRUG ARRESTS:</b>		1	6	8	8	24	33	17	26	28	27	17	7	12	6	18	22	14	11	7
<b>OTHER CRIMINAL ARRESTS</b>																				
ASSAULT																				
CCW																				
CTDM																				
OTHER				1		1	1		1									1		
<b>TOTAL ARRESTS:</b>		1	6	9	8	25	34	17	27	28	27	17	7	12	6	18	22	15	11	7

Chart 17



ALASKA STATE TROOPERS  
ARREST OF PERSONS BY AGE, SEX AND CHARGE

FEMALES

MONTH DEC.-NOV. YEAR 75-'78

METRO TOTALS

CHARGE	AGE	14-15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-35	36-40	41-50	Over 50
<b>POSSESSION:</b>																				
MARIJUANA																				
LSH/HALLUCINOGENICS																				
STIMULANTS																				
DEPRESSANTS																				
HEROIN						1	1	1		1	1							1		
COCAINE																				
OTHER NARCOTICS																				
<b>SALE:</b>																				
MARIJUANA								1	1		1									
LSH/HALLUCINOGENICS																				
STIMULANTS							2		2											1
DEPRESSANTS																				
HEROIN							1	2	1	3			3	1	1		3	1		
COCAINE															1		1	1		
OTHER NARCOTICS						1									1					
<b>TOTAL DRUG ARRESTS:</b>						2	4	4	4	4	2		3	1	2		4	3		1
<b>OTHER CRIMINAL ARRESTS</b>																				
ASSAULT																				
CCW																				
CTDM																				
OTHER																				
<b>TOTAL ARRESTS:</b>		0	0	0	0	2	4	4	4	4	2	0	3	1	2	0	4	3	0	1

Chart 18

NARCOTIC & DRUG SEIZURES STATE WIDE  
December 1974 - November 1975

MONTH	MARIJUANA		LSD		AMPHETAMINES		HEROIN		COCAINE		HASHISH	
	Pounds	\$	Tablets	\$	Tablets	\$	Grams	\$	Grams	\$	Grams	\$
DECEMBER 1974	59.9	\$18,168.00	890	\$1,780.00	950	\$285.00	11	\$1,100.00	18	\$2,160.00	682	\$6,620.00
JANUARY 1975	11	\$3,520.00			1289	\$387.00	1	\$100.00	42	\$5,040.00	1	\$10.00
FEBRUARY 1975	96.3	\$30,816.00	70	\$140.00	315	\$95.00			36	\$4,320.00	4	\$50.00
MARCH 1975	73	\$23,360.00	25	\$50.00	1253	\$376.00			30	\$3,600.00	1050	\$10,500.00
APRIL 1975	5.9	\$1,888.00	45	\$90.00	785	\$235.00	32	\$3,200.00	22	\$2,640.00	5	\$50.00
MAY 1975	44.5	\$14,240.00	82	\$164.00	12532	\$3,760.00	7.25	\$725.00	203	\$24,360.00	38	\$380.00
JUNE 1975	12.9	\$4,128.00			1151	\$345.00	8	\$800.00	4	\$480.00	106	\$1,060.00
JULY 1975	24.9	\$7,968.00	8	\$16.00	3776	\$1,133.00	89	\$8,900.00	244	\$29,280.00	24	\$240.00
AUGUST 1975	7.1	\$2,272.00	4	\$8.00	447	\$134.00	19	\$1,900.00	7	\$840.00	5	\$50.00
SEPTEMBER 1975	79	\$26,280.00			30065	\$9,020.00	2	\$200.00	3.25	\$390.00	48	\$480.00
OCTOBER 1975	7.1	\$2,272.00	8	\$16.00	742	\$223.00	4334	\$433,400.00	1369	\$164,280.00	261	\$2,610.00
NOVEMBER 1975	149.3	\$47,776.00			74783	\$22,435.00			4	\$480.00	120	\$1,200.00
GRAND TOTAL	570.9	\$182,688.00	1132	\$2,264.00	128,088	\$38,428.00	4613.25	\$450,325.00	1982.25	\$237,870.00	2325	\$23,250.00

The combined total amounts to \$934,826.00. For clarification, the dollar value is the street value of the drug as normally sold.

For computation purposes, the break-down prices that determine street value are as follows:

Marijuana -- Per ounce .....\$20.00  
 L.S.D. -- Per tablet.....\$2.00  
 Amphetamines --Per Hundred.....\$30.00  
 Heroin -- Per Gram .....\$100.00  
 Cocaine -- Per Gram .....\$120.00  
 Hashish --Per Gram .....\$10.00

NARCOTIC & DRUG SEIZURES STATE WIDE  
December 1975 - November 1976

MONTH	MARIJUANA		LSD		AMPHETAMINES		HEROIN		COCAINE		HASHISH	
	Pounds	\$	Tablets	\$	Tablets	\$	Grams	\$	Grams	\$	Grams	\$
DECEMBER 1975	23.9	\$7646.00	119	\$ 238.00	4,260	\$1278.00	33	\$4125.00	44	\$4400.00	77	\$ 770.00
JANUARY 1976	4.7	1504.00	22	\$ 44.00	27890	\$8364.00	3	\$ 375.00	10	\$1000.00	183	\$1830.00
FEBRUARY 1976	82.2	\$26304.00	2	\$ 4.00	1216	\$ 364.80	54	\$6750.00	88	\$9800.00	34	340.00
MARCH 1976	11.5	\$3680.00	20	\$ 40.00	1312	\$ 393.60	89	\$12375.00	94	\$9400.00	780	7800.00
APRIL 1976	3.6	\$1162.00	158	\$ 316.00	1060	\$ 318.00	22	\$ 2750.00	214	\$21400.00	12	\$ 120.00
MAY 1976	10.7	\$3424.00	17	\$ 34.00	592	\$ 177.60	30	\$ 3750.00	105	\$10500.00	30	\$ 300.00
JUNE 1976	2.0	\$ 640.00	96	\$ 192.00	1238	\$ 371.40	30	\$ 3750.00	56	\$ 5600.00		
JULY 1976	293.6	\$93952.00			1337	\$ 401.10	82	\$ 7750.00	81	\$ 8100.00	37	\$ 370.00
AUGUST 1976	4.3	\$1376.00	106	\$ 212.00	2638	\$1091.40	5	\$ 625.00	23	\$ 4300.00	6	\$ 60.00
SEPTEMBER 1976	13.1	\$4192.00	29	\$ 58.00	4211	\$1263.30	2778	\$347,250.00	17	\$ 1700.00	35	\$ 350.00
OCTOBER 1976	152.8	\$48896.00			1463	\$ 438.90	52	\$ 6500.00	960	\$96000.00	5	\$ 50.00
NOVEMBER 1976	177.2	\$5704.00	104	\$ 208.00	20000	\$6000.00	214	\$25,750.00	2908	\$296800.00	4	\$ 40.00
GRAND TOTAL	779.8		873		68207		3,382		4690		1,203	
		\$249,472.00		\$1,346.00		\$20,462.10		\$422,750.00		\$469,000.00		\$12,030.00

The combined total amounts to \$1,175,060.10 . For clarification, the dollar value is the street value of the drug as normally sold.

For computation purposes, the break-down prices that determine street value are as follows:

Marijuana -- Per ounce ..... \$20.00  
 L.S.D. -- Per tablet.....\$2.00  
 Amphetamines --Per Hundred..... \$30.00  
 Heroin -- Per Gram .....\$125.00  
 Cocaine -- Per Gram .....\$100.00  
 Hashish --Per Gram .....\$10.00

Chart 20

## TOTAL NUMBER OF CHARGES

Period December 1973 - November 1976

Period December 1973 - November 1974			Period December 1974 - November 1975		
No.	Charge	No. Persons Arrested	No.	Charge	No. Persons Arrested
1.	Possession of Marijuana	664	1.	Possession of Marijuana	1067
2.	* Sale of Marijuana	167	2.	* Sale of Marijuana	113
3.	* Sale of Cocaine	65	3.	Possession of Stimulants	101
4.	* Sale of Heroin	43	4.	* Sale of Heroin	58
5.	* Sale of LSD/Hallucinogenics	37	5.	* Sale of Cocaine	46
6.	Possession of Stimulants	27	6.	* Possession of Cocaine	42
7.	* Sale of Stimulants	26	7.	Other Criminal Arrests (Drug Related)	38
8.	Possession of LSD/Hallucinogenics	19	8.	* Sale of Stimulants	36
9.	Other Criminal Arrests (Drug Related)	19	9.	* Sale of LSD	28
10.	* Possession of Heroin	14	10.	Possession of LSD/Hallucinogenics	22
11.	* Possession of Cocaine	10	11.	Possession of Depressants	17
12.	Possession of Depressants	9	12.	* Possession of Heroin	14
13.	Assaults (Drug Related)	5	13.	* Possession of Other Narcotics	7
14.	* Sale of Depressants	2	14.	* Sale of Other Narcotics	4
			15.	* Sale of Depressants	1
Totals		1307			1594

## TOTAL NUMBER OF CHARGES

Period December 1975 - November 1976

No.	Charge	No. Persons Arrested
1.	Possession of Marijuana	425
2.	* Sale of Cocaine	129
3.	* Sale of Marijuana	111
4.	* Sale of Heroin	76
5.	Possession of Stimulants	69
6.	* Sale of Stimulants	44
7.	* Possession of Cocaine	38
8.	* Possession of Heroin	24
9.	Other Criminal Arrests (Drug Related)	10
10.	Possession of Depressants	14
11.	* Sale of LSD/Hallucinogenics	10
12.	Possession of LSD/Hallucinogenics	7
13.	* Sale of Depressants	4
14.	* Sale of Other Narcotics	2
15.	* Possession of Other Narcotics	2
Total		862

\*NOTE: ASTERISKS DENOTE FELONIOUS CHARGES.

Chart 21

## UNITED STATES DISTRICT COURT

## FELONY CASE DISPOSITIONS

There were numerous heroin and cocaine distribution cases initiated by the Anchorage Metropolitan Drug Unit during 1976 that were presented to the United States Federal prosecutor for court action. The following information is indicative of sentences as rendered by the United States District Court.

In the judgment and probation commitment order docket number A76-51CR, the defendant appeared with counsel and a verdict of guilty was received by the United States District Court. The defendant was convicted and charged with the offense of distribution of cocaine and conspiracy to distribute cocaine as charged in Count II, III and IV of the Federal indictment. The defendant had an extensive drug record dating back to the year of 1968, when he was initially arrested for possession of marijuana. The defendant had numerous other criminal arrests which included robbery, shoplifting, assault & battery, et cetera. The defendant was committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of seven years as to each of Counts II and III. It was further ordered by the Court that upon release, the defendant was subject to a special parole period of at least three years as to Count II and III. It was further ordered by the Court that the sentences imposed as to Count II, III and IV be served concurrently and that any parole period ordered by the court upon release is to be served concurrently. It was further ordered by the court that the sentences imposed to Count II, III and IV be served consecutively with the sentence which the defendant is presently serving for the State of Alaska upon his conviction for armed robbery. At the time of the sentencing, the defendant had approximately two and one half years remaining on the state sentence.

Reference judgment and probation commitment order docket number A76-31CR, the defendant appeared with counsel and pled guilty as charged to the offense of distribution of a controlled substance, heroin. This defendant had a drug record dating back to the year of 1972 with an initial charge of possession of hallucinogenics. Since 1972, there were additional drug related arrests in addition to arrest for prostitution, receiving stolen property, fraudulent use of credit cards, et cetera. The defendant was committed to the custody of the Attorney General, or his authorized representative, for imprisonment for a period of seven years. It was further ordered by the court that this term of imprisonment would be followed by a special parole term of three years.

The judgment and probation commitment order docket number A76-33CR reflects that the defendant appeared with counsel in the United States District Court, whereas a verdict of guilty was rendered for the charge of distribution of heroin, as charged in the indictment. At the time of this particular charge, the defendant was out on an appeal after being convicted for a previous heroin charge. The prior charge originated in 1974 whereas the defendant was charged with possession with intent to distribute heroin and possession of heroin for sale. Reference that charge, the defendant received a sentence of twelve years on each charge and the sentences were to run concurrently. He was released pending his appeal. After the second arrest, the appeal was denied and the defendant was committed to the custody of the Attorney General, or his authorized representative,

for imprisonment for a period of fifteen years. This sentence of imprisonment was to run concurrently, not consecutively, with the sentence of imprisonment being served by the defendant reference the prior charge. It was further ordered by the court that the imprisonment in this case was to be followed by a special parole term of five years.

In the judgment and probation commitment order docket number A76-45CR, the defendant appeared with counsel and entered a plea of guilty as to the charge of distribution of heroin, as charged in the indictment. This defendant had prior drug arrests which began in 1975. The defendant was committed to the custody of the Attorney General, or his authorized representative, for imprisonment for a period of seven years. It was further ordered by the court that this term of imprisonment would be followed by a special parole term of three years.

Reference judgment and probation commitment order docket number A76-39CR, the defendant appeared with counsel and rendered a plea of guilty. Subject was charged with the distribution of heroin, as charged in Count IV of the indictment. The defendant had several prior drug arrests which began in 1970. The defendant was committed to the custody of the Attorney General, or his authorized representative, for imprisonment for a period of nine years. It was further ordered by the court that upon release that the defendant be subject to a special parole of at least three years. The court further recommended that the defendant be afforded a psychiatric evaluation and an active Narcotic Treatment Program for heroin addiction.

Reference judgment and probation commitment order docket number A76-38CR, the defendant appeared with counsel and entered a plea of guilty. The defendant was charged with possession with intent to distribute a controlled substance, heroin, as charged in Count II of the indictment. The defendant had a prior drug arrest which occurred in 1975. The defendant was committed to the custody of the Attorney General, or his authorized representative, for imprisonment for a period of eight years. It was further ordered by the court that upon release, the defendant be subjected to a special parole term of at least three years. It was further ordered by the court that the sentences imposed as to A75-109CR and A76-38CR to run concurrently, and it was further ordered by the court that any special parole imposed after the defendant's release also run concurrently.

In judgment and probation commitment order docket number A76-40CR, the defendant appeared with counsel and entered a plea of guilty to the charge of distribution of heroin, as charged in Count II of the indictment. The subject had an arrest record that began in 1966 for various charges and included prior drug arrests. The defendant was committed to the custody of the Attorney General, or his authorized representative, for imprisonment for a period of seven years. The sentence of imprisonment was to be followed by a special parole term of three years.

In judgment and probation commitment order docket number A76-35CR, the defendant appeared with counsel and a verdict of guilty was rendered. The subject was charged with distribution of heroin, as charged in Count I of the indictment. The defendant had an extensive prior arrest record dating back to 1968, which included several drug charges. The defendant was committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five years. In addition, a special parole term of at least three years was imposed. The

defendant had an extensive prior arrest record dating back to 1968, which included several drug charges. The defendant was committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five years. In addition, a special parole term of at least three years was imposed. The court further recommended that the defendant be afforded the opportunity to take full advantage of any and all drug rehabilitation programs and to obtain any necessary medical or psychiatric care which may be offered at the Federal Penitentiary to which he is assigned.

The information as outlined in the preceding is a random sampling of the cases presented to the United States District Court. As reflected in this report, it appears that Federal Courts quite often impose sentences that can be construed by police authorities as being a deterrent to crime and a protection of the public.

## ALASKA SUPERIOR COURT

## FELONY DRUG DISPOSITIONS

The following is indicative of cases presented to the State District Attorney's office for criminal prosecution in the Alaska State Courts and the sentences as imposed by the Superior Court.

Reference criminal number 76-720, the defendant appeared before the Superior Court on the 30th day of August 1976 along with counsel. The defendant was convicted after a trial by jury of Possession of a Narcotic Drug to wit; heroin as charged in the indictment. The defendant in this matter had an extensive record dating back to 1953 which included several arrests for drug violations. The defendant was sentenced to a period of five years incarceration with two years suspended. During the suspended sentence, the defendant is required to abide by routine general conditions of probation.

Reference criminal number 76-491, the defendant appeared with counsel on the 21st day of September, 1976. The defendant had been convicted of the Sale of a Narcotic Drug, to wit; cocaine. The defendant had an arrest record dating back to 1974 which included prior drug violations. The defendant was sentenced to three years and it was further ordered by the court that the sentence as imposed be reduced to time served and the remainder of the three year sentence suspended. The defendant was placed on probation during which he was to abide by routine general conditions of probation. An additional condition of probation was that the defendant would have no association with drugs, drug users or drug traffic.

Reference criminal number 76-5138, the defendant appeared before the court on the 22nd day of November 1976 along with his counsel and entered a plea of nolo contendere. The defendant was convicted of the offense of Sale of Hallucinogenics to wit; marijuana and two counts and possession of a narcotic drug to wit; cocaine. The defendant had an arrest record dating back to 1970 which included felonies such as armed robbery and carrying a weapon during the commission of a felony. In addition, the subject had a prior arrest for a drug violation. The defendant was sentenced to a period of, Count I, five years with one suspended, Count II, five years with one suspended, Count III, five years with one suspended. All three sentences were to run concurrently with each other and it was further ordered that on each count, one year of the sentence was suspended and the defendant was placed on probation.

Reference criminal number 76-466, the defendant appeared with counsel before the court on the 20th day of May 1976. The defendant was found guilty by a jury of the offense of Count I and II, Sale of Hallucinogenics, Depressant and Stimulant Drugs to wit; marijuana and Count III, Sale of a Narcotic Drug to wit; cocaine. The defendant had an arrest record dating back to 1965 which included an arrest for a drug violation. The defendant was sentenced to a period of five years on each count and the sentences were to run concurrently. It was further ordered that two years on each count of the sentence was suspended and the defendant placed on probation for that period.



Reference criminal number 76-457, the defendant appeared in court on the 29th of June, 1976 along with his counsel and entered a plea of guilty as to the sale of Hallucinogenic, Depressant and Stimulant Drugs to wit; marijuana. The defendant was sentenced to a period of two years and fifty-three days and it was further ordered that all but ninety-four days of the sentence be suspended and the defendant be placed on probation.

Reference criminal number 76-458, the defendant appeared in Superior Court on the 30th day of July 1976 along with his attorney and entered a plea of guilty to the charge of Sale of a Hallucinogenic, Depressant and Stimulant Drug, to wit; marijuana. The defendant received a deferred imposition of sentence for a period of three years on the condition that he serve sixty days in a correctional institute. The defendant was placed on probation until July 30, 1979, during which time he would have to abide by the routine general conditions of probation.

Reference the criminal number 76-3905, the defendant appeared before the Superior Court on the 8th day of January 1976 along with his counsel. The defendant was convicted of Violation of Probation (original charge) and Sale of a Narcotic Drug, to wit; heroin. The defendant had an arrest record dating back to 1972 which included a prior drug violation arrest. The defendant was sentenced to a period of ten years and the sentence was to run concurrently with the sentence imposed in the original charges. It was further ordered that ten years of the sentence be suspended and the defendant be placed on probation with the following stipulation: the defendant was to report to a local rehabilitation center for a period of one year and successfully complete the program. Upon release, the defendant was to be placed on probation for the remainder of the suspended sentence.

Reference criminal number 76-639, the defendant appeared before the Superior Court on the 10th day of June 1976 along with his counsel and entered a plea of nolo contendere to the charge of Sale of a Narcotic Drug to wit; cocaine and opium, two counts. The defendant was sentenced to a period of two years with all but nine months suspended. Further conditions were that the defendant was to receive psychiatric treatment while incarcerated and to make restitution in the amount of \$150.00. A further condition was that the defendant was to be placed on probation for a period of two years upon his release from jail.

The preceding are examples of the sentences as rendered by the Superior Court within the State of Alaska.

## CONCLUSION CIB DRUG REPORT

After analyzing the information as contained within this report, it is obvious that the State of Alaska continues to have a serious narcotic and dangerous drug abuse problem. Narcotic drugs such as heroin and cocaine are frequently found in the major metropolitan areas with scattered cases in smaller communities. The number of arrests for these hard drugs rose considerably during the year of 1976. The amount seized during this period also lends weight to the fact that we do have a problem with these particular drugs as well as others. It is interesting to note that during the year of 1976 there were 439 felony arrests as opposed to 349 for the year of 1975. The overall number of marijuana possession arrests decreased by 642 arrests, primarily due to the fact that marijuana was more or less legalized pursuant to state law.

Virtually every Alaskan is affected one way or another by the abuse of illegal narcotics or dangerous drugs. The social problems connected with these abuses are filled with frustration for the victim, the public and the criminal justice system. The general consensus of opinion among police authorities is that drug enforcement is one of the most difficult and thankless types of law enforcement. It is an extremely dangerous assignment for both the commissioned law enforcement officers and undercover informants. Both the commissioned officers and informants suffer extensive verbal harassment in the form of threats against family and their persons. Some of these threats have been followed up by assaults, beatings, robberies, bombings, arson and shootings. There were several homicides during the year of 1976 that had definite drug violation connections and/or were drug related.

In order to comply with the present criminal rules of the Alaska Judiciary, the prosecution must relinquish to the defense all statements and reports concerning the case. As a result, it is extremely difficult and sometimes virtually impossible to conceal the identity of the confidential informants used in the cases. It is extremely difficult to develop confidential informants, especially in the smaller areas. Due to the hazards of work, the recruitment of personnel both commissioned and civilian continues to be difficult.

Marijuana abuse increased dramatically just prior to the Raven Decision as rendered by the Alaska Supreme Court and the decriminalization of marijuana by the State Legislature. The rulings have been in effect in excess of a year and the State of Alaska has yet to enact any procedures for implementing the issuance of civil citations as outlined in the Alaska statutes. Without this civil citation, the law enforcement officer has no means of bringing the matter to the attention of the courts. It is extremely difficult to gather any statistical information as to the actual numbers that are using this particular drug. The Alaska law enforcement officer feels that a definite increase has resulted as a result of the decriminalization of marijuana. This is evident in the fact that there are numerous routine traffic stops that result in the seizure of small amounts of marijuana. There is considerable abuse of the drug by people operating motor vehicles, however the cost necessary to effectively prosecute someone driving under the influence of marijuana is not within the realm of possibility. There is a test and detection system available that can measure the presence of marijuana within the human body. However, it is too expensive to be feasible at this time.

Shortly after the Raven decision there was rumored that the next step that certain defense attorneys and public defenders would take would be the eventual decriminalization or legalization of other drugs, specifically cocaine.

At the time of this report, there is extreme confusion and chaos over a recent Superior Court Judge's decision that the legal classification of cocaine was improper and the immediate result was his decision to dismiss charges against six defendants. Several other judges have voiced their opinions which are contradictory to what this particular judge rules. As a result, the Attorney General's office is taking the stand that the present pending cases will be stayed until such time an opinion is rendered by the Alaska Supreme Court. The initial solution to the immediate problem was to have any future cocaine cases prosecuted by the federal prosecutor in Federal Court. The federal prosecutors have neither the funds nor the manpower to effectively handle all the cocaine charges that could possibly be brought to them over an extended period of time. It is imperative that either the legislature or the Supreme Court make a speedy decision as to what is to be done in the future with reference to cocaine. Whatever number of cases the Federal courts handle will be an advantage to law enforcement. It is already felt that the prosecution of drug related offenses in the federal courts has definite advantages over the state courts. The Alaska State Judiciary system has definitely earned the reputation as perhaps being one of the most liberal in the country.

The high rate of recidivism is a continuing problem. The elimination of plea bargaining was replaced in some cases by charge bargaining. Charge bargaining, deferred sentencing, suspended imposition of sentence, suspended sentences and probation has totally wiped out any deterrent in the criminal justice system within Alaska. The suspended imposition of sentence means that if an individual maintains an arrest free record during the time the sentence is in effect, he may receive complete exoneration of any charges against him. It is obvious that the sentences as rendered by the Alaska courts are not deterrents to individuals involved in distributing illicit narcotics. It is well known that a considerable number of crimes that are committed are not reported. The ones that are reported quite often result in very few arrests. If law enforcement agencies are fortunate enough to receive a conviction, the sentence imposed by the Alaska courts are on the verge of ridiculous. When working in the area of narcotic and drug related enforcement, the majority of the arrests that are made are only skimming the surface of the actual numbers of individuals involved in the illicit trafficking. There is considerable amount of monetary gain to be made in the area of drug distribution and narcotics trafficking. The risks are minimal and as a result the advantages far outweigh the disadvantages.

One of the primary emphases rendered in some of the drug sentences imposed by the Alaska courts appears to be on rehabilitation, not punishment. The high rate of recidivism proves that this concept is not working. The rehabilitation concept and what is expected from the state courts is well known by the drug culture. As long as the monetary gain in the drug distribution is prevalent, there will continue to be a drug problem. The drug units in Anchorage and Fairbanks feel that federal prosecution is a means of getting major dealers incarcerated for lengthy prison terms. Also within the framework of the Federal Judicial system is the availability of a federal conspiracy law which is essential to successful drug law enforcement when your primary target is

the higher echelon of drug trafficker. Many of the individuals involved in the drug distribution traffic are intelligent, well educated and certainly do not need rehabilitation. What is needed is a strong deterrent such as a long lengthy prison sentence. One definite advantage of a lengthy prison sentence is the fact that while incarcerated, that individual is unable to distribute drugs throughout Alaska.

When teeth are put back into the law and once again the law is a deterrent and the punishment for the crime outweighs the profit, then and only then will illegal drug trafficking begin to diminish. Seizures continue to increase in the areas of hard narcotics. It is imperative that the present judicial system evaluate the sentences rendered and impose stiffer sentences for repeat offenders. In order to do so, drastic measures are going to have to be enacted. The present system is not failing, it has failed.

Primary objectives of the drug units operating within Alaska are the isolation of major traffickers and specific targets being identified. The professionalism and expertise among the personnel involved has improved over the years. Attitudes of the law enforcement administrators throughout Alaska is that continued pressure will be exerted on anyone who is involved in the trafficking and distribution of illicit drugs. Funding as appropriated by the legislature is essential for the successful enforcement of the drug violation laws. The unified law enforcement efforts statewide have been beneficial not only in drug enforcement but in other areas of criminal activity as well. It is imperative that this program continue and constant pressure be exerted on the individuals who are desirous of dealing in the illicit drug trafficking. In conclusion, if drastic improvements could be made in the sentencing rendered by the Alaska Court system and if more vigorous prosecution could be maintained by the State District Attorneys office, the possibilities of successfully combatting the traffickers of illicit narcotic and drugs within the State of Alaska will improve.

## Decision On Cocaine Worries Officials

By LIAH BRANTZ

Retired Justice  
Raps Pot Ruling

State appeals judge's cocaine ruling

Detectives Describe 'Side Effects' Of Cocaine

Police Describe Cocaine 'Casualties'

State Cocaine Law Held Void

Trooper Drug Probe  
Indicates Crime Pays

The Carlson Decision

## The Supreme Court of the State of Alaska

File No. 2135

OPINION (No. 1156—MAY 27, 1975)

IRWIN RAVIN, PETITIONER

v.

STATE OF ALASKA, RESPONDENT

Petition for Review from the District Court of the State of Alaska, Third Judicial District, Anchorage, Dorothy D. Tyner, Judge.

Appearances: R. Collin Middleton and Robert H. Wagstaff, Anchorage, for Petitioner. Stephen G. Dunning, Assistant District Attorney, Joseph D. Balfe, District Attorney, Anchorage, and Norman C. Corsuch, Attorney General, Juneau, for Respondent.

Before: Rabinowitz, Chief Justice, Connor, Erwin, Boochever and Fitzgerald, Justices

RABINOWITZ, Chief Justice, BOOCHEVER, Justice, concurring with whom CONNOR, Justice joins, and CONNOR, Justice, concurring.

The constitutionality of Alaska's statute prohibiting possession of marijuana is put in issue in this case. Petitioner Ravin was arrested on December 11, 1972 and charged with violating AS 17.12.010.<sup>1</sup> Before trial Ravin attacked the constitutionality of AS 17.12.010 by a motion to dismiss in which he asserted that the State had violated his right of privacy under both the federal and Alaska constitutions, and further violated the equal protection provisions of the state and federal constitutions. Lengthy hearings on the questions were held before District Court Judge Dorothy D. Tyner, at which testimony from several expert witnesses was received. Ravin's motion to dismiss was denied by Judge Tyner. The superior court then granted review and after affirmance by the superior court, we, in turn, granted Ravin's petition for review from the superior court's affirmance.

Here Ravin raises two basic claims: first, that there is no legitimate state interest in prohibiting possession of marijuana by adults for personal use, in view of the right to privacy; and secondly, that the statutory classification of marijuana as a dangerous drug, while use of alcohol and tobacco is not prohibited, denies him due process and equal protection of law.<sup>2</sup>

We first address petitioner's contentions that his constitutionally protected right to privacy compels the conclusion that the State of Alaska is prohibited from penalizing the private possession and use of marijuana. Ravin's basic thesis is that there exists under the federal and Alaska constitutions a fundamental right to privacy, the scope of which is sufficiently broad to encompass and protect the possession of marijuana for personal use. Given this fundamental constitutional right, the State would then have the burden of demonstrating a compelling state interest in prohibiting possession of marijuana. In light of the controlling principles, petitioner argues that the evidence submitted below by both sides demonstrates that marijuana is a relatively innocuous substance, at least as compared with other less-restricted substances, and that nothing even approaching a compelling state interest was proven by the State.

Ravin's arguments necessitate a close examination of the contours of the asserted right to privacy and the scope of this court's review of the legislature's determination to criminalize possession of marijuana.

We have previously stated the tests to be applied when a claim is made that state action encroaches upon an individual's constitutional rights. In *Breece*

<sup>1</sup> AS 17.12.010 provides: "Except as otherwise provided in this chapter, it is unlawful for a person to manufacture, compound, counterfeit, possess, have under his control, sell, prescribe, administer, dispense, give, barter, supply or distribute in any manner, a depressant, hallucinogenic or stimulant drug." AS 17.12.150 defines "depressant, hallucinogenic, or stimulant drug" to include all parts of the plant *Cannabis sativa* L.

<sup>2</sup> In his briefs before this court, Ravin also attempts to raise the issue of cruel and unusual punishment in the application of AS 17.12.010 to possession of marijuana for personal use. Because this issue was not raised below or in the petition for review to this court, we decline to consider the issue in this proceeding. See Appellate Rule 24(c). Cf. *Moran v. Holman*, 501 P.2d 780, 770 n.1 (Alaska 1972).

v. *Smith*, 501 P.2d 159 (Alaska 1972), we had before us a school hairlength regulation which encroached on what we determined to be the individual's fundamental right to determine his own personal appearance. There we stated:

"Once a fundamental right under the constitution of Alaska has been shown to be involved and it has been further shown that this constitutionally protected right has been impaired by governmental action, then the government must come forward and meet its substantial burden of establishing that the abridgment in question was justified by a compelling government interest."<sup>3</sup>

This standard is familiar federal law as well. As stated by the United States Supreme Court:

"Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling."<sup>4</sup>

The law must be shown "necessary, and not merely rationally related, to the accomplishment of a permissible state policy."<sup>5</sup>

When, on the other hand, governmental action interferes with an individual's freedom in an area which is not characterized as fundamental, a less stringent test is ordinarily applied. In such cases our task is to determine whether the legislative enactment has a reasonable relationship to a legitimate governmental purpose.<sup>6</sup> Under this latter test, which is sometimes referred to as the "rational basis" test, the State need only demonstrate the existence of facts which can serve as a rational basis for belief that the measure would properly serve the public interest.

In our recent opinion in *Lynden Transport, Inc. v. State*, 532 P.2d 700 (Alaska 1975), we recognized the existence of considerable dissatisfaction with the fundamental right-compelling state interest test. There we said:

"It has been suggested that there is mounting discontent with the rigid two-tier formulation of the equal protection doctrine, and that the United States Supreme Court is prepared to use the clause more rigorously to invalidate legislation without expansion of 'fundamental rights' or 'suspect' categories and the concomitant resort to the 'strict scrutiny' tests. We are in agreement with the view that the Supreme Court's recent equal protection decisions have shown a tendency towards less speculative, less deferential, more intensified means-to-end inquiry when it is applying the traditional rational basis test and we approve of this development." See Gunther, *Foreward: In Search of Evolving Doctrine on a Changing Court: A Model for Newer Equal Protection*, 83 Harv. L. Rev. 1 (1972). See, e.g., *James v. Strange*, 467 U.S. 128, 32 L. Ed. 2d 600 (1972); *Jackson v. Indiana*, 406 U.S. 715, 32 L. Ed. 2d 435 (1972); *Humphrey v. Cady*, 405 U.S. 504, 31 L. Ed. 2d 394 (1972); *Eisenstadt v. Baird*, 405 U.S. 438, 31 L. Ed. 2d 349 (1972); *Reed v. Reed*, 404 U.S. 71, 30 L. Ed. 2d 225 (1971).

This court has previously applied a test different from the rigid two-tier formulation to state regulations. In *State v. Wylie*,<sup>7</sup> we tested durational residency requirements for state employment by both the compelling state interest test and a test which examined whether the means chose suitably furthered an appropriate governmental interest.<sup>8</sup> It is appropriate in this case to resolve Ravin's privacy claims by determining whether there is a proper governmental interest in imposing restrictions on marijuana use and whether the means chosen bear a substantial relationship to the legislative purpose. If governmental restrictions interfere with the individual's right to privacy, we will require that the relationship between means and ends be not merely reasonable but close and substantial.

Thus, our undertaking is two-fold: we must first determine the nature of Ravin's rights, if any, abridged by AS 17.12.010, and, if any rights have been

<sup>3</sup> 501 P.2d at 171. See *State v. Wylie*, 516 P.2d 142 (Alaska 1973); *State v. Van Dort*, 502 P.2d 453 (Alaska 1972); *State v. Gray*, 525 P.2d 524, 527 (Alaska 1974); *Gilbert v. State*, 526 P.2d 1131, 1133 (Alaska 1974); *State v. Adams*, 522 P.2d 1125 (Alaska 1974).

<sup>4</sup> *Bates v. Little Rock*, 361 U.S. 516, 524, 4 L. Ed. 2d 480, 486 (1960). See *Roe v. Wade*, 410 U.S. 113, 155, 35 L. Ed. 2d 147, 178 (1973).

<sup>5</sup> *McLaughlin v. Florida*, 379 U.S. 184, 190, 13 L. Ed. 2d 222, 231 (1964), quoted in the concurrence of Mr. Justice Goldberg in *Griswold v. Connecticut*, 381 U.S. 479, 497, 14 L. Ed. 2d 510, 523 (1965).

<sup>6</sup> See *Concerned Citizens v. Kena Peninsula Borough*, 527 P.2d 447, 452 (Alaska 1974); *Mobil Oil Corp. v. Local Boundary Comm'n*, 518 P.2d 92, 101 (Alaska 1974); *Meyer v. Nebraska*, 262 U.S. 390, 67 L. Ed. 1042 (1923).

<sup>7</sup> 516 P.2d 142 (Alaska 1973).

<sup>8</sup> *Id.* at n. 16.

infringed upon, then resolve the further questions as to whether the statutory impingement is justified.

As we have mentioned, Ravin's argument that he has a fundamental right to possess marijuana for personal use rests on both federal and state law, and centers on what may broadly be called the right to privacy. This "right" is increasingly the subject of litigation and commentary and is still a developing legal concept.<sup>9</sup>

In Ravin's view, the right to privacy involved here is an autonomous right which gains special significance when its situs is found in a specially protected area, such as the home. Ravin begins his privacy argument by citation of and reliance upon *Griswold v. Connecticut*,<sup>10</sup> in which the Supreme Court of the United States struck down as unconstitutional a state statute effectively barring the dispensation of birth control information to married persons. Writing for five members of the Court, Mr. Justice Douglas noted that rights protected by the Constitution are not limited to those specifically enumerated in the Constitution. In order to secure the enumerated rights, certain peripheral rights must be recognized. In other words, the "specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance."<sup>11</sup> Certain of these penumbral rights create "zones of privacy", for example, First Amendment rights of association, Third and Fourth Amendment rights pertaining to the security of the home, and the Fifth Amendment right against self-incrimination. The Supreme Court of the United States then proceeded to find a right to privacy in marriage which antedates the Bill of Rights and yet lies within the zone of privacy created by several fundamental constitutional guarantees. It was left unclear whether this particular right to privacy exists independently, or comes into being only because of its connection with fundamental enumerated rights.

The next important Supreme Court opinion regarding privacy is *Stanley v. Georgia*,<sup>12</sup> in which a state conviction for possession of obscene matter was overturned as violative of the First and Fourteenth Amendments. The Supreme Court had previously held that obscenity is not protected by the First Amendment.<sup>13</sup> But in *Stanley* the court made a distinction between commercial distribution of obscene matter and the private enjoyment of it at home. The Constitution, it said, protects the fundamental right to receive information and ideas, regardless of their worth. Moreover, the Supreme Court said,

"\* \* \* in the context of this case—prosecution for mere possession of printed or filmed matter in the privacy of a person's own home—that right takes on an added dimension. For also fundamental is the right to be free, except in very limited circumstances, from unwanted governmental intrusions into one's privacy."<sup>14</sup>

The Supreme Court concluded that the First Amendment means a state has no business telling a man, sitting alone in his own home, what books he may read or what films he may watch. The Court took care to limit its holding to mere possession of obscene materials by the individual in his own home. It noted that it did not intend to restrict the power of the state or federal government to make illegal the possession of items such as narcotics, firearms, or stolen goods.

The *Stanley* holding was subsequently refined by a series of cases handed down in 1973. In *Paris Adult Theatre I v. Slaton*,<sup>15</sup> the Supreme Court rejected the claim of a theater owner that his showing of allegedly obscene films was protected by *Stanley* because his films were shown only to consenting adults. The Court explicitly rejected the comparison of a theater to a home and found a legitimate state interest in regulating the use of obscene matter in local commerce and places of public accommodation. It apparently found no fundamental right involved in viewing obscene matter under these conditions, for it noted that the right to privacy guaranteed by the Fourteenth Amendment extends only to fundamental rights. The protection offered by *Stanley*, the Supreme Court stated, was restricted to the home, and it ex-

<sup>9</sup> The right to privacy was recently made explicit in Alaska by an amendment to the state constitution. Alaska Const. Art. I, § 22.

<sup>10</sup> 381 U.S. 479, 14 L. Ed. 2d 510 (1965).

<sup>11</sup> 381 U.S. at 484, 14 L. Ed. 2d at 514.

<sup>12</sup> 394 U.S. 557, 22 L. Ed. 2d 542 (1969).

<sup>13</sup> See *Roth v. U.S.*, 354 U.S. 476, 1 L. Ed. 2d 1498 (1957).

<sup>14</sup> 394 U.S. at 564, 22 L. Ed. 2d at 549.

<sup>15</sup> 413 U.S. 49, 37 L. Ed. 2d 446 (1973). See also *United States v. Orito*, 413 U.S. 139, 37 L. Ed. 2d 513 (1973); *United States v. 12 200-Ft. Reels*, 413 U.S. 123, 37 L. Ed. 2d 500 (1973).



PLICITLY refused to say that all activities occurring between consenting adults were beyond the reach of the government.<sup>10</sup>

These Supreme Court cases indicate to us that the federal right to privacy arises only in connection with other fundamental rights, such as the grouping of rights which involve the home. And even in connection with the penumbra of home-related rights, the right of privacy in the sense of immunity from prosecution is absolute only when the private activity will not endanger or harm the general public.

This view is confirmed by the Supreme Court's abortion decision, *Roe v. Wade*.<sup>11</sup> There appellant claimed that her right to decide for herself concerning abortion fell within the ambit of a right to privacy flowing from the federal Bill of Rights. The Court's decision in her favor makes clear that only personal rights which can be deemed "fundamental" or "implicit in the concept of ordered liberty" are protected by the right to privacy. The Supreme Court found this right "broad enough to encompass a woman's decision whether or not to terminate her pregnancy," but it rejected the idea that a woman's right to decide is absolute. At some point, the state's interest in safeguarding health, maintaining medical standards, and protecting potential life becomes sufficiently compelling to sustain regulations. One does not, the Supreme Court said, have an unlimited right to do with one's body as one pleases.

The right to privacy which the Court found in *Roe* is closely akin to that in *Grainold*; in both cases the zone of privacy involves the area of the family and procreation,<sup>12</sup> more particularly, a right of personal autonomy in relation to choices affecting an individual's life.

In Alaska this court has dealt with the concept of privacy on only a few occasions. One of the most significant decisions in this area is *Breese v. Smith*,<sup>13</sup> where we considered the applicability of the guarantee of "life, liberty, and the pursuit of happiness" found in the Alaska Constitution,<sup>14</sup> to a school hair-length regulation. Noting that hairstyles are a highly personal matter in which the individual is traditionally autonomous, we concluded that governmental control of personal appearance would be antithetical to the concept of personal liberty under Alaska's constitution. Since the student would be forced to choose between controlling his own personal appearance and asserting his right to an education if the regulations were upheld, we concluded that the constitutional language quoted above embodied an affirmative grant of liberty to public school students to choose their own hairstyles, for "at the core of [the concept of liberty] is the notion of total immunity from governmental control: the right to 'be let alone.'"<sup>15</sup> That right is not absolute, however, we also noted that this "liberty" must yield where it "intrude[s] upon the freedom of others."<sup>16</sup>

Subsequent to our decision in *Breese*, a right to privacy amendment was added to the Alaska Constitution. Article I, Section 22 reads:

"The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section."

The effect of this amendment is to place privacy among the specifically enumerated rights in Alaska's constitution. But this fact alone does not, in and of itself, yield answers concerning what scope should be accorded to this right of privacy.<sup>17</sup> We have suggested that the right to privacy may afford less than

<sup>10</sup> In a companion case, *United States v. Orito*, 413 U.S. 139, 37 L. Ed. 2d 513 (1973), the Supreme Court observed that the *Stanley* right to possess obscene matter in the home is limited to the home and does not create a right to transport, receive, or distribute the matter. The Supreme Court further said that it is not true that a zone of constitutionally protected privacy follows such materials when they are moved outside the home. See *United States v. 12,200-Ft. Reels*, 413 U.S. 123, 37 L. Ed. 2d 500 (1973).

<sup>11</sup> 410 U.S. 113, 35 L. Ed. 2d 147 (1973).

<sup>12</sup> Cf. *Eisenstadt v. Baird*, 405 U.S. 438, 453, 31 L. Ed. 2d 340 (1972) where the Supreme Court said in part: "If the right to privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child."

<sup>13</sup> 501 P.2d 159 (Alaska 1972).

<sup>14</sup> Alaska Const. Art. I, § 1.

<sup>15</sup> 501 P.2d at 168.

<sup>16</sup> 501 P.2d at 177, quoting *Bishop v. Colaw*, 450 F.2d 1069, 1077 (8th Cir. 1971).

<sup>17</sup> For a discussion of the origins and scope of a similar constitutional guarantee of privacy, in the Hawaii Constitution, Art. I, § 5, see *State v. Kantner*, 493 P.2d 806 (Hawaii 1972), particularly n.4 in the dissent of Justice Levinson at p. 314. This court has, in the area of searches and seizures, attempted to define the right of privacy. See, e.g., *Erickson v. State*, 507 P.2d 508 (Alaska 1973); *Mattern v. State*, 500 P.2d 228 (Alaska 1972); *Davis v. State*, 499 P.2d 1025 (Alaska 1972); *Ellison v. State*, 383 P.2d 716 (Alaska 1968); *Rubev v. City of Fairbanks*, 456 P.2d 470 (Alaska 1969); *Slezniak v. State*, 454 P.2d 252 (Alaska 1969).

absolute protection to "the ingestion of food, beverages or other substances,"<sup>24</sup> For any such protection must be limited by the legitimate needs of the State to protect the health and welfare of its citizens.<sup>25</sup>

Although a number of other jurisdictions have considered the privacy issue as it applies to marijuana prosecutions, they provide little help in defining the scope of article I, section 22 of Alaska's constitution. In Hawaii, whose constitution also contains an express guarantee of the right to privacy,<sup>26</sup> the supreme court has faced a similar issue. In *State v. Kantner*,<sup>27</sup> the Supreme Court of Hawaii upheld a conviction for possession of marijuana by a 3-2 vote, with one member of the majority concurring only because he thought the constitutional issue had not been properly raised. A majority rejected the claim that application of the statute violated guarantees of equal protection and due process, and two members of the court rejected the claim of violation of "fundamental liberty" based on *Griswold*. In dissent, Justice Levinson emphasized the guarantees of privacy and personal autonomy which he found in both the Hawaii Constitution and the due process clause of the Fourteenth Amendment to the United States Constitution. He found that the right to privacy "guarantees to the individual the full measure of control over his own personality consistent with the security of himself and others."<sup>28</sup> The experiences generated by use of marijuana are mental in nature, he wrote, and thus among the most personal and private experiences possible. So long as conduct does not produce detrimental results, the right of privacy protects the individual's conduct designed to affect these inner areas of the personality. The state failed to show, he found, any harm to the user or others from the private, personal use of marijuana, and so the statute infringed on the right to personal autonomy.

In a Michigan case the same year, a conviction for possession of marijuana was overturned by a unanimous court, though for a variety of reasons. One of the justices in *People v. Sinclair*,<sup>29</sup> Justice T. G. Kavanagh, rested his opinion squarely on the basic right of the individual to be free from government intrusions. He found the marijuana possession statute to be "an impermissible intrusion on the fundamental rights to liberty and the pursuit of happiness, and is an unwarranted interference with the right to possess and use private property."<sup>30</sup> He noted the basic freedom of the individual to be free to do as he pleases so long as his actions do not interfere with the rights of his neighbor or of society. " \* \* \* 'Big brother' cannot, in the name of Public health, dictate to anyone what he can eat or drink or smoke in the *privacy* of his own home."<sup>31</sup>

Generally, however, privacy as a constitutional defense in marijuana cases has not met with much favor. It was rejected, for instance, by the Massachusetts Supreme Judicial Court in *Letts v. Commonwealth*,<sup>32</sup> where the court held that there was no constitutional right to smoke marijuana, that smoking marijuana was not fundamental to the American scheme of justice or necessary to a regime of ordered liberty, and that smoking marijuana was not locatable in any "zone of privacy." Furthermore, the court said, there is no constitutional right to become intoxicated.<sup>33</sup>

Assuming this court were to continue to utilize the fundamental right-compelling state interest test in resolving privacy issues under article I, section 22 of Alaska's constitution, we would conclude that there is not a fundamental

<sup>24</sup> *Gray v. State*, 525 P.2d 524, 528 (Alaska 1974). In *Gray* we said: "There is no available recorded history of this amendment, but clearly it shields the ingestion of food, beverages or other substances. But the right of privacy is not absolute. Where a compelling state interest is shown, the right may be held to be subordinate to express constitutional powers such as the authorization of the legislature to promote and protect public health and provide for the general welfare."

<sup>25</sup> *Id.* If the State were required, for instance, to carry the extremely heavy burden of showing a compelling state interest before it could regulate the purity of foodstuffs and medicines, the result would be a practical inability to protect the public from health threats which consumers could neither know about nor protect themselves against.

<sup>26</sup> Hawaii Const. Art. I, § 5.

<sup>27</sup> 493 P.2d 306 (Hawaii 1972).

<sup>28</sup> 493 P.2d at 315.

<sup>29</sup> 194 N.W.2d 878 (Mich. 1972).

<sup>30</sup> 194 N.W.2d at 896.

<sup>31</sup> *Id.*

<sup>32</sup> 243 N.E.2d 898 (Mass. 1969).

<sup>33</sup> The privacy argument has been rejected in several other cases. *Miller v. State*, 458 S.W.2d 680 (Tex. Crim. App. 1970); *In re Klor*, 415 P.2d 701 (Cal. 1966); *People v. Aguiar*, 257 Cal. App. 2d 597, 65 Cal. Rptr. 171 (1968); *United States v. Drotar*, 416 F.2d 914 (5th Cir. 1969), *vacated on other grounds*, 402 U.S. \* \* \* *v. State*, 229 So. 2d 244 (Fla. 1969); *Raines v. State*, 225 So. 2d 330 (Fla. 1969). See *Scott v. United States*, 393 F.2d 619 (D.C. Cir. 1968).

constitutional right to possess or ingest marijuana in Alaska. For in our view, the right to privacy amendment to the Alaska Constitution cannot be read so as to make the possession or ingestion of marijuana itself a fundamental right. Nor can we conclude that such a fundamental right is shown by virtue of the analysis we employed in *Breese*. In that case, the student's traditional liberty pertaining to autonomy in personal appearance was threatened in such a way that his constitutionally guaranteed right to an education was jeopardized. Hairstyle, as emphasized in *Breese*, is a highly personal matter involving the individual and his body. In this sense this aspect of liberty-privacy is akin to the significantly personal areas at stake in *Griswold* and *Eisenstadt v. Baird*. Few would believe they have been deprived of something of critical importance if deprived of marijuana, though they would if stripped of control over their personal appearance. And, as mentioned previously, a discrete federal right of privacy separate from the penumbra of specifically enumerated constitutional rights has not as yet been articulated by the Supreme Court of the United States. Therefore, if we were employing our former test, we would hold that there is no fundamental right, either under the Alaska or federal constitutions, either to possess or ingest marijuana.

The foregoing does not complete our analysis of the right to privacy issues. For in *Gray* we stated that the right of privacy amendment of the Alaska Constitution "clearly shields the ingestion of food, beverages or other substances," but that this right may be held to be subordinate to public health and welfare measures. Thus, Ravin's right to privacy contentions are not susceptible to disposition solely in terms of answering the question whether there is a general fundamental constitutional right to possess or smoke marijuana. This leads us to a more detailed examination of the right to privacy and the relevancy of where the right is exercised. At one end of the scale of the scope of the right to privacy is possession or ingestion in the individual's home. If there is any area of human activity to which a right to privacy pertains more than any other, it is the home. The importance of the home has been amply demonstrated in constitutional law. Among the enumerated rights in the federal Bill of Rights are the guarantee against quartering of troops in a private house in peacetime (Third Amendment) and the right to be "secure in their . . . houses . . . against unreasonable searches and seizures . . ." (Fourth Amendment). The First Amendment has been held to protect the right to "privacy and freedom of association in the home."<sup>34</sup> The Fifth Amendment has been described as providing protection against all governmental invasions "of the sanctity of a man's home and the privacies of life."<sup>35</sup> The protection of the right to receive birth control information in *Griswold* was predicated on the sanctity of the marriage relationship and the harm to this fundamental area of privacy if police were allowed to "search the sacred precincts of marital bedrooms."<sup>36</sup> And in *Stanley v. Georgia*,<sup>37</sup> the Court emphasized the home as the situs of protected "private activities." The right to receive information and ideas was found in *Stanley* to take on an added dimension precisely because it was a prosecution for possession in the home: "For also fundamental is the right to be free, except in very limited circumstances, from unwanted governmental intrusions into one's privacy."<sup>38</sup> In a later case, the Supreme Court noted that *Stanley* was not based on the notion that the obscene matter was itself protected by a constitutional penumbra of privacy, but rather was a "reaffirmation that 'a man's home is his castle.'"<sup>39</sup> At the same time the Court noted, "the Constitution extends special safeguards to the privacy of the home, just as it protects other special privacy rights such as those of marriage, procreation, motherhood, child rearing, and education."<sup>40</sup> And as the Supreme Court pointed out, there exists a "myriad" of activities which may be lawfully conducted within the privacy and confines of the home, but may be prohibited in public.<sup>41</sup>

In Alaska we have also recognized the distinctive nature of the home as a place where the individual's privacy receives special protection. This court has consistently recognized that the home is constitutionally protected from

<sup>34</sup> *Moreno v. United States Dep't of Agriculture*, 345 F. Supp. 310, 314 (D.D.C. 1972), *aff'd*, 413 U.S. 523, 37 L. Ed. 2d 782 (1973).

<sup>35</sup> *Boyd v. U.S.*, 116 U.S. 616, 630, 29 L. Ed. 746, 751 (1886).

<sup>36</sup> 381 U.S. at 486, 14 L. Ed. 2d at 516.

<sup>37</sup> 394 U.S. 557, 22 L. Ed. 2d 542 (1969).

<sup>38</sup> 394 U.S. at 561, 22 L. Ed. 2d at 549.

<sup>39</sup> *Paris Adult Theatre I v. Slaton*, 413 U.S. 49, 66, 37 L. Ed. 2d 446, 462 (1973).

<sup>40</sup> *U.S. v. Orto*, 413 U.S. 139, 142, 37 L. Ed. 2d 513, 517 (1973). See U.S. v. 12 200-Ft. Reels, 413 U.S. 123, 37 L. Ed. 2d 500 (1973).

<sup>41</sup> *U.S. v. Orto*, 413 U.S. 130, 142-143, 37 L. Ed. 2d 513, 518 (1973).

unreasonable searches and seizures, reasoning that the home itself retains a protected status under the Fourth Amendment and Alaska's constitution distinct from that of the occupant's person.<sup>42</sup> The privacy amendment to the Alaska Constitution was intended to give recognition and protection to the home. Such a reading is consonant with the character of life in Alaska. Our territory and now state has traditionally been the home of people who prize their individuality and who have chosen to settle or to continue living here in order to achieve a measure of control over their own lifestyles which is now virtually unattainable in many of our sister states.

The home, then, carries with it associations and meanings which make it particularly important as the situs of privacy. Privacy in the home is a fundamental right, under both the federal and Alaska constitutions. We do not mean by this that a person may do anything at any time as long as the activity takes place within a person's home. There are two important limitations on this facet of the right to privacy. First, we agree with the Supreme Court of the United States, which has strictly limited the *Stanley* guarantee to possession for purely private, noncommercial use in the home. And secondly, we think this right must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare. No one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely. Indeed, one aspect of a private market is that it is private, that is, that it does not adversely affect persons beyond the actor, and hence is none of their business. When a matter does affect the public, directly or indirectly, it loses its wholly private character, and can be made to yield when an appropriate public need is demonstrated.

Thus, we conclude that citizens of the State of Alaska have a basic right to privacy in their homes under Alaska's constitution. This right to privacy would encompass the possession and ingestion of substances such as marijuana in a purely personal, non-commercial context in the home unless the state can meet its substantial burden and show that proscription of possession of marijuana in the home is supportable by achievement of a legitimate state interest.

This leads us to the second facet of our inquiry, namely, whether the State has demonstrated sufficient justification for the prohibition of possession of marijuana in general in the interest of public welfare; and further, whether the State has met the greater burden of showing a close and substantial relationship between the public welfare and control of ingestion or possession of marijuana in the home for personnel use.

The evidence which was presented at the hearing before the district court consisted primarily of several expert witnesses familiar with various medical and social aspects of marijuana use.<sup>43</sup> Numerous written reports and books were also introduced into evidence.<sup>44</sup>

<sup>42</sup> *State v. Spietz*, 531 P.2d 521 (Alaska 1975); *Ferguson v. State*, 488 P.2d 1032 (Alaska 1971). See cases cited *supra* at n.21. The home receives special attention in other areas of Alaska's laws, e.g., the homestead exemption in relation to execution sales, AS 09.35.090; the justifiable homicide defense pertaining to the prevention of a felony in the home, AS 11.15.100; and the distinction between burglary in a dwelling house and burglary in other structures, AS 11.20.080-100.

<sup>43</sup> Among the works we have examined in addition to the testimony below are the following: Marijuana: A Signal of Misunderstanding, the First Report of the National Commission on Marijuana and Drug Abuse (March 1972); Drug Use in America: Problem in Perspective, the Second Report of the National Commission on Marijuana and Drug Abuse (March 1973); Drug Use in Anchorage, Alaska, 223 J. Am. Med. Ass'n 657 (1971); G. Nahas, Marijuana: Deceptive Weed (1973); Nahas *et al.* Inhibition of Cellular Mediated Immunity in Marijuana Smokers, 183 Science 419 (1974); L. Grisspoon, Marijuana Reconsidered (1971); Hearings before the U.S. Senate Subcommittee on Internal Security, May 1974; Nahas & Greenwood, The First Report of the National Commission on Marijuana (1972); Signal of Misunderstanding or Exercise in Ambiguity, draft of article to be published in Bulletin of N.Y. Academy of Medicine; Marijuana and Health: Fourth Annual Report to the U.S. Congress from the Secretary of Health, Education, and Welfare (1974); Silverstein & Tessin, Normal Skin Test Responses in Chronic Marijuana Users, 186 Science 740 (1974); Marijuana: The Grass May No Longer Be Greener, 185 Science 693 (1974); Marijuana (II): Does It Damage the Brain? 185 Science 775 (1974); Depression of Plasma Testosterone Levels After Chronic Intensive Marijuana Use, 290 N. Engl. J. Med. 872 (1974); Plasma Testosterone Levels Before, During and After Chronic Marijuana Smoking, 291 N. Engl. J. Med. 1061 (1974); Marijuana Survey—State of Oregon, Drug Abuse Council (1974).

<sup>44</sup> It is not the function of this court to reassess the scientific evidence in the manner of a legislature. See *U.S. v. Thorne*, 325 A.2d 764 (D.C. App. 1974), where an attack

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Marijuana is the common term for dried leaves or stalk of the plant *Cannabis sativa* L. The primary psychoactive ingredient in the plant is delta-9-tetrahydrocannabinol (THC). Most marijuana available in the United States has a THC content of less than one percent. Other cannabis derivatives with a higher THC content, such as hashish, are available in the United States although much less common than is marijuana.

According to figures published by the National Commission on Marihuana and Drug Abuse<sup>41</sup> in 1973, an estimated 26 million Americans have used marihuana at least once. The incidence generally cuts across social and economic classes, though use is greatest among young persons (55% of 18-21 years-olds have used it). Only about 2% of the adults who have used it were classified by the National Commission as "heavy users" (more than once daily). The experience in Alaska seems to be similar. A report published in the Journal of the American Medical Association in 1971 indicated that 24% of Anchorage school children in grades six through twelve had used marijuana, as had 46% in grades eleven and twelve.<sup>42</sup>

Scientific testimony on the physiological and psychological effects of marijuana on humans generally stresses the variability of effects upon different individuals and on any one individual at different times. The setting and psychological state of the user can affect his responses. Responses also vary with the amount of marijuana one has used in the past. A new user, for instance, often feels no effects at all.

The short-term physiological effects are relatively undisputed. An immediate slight increase in the pulse, decrease in salivation, and a slight reddening of the eyes are usually noted. There is also impairment of psychomotor control. These effects generally end within two to three hours of the end of smoking.

Long-term physiological effects raise more controversy among the experts. The National Commission on Marihuana and Drug Abuse reported that among users "no significant physical, biochemical, or mental abnormalities could be attributed solely to their marijuana smoking."<sup>43</sup> Certain researchers<sup>44</sup> have

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on the constitutionality of the District of Columbia marijuana statutes was made. There the court said:

"In our opinion the court below misconceived its function in its approach to the constitutionality of the statutory proscription of the possession and use of marijuana. In deciding that this drug has virtually no harmful effects upon the human system, the court had occasion to consider the testimony of four expert witnesses and a voluminous mass of documentary studies. The court weighed this evidence and resolved the conflict to its own satisfaction. If this were a hearing or a trial turning upon the determination of facts upon which there was conflicting testimony, such procedure was, of course, correct.

"But a holding that a legislative enactment is invalid cannot rest upon a judicial determination of a debatable medical issue. Any party assailing the constitutionality of a statute has the heavy burden of demonstrating that it has no rational basis.

"\* \* \* It is apparent from the record in this case that the question decided by the court below after the hearing on the pretrial motions was 'at best debatable.' Hence, under the tests set forth in *Carolene Products*, the court should have deferred to congressional judgment."

Similarly the Supreme Judicial Court of Massachusetts in *Leis v. Commonwealth*, 243 N.E.2d 898, 901-02 (1969) said:

"We know of nothing that compels the Legislature to thoroughly investigate the available scientific and medical evidence when enacting a law. The test of whether an act of the Legislature is rational and reasonable is not whether the records of the Legislature contain a sufficient basis of fact to sustain that act. The Legislature is presumed to have acted rationally and reasonably. See *Commonwealth v. Minnigan*, 326 Mass. 378, 379, 96 N.E.2d 715; *Coffee-Rich, Inc. v. Commissioner of Pub. Health*, 348 Mass. 414, 422, 204 N.E.2d 281. 'Unless the act of the Legislature cannot be supported upon any rational basis of fact that reasonably can be conceived to sustain it, the court has no power to strike it down as violative of the Constitution.' *Sperry & Hutchinson Co. v. Director of the Div. on the Necessaries of Life of Commonwealth*, 307 Mass. 408, 418, 30 N.E.2d 269, 274, 131 A.L.R. 1254. See *United States v. Carolene Prod. Co.*, 304 U.S. 144, 154, 58 S.Ct. 778, 82 L.Ed. 1234."

Justice Kirk, in his concurring opinion in *Leis*, also explains the question of legislative judgment and the range of judicial cognizance.

<sup>41</sup> *Drug Use in America: Problem in Perspective*, the Second Report of the National Commission on Marihuana and Drug Abuse (March 1973) at 64.

<sup>42</sup> *Drug Use in Anchorage, Alaska*, 223 J. Am. Med. Ass'n 657 (1971).

<sup>43</sup> *Marihuana: A Signal of Misunderstanding*, First Report of the National Commission on Marihuana and Drug Abuse (March 1972), p. 61.

<sup>44</sup> See *Nahas, et al. Inhibition of Cellular Mediated Immunity in Marihuana Smokers*, 183 Science 110 (1974). But cf., *Normal Skin Test Responses in Chronic Marijuana Users*, 186 Science 740 (1974).



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**2 OF 7**

pointed to possible deleterious effects on the body's immune defenses, on the chromosomal structures of users,<sup>40</sup> and on testosterone levels in the body.<sup>41</sup> The methodology of certain of these studies has been extensively criticized by other qualified medical scientists, however. These studies cannot be ignored. It should be noted that most of the damage suggested by these studies comes in the context of intensive use of concentrated forms of THC. It appears that the use of marijuana, as it is presently used in the United States today, does not constitute a public health problem of any significant dimensions. It is, for instance, far more innocuous in terms of physiological and social damage than alcohol or tobacco. But the studies suggesting dangers in intensive cannabis use do raise valid doubts which cannot be dismissed or discounted.

The immediate psychological effects of marijuana are typically a mild euphoria and a relaxed feeling of well-being. The user may feel a heightened sensitivity to taste and to visual and aural sensations, and his perception of time intervals may be distorted. A desire to become high can lead to a greater high; fear of becoming high or general nervousness can cause the user to fail to experience any high at all. In rare cases, excessive nervousness or fear of the drug can even precipitate a panic reaction. Occasionally a user will experience a negative reaction such as anxiety or depression, particularly when he takes in more of the substance than needed to achieve the desired high. However, in smoking marijuana, the usual method of taking it in this country, the user can self-titrate, or control the amount taken in, since the effect builds up gradually.

Additional short-term effects are an impairment of immediate-past-memory faculty and impairment in performing psychomotor tasks. Experienced users seem less impaired in this regard than naive users.

In extremely rare instances, use of marijuana has been known to precipitate psychotic episodes; however, the consensus of the experts seems to be that the potential for precipitating psychotic episodes exists only for a limited number of prepsychotic persons who could be pushed into psychosis by any number of drug or nondrug-related influences.

There is considerable debate as to the long-term effects of marijuana on mental functioning. Certain researchers cite evidence of an "amotivational syndrome" among long-term heavy cannabis users. However, the main examples of this effect are users in societies where large segments of the population exhibit such traits as social withdrawal and passivity even without drug use. The National Commission conclude that long-time heavy users do not deviate significantly from their social peers in terms of mental function, at least to any extent attributable to marijuana use.<sup>42</sup>

The experts generally agree that the early widely-held belief that marijuana use directly causes criminal behavior, and particularly violent, aggressive behavior, has no validity. On the contrary, the National Commission found indication that marijuana inhibits "the expression of aggressive impulses by pacifying the user, interfering with muscle coordination, reducing psychomotor

<sup>40</sup> See Stenchever, Statement before the Senate Subcommittee on Internal Security, May 16, 1974. The National Institute on Drug Abuse, in Marijuana and Health, Fourth Report to the United States Congress from the Secretary of Health, Education, and Welfare, states in part: "The preclinical findings of greatest interest and potential significance during the past two years have been a series of studies indicating that delta-9-THC (and possibly other marijuana constituents) have an effect upon certain basic cellular mechanisms which involve the uptake of amino acids and the nucleotides into primary nuclear components such as DNA. Since this may interfere with basic biological processes, the preliminary data raises the possibility that the effects of marijuana, under some circumstances, may be more widespread on the organism than has been previously thought." *Id.* at 6.

<sup>41</sup> Depression of Plasma Testosterone Levels After Chronic Intensive Marijuana Use, 290 N. Engl. J. Med. 872 (1974). *But cf.* Plasma Testosterone Levels Before, During and After Chronic Marijuana Smoking, 291 N. Engl. J. Med. 1051 (1974).

<sup>42</sup> Marijuana: A Signal of Misunderstanding, the First Report of the National Commission on Marijuana and Drug Abuse (March 1972), 63. See also Marijuana and Health, Fourth Report to the United States Congress from the Secretary of Health, Education and Welfare (1974), which reads at 12: "While chronic users in the United States have used for appreciably shorter periods of time than users overseas, studies of American chronic users are potentially of great importance in assessing possible implications of marijuana use for the American population. In one large scale study of undergraduate student use comparisons were made between nonusers (including those who had done a limited amount of experimentation), occasional users and chronic users (those who had used three or more times a week for three years or more or for two if use was almost daily). No statistical differences in academic performance were found nor was there any evidence of reduced motivation \* \* \*. Another study of moderately using medical students who has used regularly for three or more years and who were matched with non-using medical students for intelligence, found no difference on an extensive battery of neuropsychological tests."



activities and generally producing states of drowsiness, lethargy, timidity and passivity."<sup>52</sup> Moreover, the Commission and most other authorities agree that there is little validity to the theory that marijuana use leads to use of more potent and dangerous drugs. Although it has been stated that the more heavily a user smokes marihuana, the greater the probability that he has used or will use other drugs, "it has been suggested that such use is related to 'drug use proneness' and involvement in drug subcultures rather than to the characteristics of cannabis, *per se*."<sup>53</sup>

The most serious risk to the public health discerned by the National Commission is the possibility of an increase in the number of heavy users, who now constitute about 2% (500,000) of those who have used the drug. Within this group certain emotional changes have been observed among "predisposed individuals" as a result of prolonged heavy use. This group seems to carry the highest risk, particularly in view of the risk of retarding social adjustment among adolescents if heavy use should grow.

Most authorities have accepted the theory that marijuana users develop a "reverse tolerance", that is, that a moderate user needs less and less marijuana over time to achieve a high. Recent research indicates that this may be true only up to a point, and that beyond a certain intensity of use a true tolerance begins to develop.<sup>54</sup> If true, this may be relevant regarding only heavy use of concentrated forms of cannabis, since marijuana use is self-limiting due to the forms in which it is taken.

The National Commission rejected the notion that marijuana is physically addicting. It also rejected the notion that marijuana as used in the United States today presents a significant risk of causing psychological dependency in the user. Rather, the experimental or intermittent user develops little or no dependence. Lengthy use on a regular basis does present a risk of such dependence and of subsequent heavier use, and strong psychological dependence is characteristic of heavy users in other countries. This pattern of use is rare in the United States today, however.

While there is no confirmed report of a human ever having died from an overdose of cannabis, the toxic levels of THC have been determined from tests on animals. The lethal dose for marijuana is approximately 40,000 times the dose needed to achieve intoxication. The equivalent ratio of intoxicating to lethal doses for alcohol is 4/10 and for barbiturates is 3/50.

The number of persons arrested for marijuana possession has climbed steeply in recent years. In 1973, over 400,000 marijuana arrests occurred, a 43% rise over the previous year. It should also be noted that 81% of persons arrested for marijuana-related crimes have never been convicted of any crime in the past, and 91% have never been convicted of a drug-related crime.<sup>55</sup>

The justifications offered by the State to uphold AC 17.10.010 are generally that marijuana is a psychoactive drug; that it is not a harmless substance; that heavy use has concomitant risk; that it is capable of precipitating a psychotic reaction in at least individuals who are predisposed towards such reaction; and that its use adversely affects the user's ability to operate an automobile. The State relies upon a number of medical researchers who have raised questions as to the substance's effect on the body's immune system, on chromosomal structure, and on the functioning of the brain. On the other hand, in almost every instance of reports of potential danger arising from marijuana use, reports can be found reaching contradictory results. It appears that there is no firm evidence that marijuana, as presently used in this country, is generally a danger to the user or to others. But neither is there conclusive evidence to the effect that it is harmless.<sup>56</sup> The one significant risk in use of

<sup>52</sup> *Id.* at 70-71.

<sup>53</sup> Marijuana and Health, Fourth Report to the United States Congress from the Secretary of Health, Education, and Welfare (1974) at 6.

<sup>54</sup> "While tolerance to the effects of marihuana has not been generally observed among American users, there is increasingly convincing evidence that tolerance (i.e., larger dosages required to produce the same effects found with lower dosages) does develop under conditions of heavy, regular use. Given the relatively low doses and infrequent use typical of present patterns of use in the United States it is not surprising that tolerance has not usually been observed. . . . While the amounts involved were usually large and quite atypical of current use patterns, the probability of a withdrawal syndrome in at least some American heavy users must be considered." Marijuana and Health, Fourth Report to the United States Congress from the Secretary of Health, Education, and Welfare (1974) at 10, 75-81.

<sup>55</sup> Marijuana: A Signal of Misunderstanding, Appendix II, at 622.

<sup>56</sup> Petitioner's witnesses, Doctors Fort and Ungerleider, both testified that marijuana was not harmless.

marijuana which we do find established to a reasonable degree of certainty is

the effect of marijuana intoxication on driving. We shall return to this aspect of the problems later in this opinion.

Possibly implicit in the State's catalogue of possible danger of marijuana use is the assumption that the State has the authority to protect the individual from his own folly, that is, that the State can control activities which present no harm to anyone except those enjoying them. Although some courts have found the "public interest" to be broad enough to justify protecting the individual against himself,<sup>67</sup> most have found inherent limitations on the police power of the state. An apposite example is the litigation regarding the constitutionality of laws requiring motorcyclists to wear helmets. Most of the courts addressing the issue, including this one, have resolved it by finding a connection between the helmet requirement and the safety of other motorists,<sup>68</sup> but a significant number of courts have explicitly rejected such restrictive measures as beyond the police power of the state because they do not benefit the public.<sup>69</sup> Typical of the logic of these latter cases is the dissent of Justice Abe in *State v. Lee*,<sup>70</sup> in which the Hawaii Supreme Court upheld a motorcycle helmet requirement despite finding no clear link between lack of the equipment by the motorcyclist and injury to others. The court reasoned that where a person's conduct is so reckless, and the resulting injury and death are so widespread as to be of concern to the public, then the conduct affects the public interest and is within the scope of the police power. Justice Abe dissented, citing a general right to be left alone or liberty to do as you please. There has to be a genuine harm to others, he wrote, to justify such controls; a state cannot simply decide what is in a person's best interest and compel it.<sup>61</sup>

We glean from these cases the general proposition that the authority of the state to exert control over the individual extends only to activities of the individual which affect others or the public at large<sup>62</sup> as it relates to matters of public health or safety, or to provide for the general welfare. We believe this tenet to be basic to a free society. The state cannot impose its own notions of morality, propriety, or fashion on individuals when the public has no legitimate interest in the affairs of those individuals. The right of the individual to do as he pleases is not absolute, of course; it can be made to yield when it begins to infringe on the rights and welfare of others.<sup>63</sup>

Further, the authority of the state to control the activities of its citizens is not limited to activities which have a present and immediate impact on the public health or welfare. It is conceivable, for example, that a drug could so seriously develop in its user a withdrawal or amotivational syndrome, that widespread use of the drug could significantly debilitate the fabric of our society. Faced with a substantial possibility of such a result, the state could take measures to combat the possibility. The state is under no obligation to allow otherwise "private" activity which will result in numbers of people becoming public charges or otherwise burdening the public welfare. But we do not find that such a situation exists today regarding marijuana. It appears that effects of marijuana on the individual are not serious enough to justify widespread concern, at least as compared with the far more dangerous effects of alcohol, barbiturates and amphetamines. Moreover, the current patterns of

<sup>67</sup> *E.g.*, *Raines v. State*, 225 So. 2d 330 (Fla. 1969).

<sup>68</sup> *E.g.*, *Kingery v. Chappel*, 504 P.2d 831 (Alaska 1972); *People v. Bielmeyer*, 282 N.Y.S.2d 797 (1967); *State v. Mele*, 247 A.2d 176 (N.J. 1968).

<sup>69</sup> *E.g.*, *American Motorcycle Ass'n v. Davids*, 158 N.W.2d 72 (Mich. 1968); *People v. Fries*, 250 N.E.2d 149 (Ill. 1969). See *Everhardt v. New Orleans*, 208 So. 2d 423 (La. App. 1968), *rev'd*, 217 So. 2d 400 (1969); *People v. Carmichael*, 279 N.Y.S.2d 272 (1967), *rev'd*, 288 N.Y.S.2d 931 (1968).

<sup>60</sup> 465 P.2d 573 (Hawaii 1970).

<sup>61</sup> Similarly, in *State v. Kautner*, 493 P.2d 306 (Hawaii 1972), which involved the constitutionality of Hawaii's marijuana statute, Justice Abe noted his belief that the statute went beyond the police power of the state because of the lack of evidence that use of marijuana harms anyone other than the user. There is, he wrote, under the Hawaii Constitution a fundamental right of liberty to make a fool of oneself so long as one's act does not endanger others.

<sup>62</sup> *Of. Liggett Co. v. Baldridge*, 278 U.S. 105, 111-12, 73 L. Ed. 204, 208 (1928): "The police power may be exerted in the form of state legislation where otherwise the effect may be to invade rights guaranteed by the 14th Amendment only when such legislation bears a real and substantial relation to the public health, safety, morals, or some other phase of the general welfare."

<sup>63</sup> See *Roe v. Wade*, 410 U.S. 113, 154, 35 L. Ed. 2d 147, 177 (1974); *Gray v. State*, 525 P.2d 524, 528 (Alaska 1974); *Breese v. Smith*, 501 P.2d 159, 170 (Alaska 1972).

use in the United States are not such as would warrant concern that in the future consumption patterns are likely to change.<sup>64</sup>

Research is continuing extensively. Scientific doubts persist, however, and that fact has significance for our applications of the law. It is a long-standing rule of law that statutes designed to protect the public health will receive a liberal construction.<sup>65</sup> We have seen repeated examples in recent years where scientific doubts as to the safety of various products, drugs, or environmental conditions have been held to justify controls. There is a presumption in favor of public health measures; when there is substantial doubt as to the safety of a given substance or situation for the public health, controls intended to obviate the danger will usually be upheld.

But one way in which use of marijuana most clearly does affect the general public is in regard to its effect on driving. All of which brings us to the opposite from (the home) end of the scale of the right to privacy in the context of ingestion or possession of marijuana, namely, when the individual is operating a motor vehicle. Recent research has produced increasing evidence of significant impairment of the driving ability of persons under the influence of cannabis.<sup>66</sup> Distortion of time perception, impairment of psychomotor function, and increased selectivity in attentiveness to surroundings apparently can combine to lower driver ability.<sup>67</sup> In this regard, Ravin points out that marijuana usually produces passivity and inactivity, in contrast to alcohol, which increases aggressiveness and is likely to result in overconfidence in one's driving ability. Although a person under the influence of marijuana may be less likely to attempt to drive than a person under the influence of alcohol, there exists the potential for serious harm to the health and safety of the general public. It is conceivable that the operation of motor vehicles while under the influence of marijuana can be controlled in the future in the same manner as alcohol is now, namely by sanctions against driving under the influence rather than by imposition of an outright ban on consumption or possession.<sup>68</sup>

In view of the foregoing, we believe that at present, the need for control of drivers under the influence of marijuana and the existing doubts as to the

<sup>64</sup> We recognize that more potent forms of cannabis than marijuana are commonly used in other countries and are available on a limited scale here. However, studies of use patterns here do not indicate any great likelihood of a significant shift in use here to the more potent substances. If such a shift were to occur, then marijuana use could be characterized as a serious health problem.

<sup>65</sup> 3 Sutherland Statutory Construction § 71.02 (4th ed. 1974) and the cases cited in note 42 *supra*.

<sup>66</sup> See Marijuana and Health, Fourth Report to the United States Congress from the Secretary of Health, Education, and Welfare 105 (1974). This report contains citations to the most recent studies.

<sup>67</sup> Evidence that marijuana has a detrimental effect on driving performance, especially as the dose increases, continues to mount. It has been found to increase both braking and starting times, to adversely affect attention and concentration abilities, and to detract from performance on a divided attention task, all of which are presumably involved in driving. A recent Canadian study of driving ability while marijuana-intoxicated examined drivers' performance under both driving course and actual traffic conditions. A significant decline in performance as measured by several criteria was found in most drivers tested. Based on the accumulated evidence, it seems clear that driving while under the influence of marijuana is ill-advised. Marijuana and Health, Fourth Report to the U.S. Congress from the Secretary of Health, Education, and Welfare 10-11 (1974).

Petitioner's own experts do not disagree with the Secretary's conclusions. Dr. Grinspoon testified that "... it stands to reason that anybody who is intoxicated or has a psychoactive drug in him should not drive, because there is no question ... his whereabouts is not with him, and I think that would be the case with marijuana." Dr. Fineglass stated that "... moderate or heavy use of marijuana can definitely interfere with some of the local skills that would be necessary for the operation of a motor vehicle, and therefore, in their recommendations did take note of driving while intoxicated as a potential danger to the public safety." Dr. Ungerleider testified that although the immediate effects of marijuana intoxication on the organs and bodily functions are transient and have little or no permanent effect, "there is a definite loss of some psychomotor control, temporary impairment of time space perception. ..." Later in the course of his testimony, Dr. Ungerleider concluded that recent studies had proven that driving under the influence of marijuana presents a serious risk resulting from impaired driving ability.

<sup>68</sup> Current Alaska law prohibits driving under the influence of a narcotic. AS 28.15.210; AS 28.35.030. Strictly speaking, marijuana does not fall within the scientific definition of a narcotic. Whether cannabis can be considered a narcotic for the purposes of these statutes is a question we do not address at this time. Alaskan law does specifically prohibit operation of a boat while under the influence of marijuana. AS 05.25.060.

There does not now exist a means for detecting the presence of cannabis in the body which is available for practical use by law enforcement agencies. Such means are in use in laboratories, however, and research is progressing toward a device which could be used by police in the way that breathalyzer tests for alcohol are used now.

safety of marijuana, demonstrate a sufficient justification for the prohibition found in AS 17.12.010 as an exercise of the state's police power for the public welfare. Given the evidence of the effect of marijuana on driving an individual's right to possess or ingest marijuana while driving would be subject to the prohibition provided for in AS 17.12.010. However, given the relative insignificance of marijuana consumption as a health problem in our society at present, we do not believe that the potential harm generated by drivers under the influences of marijuana, standing alone, creates a close and substantial relationship between the public welfare and control of ingestion of marijuana or possession of it in the home for personal use. Thus we conclude that no adequate justification for the state's intrusion into the citizen's right to privacy by its prohibition of possession of marijuana by an adult for personal consumption in the home has been shown. The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest. Here, mere scientific doubts will not suffice. The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied.

The state has a legitimate concern with avoiding the spread of marijuana use to adolescents who may not be equipped with the maturity to handle the experience prudently, as well as a legitimate concern with the problem of driving under the influence of marijuana. Yet these interests are insufficient to justify intrusions into the rights of adults in the privacy of their own homes.<sup>69</sup> Further, neither the federal or Alaska constitution affords protection for the buying or selling of marijuana, nor absolute protection for its use or possession in public. Possession at home of amounts of marijuana indicative of intent to sell rather than possession for personal use is likewise unprotected.<sup>70</sup>

In view of our holding that possession of marijuana by adults at home for personal use is constitutionally protected, we wish to make clear that we do not mean to condone the use of marijuana. The experts who testified below, including petitioner's witnesses, were unanimously opposed to the use of any psychoactive drugs. We agree completely. It is the responsibility of every individual to consider carefully the ramifications for himself and for those around him of using such substances. With the freedom which our society offers to each of us to order our lives as we see fit goes the duty to live responsibly, for our own sakes and for society's. This result can best be achieved we believe, without the use of psychoactive substances.

We briefly address Ravin's second assertion of error, namely that AS 17.12.010 denies him due process and equal protection of the law. The argument is two-fold. First, Ravin asserts, the proscription denies equal protection because the other commonly used "recreational" drugs, alcohol and tobacco, are not proscribed, though they inflict far more damage on the user than does marijuana. We reject, however, the assumption that the legislature must apply equal control to equal threats to the public health. Assuming some degree of control of marijuana use is permissible, it does not follow that the political obstacles to placing controls on alcohol and tobacco should render the legislature unable to regulate other substances equally or less harmful.<sup>71</sup> It is not irrational for the legislature to regulate those public health areas where it can do so, when there exists other areas where controls are less feasible.

Ravin also attacks as irrational the classification of marijuana with the other drug covered by AS 17.12.150(3) ("depressant, stimulant, or hallucinogenic"). He may be correct that marijuana is the least harmful of the drugs covered by AS 17.12.150(3), but that alone is not sufficient to make the classification irrational. In a number of cases the classification of marijuana either as or with narcotic drugs has been struck down as irrational in view of the

<sup>69</sup> We do not intend to imply that the right of privacy in the home does not apply to children. See *Bresser v. Smith*, 501 P.2d 150, 167 (Alaska 1972). We note that distinct government interests with reference to children may justify legislation that could not properly be applied to adults.

<sup>70</sup> Statistics indicate that few arrests for simple possession occur in the home except when other crimes are simultaneously being investigated. The trend in general law enforcement seems to be toward minimal effort against simple users of marijuana, and concentration of efforts against dealers and users of more dangerous substances. Moreover, statistics indicate that most arrests for possession of marijuana in Alaska result in dismissals before trial.

<sup>71</sup> See *U.S. v. Maiden*, 355 F. Supp. 743 (D. Conn. 1973); *U.S. v. Kiffer*, 477 F.2d 349 (2d Cir. 1973). In attacking a complex problem, the state need not choose between attacking every aspect of that problem or not attacking that problem at all. *Dandridge v. Williams*, 397 U.S. 471, 25 L. Ed. 2d 491 (1970); *McDonald v. Board of Election Commissioners*, 304 U.S. 802, 22 L. Ed. 2d 739 (1969).

relative harmlessness of marijuana.<sup>72</sup> In other cases, courts have deferred to the legislative finding of facts implicit in the classification.<sup>73</sup> However, in every case in which statutes have been struck down, the statutory scheme classified marijuana with, or subject to equal sanctions with, the most dangerous prescribed drugs. In Alaska, however, "hard" drugs are in a completely different category<sup>74</sup> from marijuana, with substantially greater penalties for misuse. The drugs with which marijuana is grouped in AS 17.12.150(3) are not so different from marijuana that yet another classification must be set up for marijuana alone. We find no merit to Ravin's contention on this point.

One other facet of this petition remains for discussion. Ravin urges us to recognize whatever harm results from marijuana use is far outweighed by the negative aspects of enforcement. Over 400,000 persons were arrested for marijuana-related crimes in 1973; 81% of them had no previous criminal records. Using these statistics, and asserting that marijuana use does not pose a substantial public health threat, Ravin questions the wisdom of AS 17.12.010. We note that the Alaska Bar Association, American Bar Association, National Conference of Commissioners on Uniform State Laws, National Advisory Commission on Criminal Justice Standards and Goals and the Governing Board of the American Medical Association have recommended decriminalization of possession of marijuana. The National Commission on Marijuana and Drug Abuse has recommended that private possession for personal use no longer be an offense. A Canadian study has arrived at similar results. And at least one state, Oregon, has already decriminalized possession of small amounts of marijuana.<sup>75</sup>

In opposition, the State argues that under Alaska's constitutional system of separate but equal branches of government the issue is a "political controversy over the State's fundamental policy toward the drug marijuana". Thus, the "issue should be properly determined by the people's elected representatives". We agree that determination of the wisdom of a particular legislative enactment is more properly the subject of investigation and resolution by the legislature rather than the judiciary.

The record does not disclose any facts as to the situs of Ravin's arrest and his alleged possession of marijuana. In view of these circumstances, we hold that the matter must be remanded to the district court for the purpose of developing the facts concerning Ravin's arrest and circumstances of his possession of marijuana. Once this is accomplished, the district court is to consider Ravin's motion to dismiss in conformity with this opinion.

Remanded for further proceedings consistent with this opinion.

BOOCHEVER, Justice, concurring, with whom CONNOR, Justice, joins.

Because of the importance of the issue discussed in this case and the possibility that portions of the opinion may be construed as substantially circumscribing the Alaska Constitutional right to privacy, I find it necessary to file this concurrence. By its reliance on certain United States Supreme Court cases<sup>1</sup> and the manner in which some of the conclusions are set forth, the opinion may be read as limiting the right of privacy principally to protection of activities engaged in within the confines of the home.<sup>2</sup> The opinion relies chiefly on United States Supreme Court precedent, although there is no Federal Constitutional provision corresponding to art. 1, § 22 of the Alaska Constitution which specifies that "the right of the people to privacy is recognized and shall not be infringed". While Federal cases defining the right of privacy derived from other provisions of the United States Constitution are of assistance in

<sup>72</sup> *E.g.*, *People v. McCabe*, 49 Ill. 2d 335, 275 N.E.2d 407 (1971); *Attwood v. State*, 509 S.W.2d 342 (Tex. Crim. App. 1974); *see People v. Sinclair*, 194 N.W.2d 878 (Mich. 1972), *cf. State v. Zornes*, 475 P.2d 109 (Wash. 1970).

<sup>73</sup> *E.g.*, *Bettis v. United State*, 408 F.2d 563 (9th Cir. 1969); *Leis v. Commonwealth*, 243 N.E.2d 898 (Mass. 1969); *Miller v. Texas*, 458 S.W.2d 680 (Tex. Crim. App. 1970); *State v. Raines*, 225 So. 2d 330 (Fla. 1969); *People v. McKenzie*, 458 P.2d 232 (Colo. 1969); *People v. Stark*, 400 P.2d 923 (Colo. 1965). *See State v. Kantner*, 403 P.2d 306 (Hawaii 1972).

<sup>74</sup> *See* AS 17.10.010 (The Uniform Narcotic Drug Act).

<sup>75</sup> O.R.S. 167.207. The Alaska legislature have also recently passed a bill which would decriminalize possession of marijuana in certain contexts.

<sup>1</sup> *Stanley v. Georgia*, 394 U.S. 557, 22 L. Ed. 2d 542 (1969); *Grissold v. Connecticut*, 381 U.S. 479, 14 L. Ed. 2d 510 (1965).

<sup>2</sup> The court writes that art. 1, § 22 of the Alaska Constitution "... was intended to give recognition and protection to the home".

determining the perimeters of our constitutional right to privacy, we are certainly not bound by those cases in construing the separate Alaska provision. Even when Alaska Constitutional provisions are closely akin to those of the Federal Constitution, we have stated:

"While we must enforce the minimum constitutional standards imposed upon us by the United States Supreme Court's interpretation of the Fourteenth Amendment, we are free, and we are under a duty, to develop additional constitutional rights and privileges to be within the intention and spirit of our local constitutional language and to be necessary for the kind of civilized life and ordered liberty which is at the core of our constitutional heritage. We need not stand by idly and passively, waiting for constitutional direction from the highest court of the land. Instead, we should be moving concurrently to develop and expound the principles embedded in our constitutional law."

Although the majority opinion emphasizes the right of privacy in the home, it recognizes that analysis of the Federal decisions does not indicate that the right of privacy is relegated to the home. It is true that *Griswold v. Connecticut*<sup>4</sup> invalidated a Connecticut statute prohibiting the distribution of contraceptives and the dissemination of birth control information to married adults by finding a right of privacy, emanating from other constitutional provisions, within which the marital relationship, arguably home related, was protected. But the later case of *Eisenstadt v. Baird*<sup>5</sup> held that a statute prohibiting the distribution of contraceptives to unmarried persons but allowing such distribution to married persons violated the equal protection clause of the fourteenth amendment. In so holding, the Court referred to *Griswold* and explained what the case stood for.

"If under *Griswold* the distribution of contraceptives to married persons cannot be prohibited, a ban on distribution to unmarried persons would be equally impermissible. It is true that in *Griswold* the right of privacy in question inhered in the marital relationship. Yet the marital couple is not an independent entity with a mind and heart of its own, but an association of two individuals each with a separate intellectual and emotional makeup. If the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child."

The Court held that the right of privacy involved being free to decide for oneself whether to bear or beget a child, a right relating to the autonomy of the individual, not to a place.

Similarly, *Roe v. Wade*,<sup>6</sup> in upholding the right of a woman to decide whether she should terminate her pregnancy, stated:

"This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or as the District Court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."

Again, the right of privacy pertained to the freedom of the individual to decide as to her course of action and was unrelated to any situs.

On the other hand, there are the *Stanley-Paris Adult Theatre I* group of cases<sup>7</sup> holding that the "broad power to regulate obscenity does not extend to mere possession by the individual in the privacy of his own home" although obscenity is not otherwise constitutionally immune from state regulation.

Thus it appears that the United States Supreme Court has found a right of privacy to exist as to activities within the home or with reference to values associated with the home, but also the right to be left alone and to do as one to make decisions that shape an individual's personal life.<sup>8</sup>

Since the citizens of Alaska, with their strong emphasis on individual liberty, enacted an amendment to the Alaska Constitution expressly providing for a

<sup>3</sup> *Baker v. City of Fairbanks*, 471 P.2d 388, 401-02 (Alaska 1970) (footnotes omitted).

<sup>4</sup> 381 U.S. 479, 14 L. Ed. 2d 510 (1965).

<sup>5</sup> 405 U.S. 438, 31 L. Ed. 2d 849 (1972).

<sup>6</sup> *Id.* at 453, 31 L. Ed. 2d at 362.

<sup>7</sup> 410 U.S. 133, 35 L. Ed. 2d 147 (1973).

<sup>8</sup> *Id.* at 153, 35 L. Ed. 2d at 177.

<sup>9</sup> *Stanley v. Georgia*, 394 U.S. 557, 22 L. Ed. 2d 542 (1969); *Paris Adult Theatre I v. Slaton*, 413 U.S. 49, 37 L. Ed. 2d 446 (1973); *United States v. Orloff*, 413 U.S. 139, 37 L. Ed. 2d 513 (1973); *United States v. 12 200-Ft. Reels*, 413 U.S. 123, 37 L. Ed. 2d 500 (1973).

<sup>10</sup> On Privacy: Constitutional Protection for Personal Liberty, 48 N.Y.U. L. Rev. 670, 703 (1973).

right to privacy not found in the United States Constitution, it can only be concluded that that right is broader in scope than that of the Federal Constitution. As such, it includes not only activities within the home and values associated with the home, but also the right to be left alone and to do as one pleases as long as the activity does not infringe on the rights of others. Thus, the decision whether to ingest food, beverages or other substances comes within the purview of that right to privacy.<sup>11</sup>

The right to privacy, however, is not monolithic. For example, the right to decide whether to eat strawberry ice cream cannot be placed on the same level as that of deciding whether to bear a child. Moreover, the importance of the right may properly be related to the place where it is exercised, for example, at the home or in the market place. Other considerations would be the nature of relationships involved (marital, doctor-patient, attorney-client, etc.), the particular activity in question and the individual's interest in it.

Having discussed generally the contours of what I perceive to be the right to privacy under the Alaska Constitution, I shall turn briefly to the test utilized by the court in determining infringements of that right. Particularly in equal protection cases, but also as to cases alleging infringement of other constitutional rights, the United States Supreme Court,<sup>12</sup> and this court<sup>13</sup> in the past, have followed a two-tiered test. If the right involved was deemed to be "fundamental," a statute infringing upon it was required to be "necessary" to further a "compelling state interest." Whereas if the right infringed upon was classified as non-fundamental, any rational basis that might be conceived to justify the legislation was held to be sufficient.<sup>14</sup> As a practical matter, the test was result oriented, since once a right was declared to be fundamental, the challenged regulation or legislative act would be stricken,<sup>15</sup> whereas otherwise some reason could usually be found to sustain it.

I agree with the majority's departure from that test in areas where we have discretion to depart from standards established by the United States Supreme Court. With reference to laws challenged as invading the Alaskan right of privacy,<sup>16</sup> I would apply a single flexible test dependent first upon the importance of the right involved. Based on the nature of that right, a greater or lesser burden would be placed on the state to show the relationship of the intrusion to a legitimate governmental interest. I agree with the mandatory opinion that interference with rights of privacy within one's home requires a very high level of justification. Similar considerations would apply to certain relationships, without reference to situs, i.e. attorney-client, doctor-patient, priest-parishioner, marital relationship, parent-child. In all cases involving a right of privacy, I believe that the relationship of the intrusion to a legitimate governmental interest must be carefully examined. The court should not abandon protection of the right of an individual to decide how to conduct his life because a rational basis may be "conceived" for the legislation in question. The importance of the governmental interest and the means utilized to accomplish this goal must be balanced against the nature of the particular right of privacy.<sup>17</sup>

Applying this test to the facts in this case, assuming that the defendant was found in possession of marijuana in an automobile, I agree with the majority that a valid reason existed for the prohibition due to the proven effect of marijuana on driving, and the unavailability of practical tests for ascertaining whether one is under the influence of an hallucinogenic when balanced against the rather minor status of the right involved, to possess marijuana in public. Accordingly, I would affirm the order denying the motion to dismiss.

CONNOR, Justice, concurring.

<sup>11</sup> *Gray v. State*, 525 P.2d 524 (Alaska 1974).

<sup>12</sup> See *Bates v. Little Rock*, 361 U.S. 516, 4 L. Ed. 2d 480 (1960); *Roe v. Wade*, 410 U.S. 113, 35 L. Ed. 2d 147 (1973).

<sup>13</sup> *Lynden Transport, Inc. v. State*, 532 P.2d 700 (Alaska 1975); *Breese v. Smith*, 501 P.2d 159 (Alaska 1972).

<sup>14</sup> *Lynden Transport, Inc. v. State*, 532 P.2d 700, 703 (Alaska 1975).

<sup>15</sup> Where a fundamental right has required use of the compelling state interest test, only one law has been found valid by the Supreme Court, *Korematsu v. United States*, 323 U.S. 214, 89 L. Ed. 194 (1944), but no state law has passed muster. *Dunn v. Blumstein*, 405 U.S. 330, 363-64, 31 L. Ed. 2d 274, 296-97 (1972) (Burger, C.J. dissenting). See 48 N.Y.U. L. Rev. 670 at 702. See also *Gilbert v. State*, 526 P.2d 1131 (Alaska 1974).

<sup>16</sup> Of course, in any event where Federal Constitutional rights are involved, we must at least apply the minimum standards prescribed by the United States Supreme Court. *Baker v. City of Fairbanks*, 471 P.2d 396, 401-02 (Alaska 1970).

<sup>17</sup> 48 N.Y.U. L. Rev. 670 at 705.

I concur in the majority opinion and the separate concurring opinion of Justice Boochever, but wish to add some observations.

The decision today properly leaves unanswered the question of how far the right to privacy, in connection with the possession of marijuana, extends outside the home. Such a determination can be made only when we are presented with specific facts against which the individual's claim of privacy can be measured, as opposed to the state's assertion of power to control the possession of marijuana. Under the test we have employed in determining the scope of the right to privacy, it is necessary to balance these conflicting claims and determine whether the state's prohibition bears a direct and substantial relationship to effectuating a legitimate state interest.

The record in the case before us does not contain facts about the particular circumstances in which appellant possessed marijuana. Accordingly, we must remand the case for further elucidation of the facts.

It is certain that the right to privacy does not vanish when one leaves the home.<sup>1</sup> There are certain aspects of personal autonomy which one carries with him even when he ventures out of the home, though the claim to privacy diminishes in proportion to the extent that one's person and one's activities impinge upon other persons. But, in order to trace the contours of the right to privacy, it will be necessary to engage in a critical analysis of the facts of each case which presents itself for decision. Only in this fashion can the right to privacy, outside the home, be determined on a reasoned, coherent basis so as to furnish the courts and the public with reliable rules of action. Much definitional work, therefore, remains to be done in the cases yet to be determined.

Mr. WOLFF. Dr. Jaffe?

Dr. JAFFE. Mr. Chairman, I will try to summarize my presentation to about 4 minutes.

Mr. WOLFF. Thank you.

Dr. JAFFE. I believe that no matter how the Government tries to frame its action, the move away from criminal penalties at the Federal level will be interpreted by many that marijuana is safe and approved for use. This will be followed by increased recreational use of marihuana, if not in the numbers who use it, then in the amount that is used.

It is likely that such increased recreational use will be associated with certain social and health costs. The data from treatment programs for drug users sponsored by the Federal Government and data from the Drug Abuse Warning Network, which monitors acute adverse reactions to marihuana, confirm my view that our country is already paying a price for the use of marihuana. In 1976, 11 percent of the persons admitted to federally sponsored programs indicated that marihuana was their primary drug problem. The DAWN system for 1976 shows marihuana is in fourth place as a cause of acute drug-related complications, just behind heroin, which ranks third.

Despite these known costs, which appear to be associated with acute effects of marihuana, and even allowing for some adverse consequences of chronic use that we now only suspect, I believe that we do not sufficiently safeguard the public health nor improve the quality of life to justify imprisoning, or even threatening to imprison, those who elect to use marihuana despite present laws against such use. Therefore, I have been convinced for some time that the imprisonment, or even threat of that, can no longer be justified.

<sup>1</sup> The right to privacy which received protection in *Roe v. Wade*, 410 U.S. 113, 36 L. Ed. 2d 147 (1973), has nothing to do with the locus of the home, and for the most part, is concerned with matters occurring outside the home.



As such laws are currently enforced the probability of arrest and confinement is so low that the deterrent effect of the law is minimal. Yet, it is inconceivable that a society as permissive as ours is with tobacco, alcohol, and as beset by rising rates of violent crime, would or should give sufficient priority to the enforcement of criminal laws against marihuana use to make such laws an effective deterrent.

I believe that the expected increased social costs of changes in penalty structure would be more than offset by the benefits that would flow from such changes. The benefits expected range from the concrete to the intangible: from savings in the area of law enforcement and corrections to an increased regard for the process of government.

If one accepts the foregoing logic our policy choices would seem to narrow down to a few alternatives: (a) Maintain the present penalty structure; (b) legalize distribution of marihuana; or (c) fashion some method of discouraging use with either civil penalties or some form of decriminalization.

The National Commission of Marihuana and Dangerous Drugs advocated total elimination of all penalties for personal possession and use.

I am not in favor of such an option, but the basis of my concern is not related to health issues. Proposals to remove penalties for possession while enforcing criminal penalties for sale and distribution taken together, are a certain formula for widespread use and for the corruption of the law enforcement apparatus at all levels of government. The message is that the smoker will suffer no legal consequences and all the risk will be assumed by the seller. It follows that the sellers will make sufficient profit to compensate themselves for their risks, and the profits in such a system that distributes drugs to 20 million people each year can be considerable.

Mr. Acree earlier cited a figure of \$5 billion a year. The message to the law enforcement apparatus is that society does not really consider this behavior a major threat. Under these circumstances a lack of enthusiasm about enforcing the laws, particularly against moderate size and small distributors, is predictable. Equally predictable is the likelihood that there will be efforts to bribe officials to look the other way, and that a few members of our imperfect society will accept such offers.

Thus, we will have a system in which the profit from the distribution of marihuana will be shared by people outside the law and a few maverick officials, none of whom will pay taxes; while the health and social cost of marihuana use will be borne by the taxpayers, 88 percent of whom are not, at present, marihuana smokers. Furthermore, the system could become self-perpetuating with an unholy coalition of marihuana distributors and corrupt officials lobbying against any change that would decrease their income.

Some have suggested that criminal penalties for personal possession be replaced by civil penalties such as fines. A system of civil fines, in which revenue from penalties are divided among the law enforcement and health systems would be a better approach for the present than the one which abolishes all penalties for possession.

I am not in favor of legalization of marihuana at this time, although some of the arguments for this position are persuasive.

"When the Nation has satisfied itself that the trend to marihuana use will not reverse itself, and that time may be upon us soon, it would be better to leap the stage of total decriminalization for personal possession and develop a system of legalized distribution in which those who use marihuana can defray more of the costs associated with its use than those who do not. A system of taxation with the revenue earmarked for such purposes is one such approach; but again, I emphasize that I am not advocating such a system at this time.

I thank you for the opportunity to testify here today.

Mr. WOLFF. Thank you, Dr. Jaffe.

[Dr. Jaffe's prepared statement follows:]

PREPARED STATEMENT OF DR. JEROME H. JAFFE, PROFESSOR OF PSYCHIATRY, COLUMBIA UNIVERSITY, COLLEGE OF PHYSICIANS AND SURGEONS, AND NEW YORK STATE PSYCHIATRIC INSTITUTE

Mr. Chairman, members of the Committee, I appreciate this opportunity to testify before you as you consider the question of how the United States can best respond to the use of marihuana by a substantial segment of the population. In November of 1974, I testified before the U.S. Senate Subcommittee on Alcoholism and Narcotics. My statement today is not substantially different from what I said at that time although I will amplify somewhat on some of the options which I outlined at that time.

The national debate about marihuana is now more than 40 years old. My part in this debate began when I started teaching medical students about the pharmacology of the drug in 1961 and when I authored chapters in important textbooks. It continued when I became a consultant to the State of Illinois in 1966. At that time the possession of marihuana in Illinois was a felony. I took the position then that felony penalties for possession of marihuana were in poor social perspective. Along with others I tried to persuade the legislature that the penalties for simple possession of small quantities of marihuana should be markedly reduced. Eventually the legislators of Illinois did reduce these penalties. Meanwhile, at the federal level the Controlled Dangerous Substance Act of 1970 had reduced the penalties for possession of marihuana from a felony to a misdemeanor at least for first offenders, and in addition had made it unlikely that any first offender would go to jail for mere possession of small amounts.

Then, in 1972 the National Commission on Marihuana and Drug Abuse finished its first report which recommended elimination of criminal penalties for personal possession. However, the report emphasized that that was a policy of discouragement of use, a policy with which I was and still am in complete agreement. I was at that time a member of the Executive Branch and I no longer felt free to express my personal opinion publicly as to the most appropriate way to implement a policy of discouragement. The Commission's recommendation on removal of marihuana penalties was rejected by President Nixon. Suffice it to say that the rejection was not based on the unanimous advice of his appointed experts. There were many who had hoped that despite this Presidential action, after the election in November of 1972 there might be room for a more flexible position. Knowing the views of the President, the first drafts of the federal strategy for 1973 supported the concept of penalties for possession of marihuana, but it was silent on whether these were to be criminal or civil. At least a few of the drafters hoped that we could leave open the door to eliminate the use of both imprisonment and criminal fines by substituting civil fines as was suggested in a minority view drafted by the National Marihuana Commission. However, the arguments supporting the position on civil fines did not prevail—the word "criminal" was inserted before "penalties" in the final draft of the federal strategy of 1973. Those who hoped that the strategy would be an opportunity for change in this area were disappointed.

I was not then nor am I now in favor of legalization of marihuana or even of removal of all penalties, although some of the arguments for these positions are persuasive. It is still not time for such a step. However, I was—and I

am—convinced that the imprisonment of the mere user of the drug or even the threat of imprisonment can no longer be justified—in my opinion it serves largely to clutter the courts, divert the police from more important responsibilities, and enrich the legal profession. Yet, I do not want to leave the impression that eliminating criminal penalties is free of potential for adverse consequences.

Despite the short-term patterns observed in such areas as Oregon, where criminal penalties have been eliminated, we are unable to predict how changes in regulations in other parts of the country will affect the consumption patterns of marihuana and the medical and social costs related to such consumption. No matter how the Government tries to frame its action, a move away from criminal penalties at the federal level will be interpreted by many as a sign that marihuana is safe and approved for use. As a result, the shift away from the use of imprisonment or threat of imprisonment will be followed by an increased recreational use of marihuana; if not in the numbers who currently use it, then in the amount that is used. It is likely, but not certain, that such increased recreational use will be associated with an increase in the absolute number of citizens whose use of the drug is so heavy that their social functioning is impaired. Whether the health of any substantial number of citizens will be impaired by long term use is still uncertain, and the dimensions of the risks are still controversial. Neither is it clear that those who become impaired will be drawn solely from the ranks of those who would have been impaired by the use of other drugs such as alcohol. In short, I believe that in the short run a shift from criminal penalties to civil penalties (fines) or to no penalties at all for personal possession will not be free of social cost.

Nevertheless, when I was a member of the Executive Branch of the Federal Government, I argued that those expected increased social costs of changes in penalty structure would be more than offset by the benefits that would flow from such changes. The benefits expected ranged from the concrete to the intangible; from savings in the area of law enforcement and corrections to an increased regard for the process of government and the possibilities of rational change on the part of millions of Americans who feel that present laws are both irrational and excessively harsh. At that time, these arguments were not sufficiently persuasive.

Several years of additional data and debate have not substantially altered the central issues, or the available options. These options range from the legal distribution of marihuana, to reduction or elimination of the penalties that are attached to the possession for personal use of small amounts of marihuana. If we were more certain of the long-term health consequences of chronic marihuana use, and if we could be sure that they would be no worse than the effects we have observed to date, then instituting a mechanism for legalized distribution and regulation would be the most sensible change we could make. Such a system would yield far more revenue than it would consume and such revenues could be used to help defray the costs of drug-related problems including those related to heroin addiction and alcoholism.

However, I do not have available to me sufficient information on the consequences of chronic heavy use of marihuana or the numbers of people who have been adversely affected by short term use. Perhaps such information is unavailable to the government itself. However, looking at the data from treatment programs for drug users sponsored by the federal government and at data from the DAWN system which monitors acute adverse reactions to marihuana, confirms my view that our country is already paying a price for the use of marihuana. In 1976, 11% of persons admitted to Federally sponsored drug treatment programs indicated that marihuana was the primary drug problem. It was second only to heroin and was listed much more commonly as a problem than abuse of barbiturates or cocaine. The DAWN system data for 1976 shows that marihuana is reported in fourth place as a cause of acute drug related complications, somewhat more commonly than aspirin which is in fifth place and just behind heroin which ranks third in the DAWN system. Because of these costs I have been reluctant to recommend changes that will make marihuana use and distribution a socially approved and irreversible part of our culture, without giving consideration at the same time to the means by which we can cope with these marihuana-induced costs.

Despite these known costs which I have mentioned and which appear to be associated with the acute effects of marihuana (and even allowing for some adverse consequences of chronic use that we now only suspect), I believe that

we do not sufficiently safeguard the public health or improve the quality of life to justify imprisoning or even threatening to imprison those who elect to use marihuana despite the present laws against such use. As such laws are currently enforced, the probability of arrest and confinement is so low that the deterrent effect of the law is virtually nonexistent. Those who are arrested view the law as capricious or worse. Yet, it is inconceivable that a society as permissive as ours is with tobacco and alcohol and as beset by rising rates of violent crime, would or should give sufficient priority to the enforcement of criminal laws against marihuana use to make such laws an effective deterrent. If one accepts the foregoing logic, our policy choices would seem to narrow down to a few alternatives: we can maintain the present penalty structure, which even when not enforced conveys the message to other levels of government that jail or threat of jail is the appropriate response to marihuana use; we can go to the opposite extreme, and even after weighing the data which indicates that under present conditions marihuana causes health problems and possibly that further research will turn up more serious health impairment than we have found to date, and legalize the distribution of marihuana; or, we can try to fashion some method of discouraging use that might have a lesser overall social cost than our present criminal penalties, but avoids some of the problems of legalization. Some groups have suggested that criminal penalties for personal possession be replaced by civil penalties—such as fines (in the range of those used for highway speeding offenses). Provided that the income from such fines is used to support treatment and research on drug abuse problems, this view has considerable merit, particularly if we accept the data that indicates that increased recreational use of marihuana will result in an increase in the number of people who develop problems that may require some form of treatment. I favor this approach at this time rather than legalization or decriminalization because it gives us a little more time to look at the effects of the change, it eliminates the threat of imprisonment and its associated problems, and it conveys the message that marihuana use has a health cost. The National Commission report advocated total elimination of all penalties for personal possession. I am not in favor of such an option, but the basis for my concern is related not to health issues (which will be largely uninfluenced by what is done) but to ethical and economic factors.

Proposals to remove all penalties for personal possession while enforcing criminal penalties for sale and distribution taken together are a certain formula for widespread use and for the corrupting of law enforcement apparatus at all levels of government. The message is that the smoker will suffer no consequences; all the risks are assumed by the seller. It follows that the sellers will make sufficient profit to compensate themselves for these risks, and the profits in a system that distributes drugs to 20 million people each year can be considerable. The message to the law enforcement apparatus is that society does not really consider this behavior a major threat. Under these circumstances a lack of enthusiasm about enforcing the laws particularly against moderate size and small distributors is predictable. Equally predictable is the likelihood that there will be efforts to bribe officials to look the other way, and that a few members of our imperfect society will accept such offers. Thus we will have a system in which the profit from the distribution of marihuana will be shared by people outside the law and a few maverick officials, none of whom will pay taxes, while the health and social costs of marihuana use will be borne by the tax payers, 88% of whom are not, at present, marihuana smokers. Furthermore, the system could become self-perpetuating with an unholy coalition of marihuana distributors and corrupt officials lobbying against any change that would decrease their income. A system of civil fines in which the revenue from penalties are divided among the law enforcement and health systems would be a better approach for the present than one which abolishes all penalties for possession.

When the nation has satisfied itself that the trend to marihuana use will not reverse itself (and that time may be upon us soon), it would be better to leap the stage of total decriminalization for personal possession in order to avoid getting stuck in a position which provides guaranteed profits to the distributors and a guaranteed increase in health care costs for the rest of the population.

This analysis leads me reluctantly to suggest that serious consideration be given to mechanisms by which those who use marihuana can defray more

of the costs associated with its use than those who do not. A system of taxation with the revenue earmarked for such purposes is one such approach.

I do not rule out the possibility that further research will indicate that marihuana is more harmful to health than current information indicates. However, even such findings will not justify, in my opinion, the imprisonment of an otherwise law-abiding citizen for the imprudence of using marihuana in the privacy of his home despite the risks to his or her health. I am convinced that we are fully justified in moving away from a mechanism of discouragement that uses criminal penalties for personal use. Under these conditions, our efforts to protect the public are more costly than the problems it seeks to prevent. Few problems have solutions that are without cost and there are few policies that do not create new problems. I believe that a policy of discouragement is still appropriate, and that complete removal of criminal penalties and substitution of civil penalties (fines) would result in a better balance between social costs and benefits, tangible and intangible. I cannot predict how long such a policy of using fines will continue to be accepted as a rational response to what is apparently a stable behavior pattern of a substantial minority of the population. When it is no longer viable, I would hope that the pitfalls of the removal of all fines coupled with criminal penalties for distribution will be weighed along with the ethical and practical benefits of a system of legalized distribution and taxation that allocates more of the cost of the behavior to those who choose to use the drug than to those who do not.

I thank you for the opportunity of testifying here today.

Mr. WOLFF. Our next witness is Dr. Henry Brill of New York.

Dr. BRILL. Mr. Chairman, I have submitted my curriculum vitae and qualifications and would like to proceed immediately with the body of what I have to say.

I am here to express a concern about a trend that has developed, within recent months particularly, to establish the fact that marihuana use is a purely personal affair, that it has no social impact and that this has been established by research and pronouncements of responsible bodies.

My own personal experience is to the contrary. I would like to direct attention to several issues. The first is the issue of research.

In the research field we find a very impressive collection of negative findings and these have been put forward as a basis not only for decriminalization, but for legalization as well.

Now, the discussion of this topic has taken on a political liberal versus conservative coloring, but the scientific reality remains that negative findings can never outweigh positive ones. The failure to observe an effect does not show it doesn't exist. It merely shows that perhaps we haven't looked at the right cases, at the right time or with the right techniques, yet there has been total reliance on negative findings in the case for marihuana and a facile denial of the positive findings which are voluminous, and are being increased continually by new research. For the most part, the data are of a highly technical nature, and so it is outside the purview of this hearing, but these positive findings may in the foreseeable future establish a chemical and biological basis for the psychosocial damage that has been reported with respect to marihuana for centuries and is still being reported around the world from those countries that have the most experience with this drug.

I had some personal contact with two of the reports that have been quoted extensively, and this may shed some light on the limitations of negative reports. I refer to the studies in Greece and Jamaica, which have been quoted proving that there are no harmful

effects. They do indeed report negative findings, but they tell us nothing about positive effects such as damage to the potential of the people who were studied—nor do they tell us what would have been the results of other tests on other individuals.

As it happens, Dr. Stephanis, a Greek member of the study team has since reported striking cellular and chemical changes in chronic users and it is hard to believe that persons with such fundamental pathology could be functioning at full potential.

The Jamaica study has also been cited as totally negative but Dr. Beaubrun, whom I know, and was a local participant in this study has since reported that marihuana use among middle-class youth of Jamaica, a new phenomenon, has been associated with school dropout, loss of interest, conduct disorder, and transient psychoses, which is in line with the clinical experience that the most prominent marihuana effects have to do with the highest mental functions.

Here we have a point of confusion because we often talk about physical health, whereas the effect on mental health and mental functioning is the most sensitive indicator of marihuana action. Mental effects are of course not so obvious in those who do manual labor as they are in students.

I had a chance to visit both Jamaica and Greece while the studies were in progress and saw something of the work that was going on. I was impressed by the fact that neither protocol of research included a study of persons who were thought to be casualties of marihuana use. The selected cases were heavy users without overt disorder. This is as incomplete as a study of alcoholism based on heavy drinkers still in the work force and not reaching skid row and hospital casualties. Thus, the study of casualties still remains to be done. One such group consists of cases who continue to be admitted to the local mental hospitals with a diagnosis of psychosis due to cannabis.

I had the opportunity of examining mental hospital admissions in both locations and while I had to depend on interpreters in Athens I was able to examine the Jamaican cases more directly and found myself in complete agreement with the hospital diagnoses of psychosis with cannabis.

The reasons for the scientific caution of the investigators are completely understandable, and this is in no sense a criticism of the investigations, but the limitations of their results must be understood in order to evaluate them and to see that the positive findings from Greece and Jamaica still stand, and are in no way impaired by what was not found.

Turning to our own situation in the United States there are allegations that because a vast number of people have used the drug, that this in itself proves that it is harmless.

As far as I am concerned the very fact of the wide appeal of intoxication with this drug, especially for young people in junior high school and high school, is a cause for alarm.

This drug has within a few years become the basic one in a widespread pattern of social and recreational use of multiple drugs, including alcohol. Here, again, reports of negative findings abound but at the same time one must note that the unprecedented spread of intoxicant use has been associated with a vast increase of youth

problems. I do not imply that marihuana is a sole and direct cause but yet it remains to be seen how far it has been an aggravating or contributory factor.

The scope and impact of this new problem is indicated by the recent rapid development of a new nationwide system of youth counselors and youth centers, some think we never had before and they treat some hundreds of thousands of individuals, I would estimate. They make a great contribution and are important, but as a necessary tactic they tend to avoid talk about drugs and try to influence the social and psychological adjustment of their people in the hope the drug use is a symptom and will diminish when overall adjustment improves, but for the purpose of our discussion one must leave open the question of what would happen if marihuana could be removed from the scene or had never entered it.

We can't answer that question, but we do know this: In many well-documented instances such individuals have had to come for treatment because of the outbreak of sudden and acute psychiatric symptoms associated with marihuana and could be persuaded to give it up. Once this drug was withdrawn the acute mental symptoms cleared and at the same time there was a slower clearing of the more chronic and insidious symptoms of passivity, incapacity, and general social and economic letdown, symptoms which had previously been seen as nothing more than a change of philosophy and a more relaxed attitude about life. These were cases where marihuana was the sole drug problem.

Such cases are even more widely described in informal communications than they are in the formal psychiatric literature. The index of suspicion with respect to the diffuse and chronic symptoms as well as the acute ones is raised still further because the pattern of social and mental pathology conforms to patterns which have for many decades been described in users of cannabis in many parts of the world. In contrast to alcohol, marihuana has long been known as a drug of passivity and thus it tends to blend well with other youth problems and because the taste for intoxicants is surprisingly non-specific. It combines with other drugs whose effects overshadow it since they are more easily recognized, less insidious, and more positive and immediate in nature.

I believe clinical cases of this sort have a very important meaning for the overall social, and psycho-social effect of marihuana use. That isn't to say it hits everybody, but it harms enough people to be a social problem.

You have already heard today about an increase in youthful use of alcohol, this is a sad warning about reassurances about marihuana; we had been told it would replace alcohol; instead it has been associated with an increase of alcohol.

Finally, I would call attention to some misquotes from the reports of the Shafer Commission of which I was a member. It has been said this Commission gave marihuana a clean bill of health. I can tell you with full confidence this was never our intention and that the report was in no way a covert or first step toward legalization, although this has been claimed.

The recommendations meant just exactly what they said. I am in agreement with them in general although I am not in position to

comment on the delicate legal details, that is out of my field although the term "decriminalization of marihuana" seems to carry a false message; what is under discussion is a decriminalization of certain acts of some persons.

I guess there is more than one way of fashioning a legal method of discouraging use. But any expression such as "decriminalization of marihuana" that could be construed as a seal of approval would still further weaken the position of parents and educators who want to restrict the use of these drugs and I think it would be a major social blunder if this country were to give that kind of signal to the youth.

Thank you, sir.

[Dr. Brill's prepared statement follows:]

PREPARED STATEMENT OF DR. HENRY BRILL, ISLIP, N.Y.

Mr. Chairman and Members of the Committee: I am Dr. Henry Brill and I have submitted a curriculum vitae attached to this statement which presents my qualifications in the field of drug dependence. These qualifications include membership and/or chairmanship at various times, of drug dependence committees representing such bodies as the National Research Council, the American Medical Association, the World Health Organization, the Food and Drug Administration and the National Institute of Mental Health. I also have had almost a decade of major responsibility for the development of the drug dependence program of New York State and was a member of the National Commission on Marijuana and Drug Abuse.

I am here today as an individual, and not as a representative of any organization, and wish to express a profound concern about the social implications of recent trends with respect to marijuana and its various products. I refer to the impression that is being created to the effect that marijuana use is a purely personal affair and that it has no social impact and that this has been established by research and by the pronouncements of responsible bodies. I am in strong disagreement with both claims and find the supporting evidence to be in conflict with my own experience and with the best available information.

Let me direct attention first to the issue of research. Here we find an impressive collection of negative findings which are put forward as a basis not only for decriminalization but for legalization of cannabis on the grounds that it is illogical to make the use legal but to cut off the supply by law. Discussion of such findings is complicated by the fact that this topic has taken on a political coloring but the scientific reality still remains that negative findings cannot outweigh positive ones, and failure to observe an effect cannot prove that it does not exist, it may mean only that one has not looked at the right cases, at the right time, or with the right techniques. In the case of marijuana there has been an undue emphasis on what has not been found and a dangerously facile denial of the positive findings, and new research is constantly adding to such positive findings. For the most part this data is of a highly technical nature and deals with the cellular and biological aspects of marijuana action. It is thus outside of the purview of this hearing but it is not totally irrelevant because it promises to provide a chemical-biological foundation for the social and psycho-social findings which have been reported for centuries from those countries which have had the most experience with this drug.

I have some personal acquaintance with two of the recent studies which have been carried out in such locations, one in Greece and one in Jamaica. These have been widely quoted as evidence that cannabis does indeed produce no significant harmful effects, and they do demonstrate that certain individuals do not show manifest pathology on certain tests. But they tell us nothing about the effect of cannabis on the potential social contribution of such individuals, nor do they tell us what the results of other tests and other individuals might have been. As it happens Dr. Stephanis, a Greek member of the study team has since reported striking cellular and chemical changes in chronic users and it is hard to believe that persons with such fundamental pathology could be functioning at full potential.



The Jamaica study has also been cited as totally negative but Dr. Beaubrun a local participant in this study has since reported that marijuana use among middle class youth of Jamaica, a new phenomenon, has been associated with school drop out, loss of interest, conduct disorder and transient psychoses which is in line with the clinical impression that the most significant marijuana effect to be observed has to do with the highest mental functions and is not so obvious in those who do simple manual labor. I had the opportunity to visit both Jamaica and Greece while the studies were in progress and saw something of the work that was going on. I was impressed by the fact that neither protocol of research included a study of persons who were thought to be casualties of marijuana use. Yet throughout this period cases continued to be admitted to the local mental hospitals with a diagnosis of psychosis due to cannabis. I had the opportunity of examining such cases in both locations and while I had to depend on interpreters in Athens I was able to examine the Jamaican cases quite adequately and found myself in complete agreement with the hospital diagnosis. The reasons for the scientific caution of the investigators are completely understandable but the limitations of their results are also to be understood, and the positive findings still stand, in no way impaired by what was not found. It would appear that at the very least it would be premature to consider that the final word has been spoken with respect to cannabis use in either location.

This drug, has within a few years become the basic one in a widespread new pattern of social and recreational use of multiple drugs, including alcohol. Here again negative findings abound but at the same time one must note that this unprecedented development has been associated with a vast increase of youth problems. This is not to imply that marijuana is a direct cause but yet it remains to be seen whether it has been an aggravating or contributory factor. The importance of the total problem is indicated by the sudden development of a new nation-wide system of youth counselors and youth centers to disturbed persons of this type. Yet for purposes of this discussion one must leave open the question of what would happen if marijuana were to be withdrawn from the scene, or had never been encountered. We can however, say that many instances are now recorded where such individuals had to come for treatment because of the outbreak of sudden and acute psychiatric symptoms and could be persuaded to give up the use of marijuana. Under such conditions the acute and spectacular symptoms cleared and at the same time there was a slower clearing of the more chronic and insidious symptoms of passivity, incapacity and general social and economic let-down, symptoms which had previously been seen as nothing more than a change of philosophy and a more relaxed attitude about life. Such cases are even more widely described in informal communication than they are in the formal psychiatric literature. The index of suspicion with respect to the diffuse and chronic symptoms as well as the acute ones is raised because their pattern conforms to patterns which have long been described in users of cannabis in many parts of the world. Marijuana has long been known as a drug of passivity and it tends to blend well with other youth problems and because the taste for intoxicants is surprisingly non-specific it combines with drugs whose effects tend to over shadow it since they are more easily recognized and are more positive in nature.

In particular there has been a sharp increase in use of alcohol concomitant with the spread of cannabis and this is a serious disappointment because only ten years ago the marijuana proponents insisted that it would displace alcohol as a recreational drug; instead use of both drugs has increased in the same population, a result of the breakdown of social barriers against the use of intoxicants in our culture. The association between the use of marijuana and other illicit drugs has long been explained as an association of the marketplace since the same dealer sold all of these illicit substances. The increase of youthful alcohol use in the context of other drugs seems to negate that explanation.

Finally I would like to draw attention to the use of quotations from authoritative reports to show that the best opinion has long considered marijuana innocuous and worthy of being freed from restrictions. Favorite quotations are from the Report of the Indian Hemp Commission, the LaGuardia Report and the Reports of the National Commission on Marijuana and Drug Abuse. Each of these comes from a different context and represents a different level of

scientific sophistication because of the state of the art at the time of publication but none of them gives the drug "a clean bill of health" although each report aims to reduce the emotions surrounding the question. I can speak with particular confidence about the National Commission of which I was a member. It was never the intention of the Commission to give the drug a seal of approval nor was its work intended as a covert step toward legalization of this drug. The recommendations meant exactly what they said and they support a policy of containment and discouragement of use. We were fully aware of the hazards involved and sought to find a way to solve the current dilemma by mitigation or abolition of penalties for possession without legalization, and to retain penalties for trafficking.

Other strategies are undoubtedly possible and various patterns have been suggested including a recent one in Canada but any change will have to be made with an awareness of the social impact of any public action which carries the message to the youth of the nation that this is an approved drug. When we see how easily an explicit statement such as that of the National Commission can be misrepresented and/or misunderstood the reasons for caution are apparent. Any expression which could be construed as approval would still further weaken the position of parents and educators who would seek to restrict the use of this and other drugs. In addition, and before going further it would seem reasonable to study and make full use of the experience with the social effects which have been seen in those American jurisdictions which have already embarked on the experiment of maximum decontrol. Recent advances in laboratory methods make it possible to detect cannabis products in body fluids and to identify other biological traces and thus open the way for an objective study of automobile fatalities and other events of major social significance.

Now Mr. Chairman, I shall be pleased to answer any questions that the Committee may have.

Mr. WOLFF. Thank you.

Counsel, I will ask that you question the witnesses in an attempt to focus on the problem.

Mr. NELLIS. Thank you, Mr. Chairman.

I am going to address questions which I hope each of you will consider and give your response.

Assuming decriminalization, will the use of marihuana increase? If so, in what age groups? Will experimentation with other drugs increase? Will civil violation statutes be enforced or will they be ignored like the present felony statutes? Will the criminal justice system be relieved of a very significant enforcement burden? Will there be a discernible reduction in the human costs of criminal sanctions against marihuana?

Will the public continue to support the new policy?

What about the support of the criminal justice system? I am talking about the courts, as well as the police administrators.

Will other States follow the lead in Oregon?

These are some of the issues that I hope you gentlemen will address, so we can come to grips with this problem.

First, we know what the results in Oregon and in California have been.

But in what age groups will increases be expected?

Can you answer that?

Dr. JAFFE. I think you will see increases. I think decriminalization will produce some small increases in all age groups.

Mr. NELLIS. Will experimentation with other drugs increase?

Dr. JAFFE. It depends on the mechanism. The precise way in which—

Mr. NELLIS. Let's be precise. Civil penalty, like a traffic ticket for possession of an ounce or less, with a \$100 fine.

Dr. JAFFE. Criminal prosecution of distribution?

Mr. NELLIS. Yes.

Dr. JAFFE. Under those conditions I think there may be some small increase in the use of other illicit drugs, as well.

Mr. NELLIS. Including heroin?

Dr. JAFFE. Not necessarily. Probably amphetamines, barbiturates.

Mr. NELLIS. How about hashish, mescaline?

Dr. JAFFE. Hashish may go up some.

Mr. NELLIS. How about cocaine?

Dr. JAFFE. Can't guess.

Mr. NELLIS. Dr. Brill, do you have an opinion?

Dr. BRILL. I would like to echo what is said this morning, that is, that the taste for intoxication is nonspecific and when one learns this taste with one drug, it opens the door to other drugs.

We have seen this in multiple drug abuse.

I think that any increase of use in one drug will increase the others.

I am inclined to agree with Dr. Jaffe that relaxation of controls is likely to lead to some increase, depending on how much relaxation one talks about.

Mr. NELLIS. That is a social cost that is undesirable; is it not?

Dr. BRILL. Yes, in my opinion it is.

Mr. NELLIS. Mr. Turner, aside from the police illustration, has the criminal justice system in Alaska been relieved of a significant burden involving cases in which possession of marihuana may be charged?

Mr. TURNER. In the Alaska judicial system, a majority of the cases are dismissed prior to ever entering the system at the district attorney's office.

Very seldom do you get any charges.

After decriminalization went into effect, the district attorney's office had the attitude that it would not prosecute small sales of marihuana.

Mr. NELLIS. Sales, as distinguished from possession?

Mr. TURNER. Yes, as opposed to possession.

Mr. NELLIS. Wasn't that the case in Alaska prior to the decriminalization statute? Surely, you weren't prosecuting possessors of 1 ounce or less, were you?

Mr. TURNER. Yes, they were.

Mr. NELLIS. They were going to jail?

Mr. TURNER. In the majority of the cases, no. No incarceration. They were fined and given suspended impositions of sentence.

Mr. NELLIS. With a criminal record?

Mr. TURNER. With a criminal record.

Mr. NELLIS. Last question, Mr. Chairman.

Do you gentlemen believe the public will support a Federal lead in decriminalizing the use of this drug? What is your impression as to whether the people of the United States are in favor of such a move?

Do you have any impression?

Dr. Jaffe?

Dr. JAFFE. If by decriminalization, you mean the original recommendation—

Mr. NELLIS. Similar to California and Oregon.

Dr. JAFFE. To move toward civil fines?

Mr. NELLIS. Yes, sir, civil fines.

Dr. JAFFE. My feeling is that the attitudes may be changing as the groups who are familiar with marihuana ages. I think you are really asking an opinion poll kind of question. I can project ahead. I think—

Mr. NELLIS. You are the former head of SAODAP, I was asking whether you had any impression as to whether or not a Federal decriminalization statute would have the support of the people of the United States.

Dr. JAFFE. I don't think it would have 4 years ago. I am not sure what it would be today. I think it probably would have that kind of support 5 years from now.

I can't really say today.

Mr. NELLIS. Thank you, Mr. Chairman.

Mr. WOLFF. Mr. Burke?

Mr. BURKE. Dr. Jaffe, I would like to have you amplify just a little bit more.

If I understand you, you think that the decriminalization of marihuana will have no serious effect on our future problem with regard to narcotics; is that correct?

Dr. JAFFE. No; I think that there will be some increased use of other illicit drugs along with relaxation of marihuana laws.

I think there will be an increase, yes.

Mr. BURKE. All right. Now with regard to it, some of the tests that were made, I know there was one presumably made in Vermont which said that students that started out by smoking marihuana when they were 16 made better students than those that started out later on when perhaps they first got to college.

Now, that seems to me to be a stupid determination. Unless it is shown that those that have not smoked marihuana are in the same list to make a determination of which become the best students and how you separate them.

Dr. JAFFE. I can't defend that kind of research. I don't know the answer.

Mr. BURKE. I don't either. I just wonder why these types of researches are made by some of our national colleges and then get great publicity in our press.

But they do.

Let me then, if there is, let's say, in your opinion, because that is the only way any of us can know, if there is decriminalization of marihuana, like counsel asked, what kind of penalties did you get, how many went to prison, the question is not prison, the question is the degree of the crime, perhaps, whether there is a penalty for violating the law.

So I can certainly agree with you, Mr. Turner. I would like all three of you to basically state if you think our narcotics problems will improve, or will they become greater, if you decriminalize the use of marihuana, in your own opinions. All three of you.

Mr. TURNER. In my opinion, the increased abuse of drugs will increase with any decriminalization. I want to go on record to say that the attitude of law enforcement officers in general in Alaska,

the State of Alaska is that they do not enforce any of the marihuana violations as they are right now. That is due to the liberal attitude of our judicial system, and with respect to any of the penalties imposed for references to drug distribution on any level, the State of Alaska judicial system, is extremely liberal.

If you take time to study the *Harvin* decision, I think you can formulate your own opinions as to what system we operate under right now.

Our problem right now is not so much marihuana as it is due to the fact that is what we have resources to fight or contend with it right now. Cocaine abuse has dramatically increased, the next step that is going to be taken by our advocates that pursued the decriminalization of marihuana, is that cocaine would be next and Alaska would be first to go.

Mr. BURKE. I am inclined to agree.

I have this publication here, I never saw it before but I am surprised, called "High Times."

Mr. TURNER. I have the same publication.

Mr. BURKE. That even talks about the future, let's say, of the relaxation of our laws.

Dr. Jaffe, would you answer that question?

Dr. JAFFE. I think what we call our drug problem is multi-dimensional. One dimension is lost productivity, another of the number of people who use, still another is crime, the other is costs related to health effects of drugs, another is in the actual costs of administering the laws.

I am of the opinion, although I recognize the disagreements, that changes in the law will indeed reduce the law enforcement component the overall costs. I also believe it will do away with some of the damage to people's lives that come with a criminal arrest.

On the other hand, I recognize that there will be increased marihuana use.

By the way, I might point out that no matter what we do about the laws, I believe, marihuana use will continue to slowly increase because of demographic changes. Most of the nonmarihuana users in this country are people 50 and older. As they are replaced, gradually over the years by cohorts of people, let's say, 18 and younger, where 50 percent have used, marihuana use will go up whether we change the laws or not. So, if the laws are changed, they may go up slightly more. So, to answer your question, yes, the costs on one side will go up.

Mr. BURKE. Not the costs, whether the problem will become greater. The cost is going to be terrific, no matter what we do because if we are going to do anything about the use of narcotics, we have to frankly find out what the source is.

But my question was do you believe frankly that if we decriminalize the use of marihuana, whether or not it will in any way decrease our problem with regard to drugs or will it increase it?

Dr. JAFFE. It will—some slightly increase in prevalence of drug use. That is one dimension. It will decrease some of the stigmatization. It is part of some people's sense of the problem.

Mr. BURKE. Then why don't we just stamp out the use of all criminals, people that are caught for drunken driving have a charge against them.

Now, if somebody's going to break the law, what is so wrong with having a record of what they have done?

Dr. JAFFE. Well, I suppose it is the way one gages, the net balance.

Mr. BURKE. I understand. It is the way the whole country could go too, but I am asking you as an educated man, Doctor, what your opinion is, not to equivocate, just answer simply.

Dr. JAFFE. No. I told you, if your notion of the problem is simply the prevalence, that will increase.

Mr. BURKE. Thank you very much.

Dr. Brill.

Dr. BRILL. I think the medical people are in full agreement on the facts. We are in a little disagreement on the projections. I am not sure we can predict the future by projecting the past.

Drugs have come and gone as fads. Marihuana came into this country in the late 1920's and 1930's and disappeared again; cocaine came and went.

I would like to be optimistic and think that if we can somehow ride out this present wave, it will also subside. Dealing with the immediate present and immediate situation, I have to agree that a relaxation of controls undoubtedly will produce an increase in drug use.

But one thing for sure, laws that are not enforced have no meaning. I think unless we talk about enforcement, whatever laws exist, we still are not talking about real intervention.

Mr. BURKE. Yes, I agree.

I would like to ask one more question, Mr. Chairman.

Is it possible that relaxation of the use of marihuana or hashish or whatever they called it during the 1920's and early part of the 1930's was somewhat abated because of the fact that liquor was recognized as legal in the 1930's under Roosevelt? That would have nothing to do with it?

Dr. BRILL. Nobody can answer that question, to my knowledge.

I have studied that period carefully and, as I say, nobody can answer why these things come and go. Cocaine is a real mystery, why it also came and went and now has returned.

Mr. BURKE. Thank you very much.

Thank all of you gentlemen.

Mr. WOLFF. Mr. Mann.

Mr. MANN. Dr. Jaffe, do I understand your position correctly that even though you see negative effects coming from it, on balance you believe that decriminalization with civil penalties is the better course at this point?

Dr. JAFFE. Yes, provided that the civil penalties are pursued so that some of the revenue does come in. There has to be a message somehow that gets communicated with some frequency that society still doesn't approve it. I think that would be better than a criminal statute that is never enforced because local law enforcement people don't want to see young people brought into a criminal court.

I also think the revenues might help offset the known costs that marihuana exacts from our society in terms of health care costs.

Mr. MANN. Of course, you are not a lawyer, but enforcement of civil penalties against, well, I don't know that there is a typical defendant, but it is very difficult.

Usually a civil penalty is accompanied by some licensing, something you can otherwise take away.

Therefore, you have an enforcement problem. You have statutes with no way to enforce them except possibly contempt, and that means imprisonment.

Dr. JAFFE. I concede I am not a lawyer and I don't know some of the problems that would arise in trying to enforce that.

Mr. MANN. So, you impose a civil penalty and end up with well, all right.

I think those are all the questions I have.

Mr. WOLFF. Mr. Gilman?

Mr. GILMAN. Thank you, Mr. Chairman.

Dr. Brill, you spoke about the research of Dr. Stefanis of Greece which showed cellular changes.

I have in front of me a report that is entitled "Marihuana Today." And it has some graphs, electron microscopic pictures of spermatozoa from a control subject compared to those from chronic hashish users done in Greece.

Is this what you were referring to?

[The information referred to is in the committee files.]

Mr. GILMAN. In your report?

Dr. BRILL. Yes, sir, that is part of it. He also had some chemical changes in the white cells that were visible.

Mr. GILMAN. Dr. Brill, you were a member of the National Commission, were you not—

Dr. BRILL. Yes, sir.

Mr. GILMAN [continuing.] That studied drug abuse and marihuana's effects?

Dr. BRILL. Yes, sir.

Mr. GILMAN. You stated that the general findings of that Commission were misconstrued.

Can you give us a little more illumination with regard to how they were misconstrued?

Dr. BRILL. Well, in general, the Commission's report presented all of the complications, all of the negative aspects of marihuana use and also presented some of the facts on the other side of the case, for example that large numbers of people seem able to take marihuana, especially those who use it in small amount, and show no evil effects.

The reassuring parts of the report have been emphasized. The parts that were not reassuring have tended to be played down.

The final conclusion attributed by some to the Commission that marihuana has essentially a clean bill of health, is basically wrong.

There are many places in the report, and I could document that, which definitely say that marihuana is not given a clean bill of health. This includes statements that increase in marihuana use will lead to an increase of abuse and increase in complications, and so forth and so on. The report does describe all the negative things which I listed today, and more.

Mr. GILMAN. Doctor, the Shafer report, which you cite, generally came out for decriminalization, did it not?

Dr. BRILL. I think that was the majority opinion. There were several footnotes which represented variations on the theme.

One footnote was for essentially legalization, I think, and the other footnote was that there should be not decriminalization, but a sharp lessening of penalties.

The term "decriminalization" is troublesome. The report, and the general Commission consensus was that there should be a lowering of the intensity of penalties for possession for personal use. The report opposes strongly overall decriminalization of the drug. That was the essence of it.

Mr. GILMAN. Is that the way you feel today.

Dr. BRILL. Yes, I would favor a lowering of penalties for possession for personal use but not to such a point as to carry the wrong message.

Mr. GILMAN. And in your opinion is the use of marihuana harmful physiologically?

Dr. BRILL. To enough people to make it a dangerous drug, yes, sir.

Mr. GILMAN. You would still consider it to be a dangerous drug?

Dr. BRILL. I do.

Mr. GILMAN. It should be defined as such?

Dr. BRILL. Yes, sir.

Mr. GILMAN. Dr. Jaffe, the current report on marihuana and health states that of every 10 men between the ages of 20 and 24 who use marihuana daily, of those who do smoke pot, nearly 1 in 5 uses it daily. Doesn't that suggest that there is a larger number of the youthful experimenters of several years ago who have now become regular and heavy users of marihuana?

Dr. JAFFE. Well, I don't know whether it suggests that these—occasional users of yesteryear, but the notion that the more people who use occasionally the greater the percentage who will overuse and use regularly, does not surprise me.

That is something we state in the first strategy of 1973, and I think we have to concede that the wider the use rate, the larger the absolute number of people who will use on a regular basis.

I think that must be conceded.

Mr. GILMAN. This committee has done an initial survey of the use of drugs in school systems. We heard today from Mayor Hatcher who said about 25 percent of his students out in Indiana were or had used marihuana casually or were regular users.

What have you found with regard to the use of marihuana in the schools?

How has it affected the education, the quality of education and the effectiveness of educational programs in the school system where marihuana is being used.

Dr. JAFFE. I am not sure that I am qualified to answer that without more data at the present time. I know that the use rate was, I am surprised Mayor Hatcher finds the use rate is that low.

In many school systems by the time people reach 18, the figure of 40 or 50 percent who have used it at some time is more typical.

What effect it has on grades in general I can't say, but I recall seeing some data that there are some people whose use of it does impair their grades.

One also is faced with the issue of would these people have been dropouts or have used something else if marihuana had not existed?

And at the same time, we need to ask the question would these same people who are using every day have behaved differently had



you arrested them and put them in jail? I really can't answer your question as directly, as I would like.

Mr. GILMAN. Have any of you gentlemen on the panel found any correlation between the initial experimentation with marihuana and later use of harder drugs?

Dr. JAFFE. Well, I think that I would agree with the material that was put forth by Dr. DuPont earlier today. It is not an inevitable progression from marihuana to other drugs, but there is no question there is a correlation between marihuana and the use of other drugs. It's as if, if you want a kind of an analogy, that sampling, once you cross the line into illicit drugs and begin to experience highs from them, it sort of breaks the barrier and permits you to move on to other drugs, although the majority of people who do smoke marihuana do not go on to heroin but stop somewhere along the way.

Mr. GILMAN. Dr. Brill, would you care to comment on that?

Dr. BRILL. I would say the same thing in somewhat different words. I agree that use of one intoxicant opens the door to another one. I also agree that of all the millions of people who have used marihuana in this country, only a small proportion have gone on to use other drugs. Yet there are probably several hundred thousand young people who have gotten into trouble associated with a pattern of drug use where marihuana is a leader. They are going to counselors after using multiple drugs where one drug opened the door to a whole variety of others. So there is a connection among the use of these various intoxicating substances.

Mr. WOLFF. The gentleman's time has expired.

Mr. Scheuer?

Mr. SCHEUER. Can you give us any estimate of the percentage of youthful marihuana users who go onto harder drugs?

Dr. JAFFE. There are two studies, one is a national survey by Aprilson and Adkinson, another of national probability samples. The one I am familiar with indicates that about 50 percent of young people have experimented with marihuana. About 6 percent have at some time experimented with opiates, so that one can then get a gage of that. One in ten may experiment.

Just keep in mind that experimentation is not tantamount to continued use. Even, of the small fraction of people who experiment with opiates, a still smaller fraction continue to use it, and a still smaller fraction continue to use it more than a few times, sufficiently to develop a problem with it.

Mr. SCHEUER. You made the point that, as you reduce the criminal penalties for marihuana, more people will smoke marihuana and, therefore, more people will go on to heavier drugs, and, therefore, you are telling us that to reduce criminal penalties will produce more hard drug users. Is it possible that some of those people who go on marihuana would have gone on to alcohol or hard drugs if they hadn't gone on marihuana due to the reduced penalty structure?

Dr. JAFFE. Yes, certainly it's possible. And I am not sure that not changing the marihuana penalties will have, as I said before, a major impact upon the prevalence of marihuana use because of the relative lack of enforcement at present. I think Dr. Brill has emphasized that the current laws very often are simply not enforced at all.

Mr. SCHEUER. Do you have any reason to feel that the police will enforce civil penalties with any more concern and feeling of importance or feeling or priorities than they have shown in the last decade in enforcing criminal penalties?

Mr. GILMAN. Will the gentleman yield? I would like to place this in the record.

Mr. WOLFF. Without objection it is so ordered.

[The information referred to follows:]

NONMEDICAL USE OF PSYCHOACTIVE SUBSTANCES—1975-76 NATIONWIDE STUDY  
AMONG YOUTHS AND ADULTS

(By Herbert I. Abelson, Ph. D. and Patricia M. Fishburne)

SUMMARY

CHAPTER 1

MARIHUANA

Of all the psychoactive drugs studied, marihuana is the substance which the public is most likely to have experienced. Among youth (age 12-17), more than one in five (22.4 percent) report having used marihuana and more than half of these (12.3 percent) report current use, meaning use in the past month. For adults (age 18 and over) the prevalence rate (21.3 percent ever used) is similar to that of youth but adult current use rate is substantially lower at 8 percent.

The proportion of 12-17 year olds who have ever used marihuana (22.4 percent) has not increased over the past twelve months since the 1974 study. Beginning with the first national study in 1971, lifetime prevalence estimates for youth are: 1971, 14 percent; 1972, 14 percent; 1974, 23 percent; 1975/6, 22.4 percent.

The prevalence figure among all adults of 21.3 percent represents an increase of 2.3 percent over the 1974 study. This slight increase continues the gradual upward trend in life-time prevalence among adults (1971, 15 percent; 1972, 16 percent; 1974, 19 percent; 1975/6, 21.3 percent).

In the current study, overall levels of youth and adult experience are quite similar. However, this masks the fact that marihuana use is strongly related to age. Among the adult public, young adults between ages 18 through 25 have more experience with marihuana than older adults, those age 26 and over. In fact, more than half the young adults have used marihuana while about one in eight older adults have experienced it. Those age 18 through 25 also have higher current use rates. Fully one in four in this age group are current users compared to one in twenty-five older adults.

The fact that 18-25 year olds report the highest level of marihuana experience coincides with other age-related findings in this report. In fact, in the case of every psychoactive drug studied, young adults form the highest experience cohort.

OTHER DRUGS

*Hashish*

One in ten 12-17 year olds, and a like proportion of all adults have ever used hashish. Among young adults, the proportion rises to three in ten, whereas only one in twenty-five older adults report hashish experience. Use in past month is as follows: youth, 2.8 percent; all adults, 1.4 percent; young adults, 5.6 percent; older adults, less than 0.5 percent.

*Inhalants*

8.1 percent of the 12-17 age group report having had experience with inhalants, and 0.9 percent report use in past month. Among all adults, 3.4 percent ever used, and less than 0.5 used in past month. Comparable figures for those age 18-25 are 9 percent and 0.5 percent. Among those 26 years and over, the figures are 1.9 percent and less than 0.5 percent.

*Hallucinogens*

Among youth and all adults, one in twenty have experienced hallucinogens. However, adult experience differs dramatically by age; one in six young adults:

have ever used hallucinogens compared to one in fifty older adults. Current or use in past month is: youth, 0.9 percent; all adults, less than 0.5 percent; young adults, 1.1 percent; older adults, less than 0.5 percent.

#### *Cocaine*

3.4 percent of 12-17 year olds have had cocaine experience and 1 percent report use in past month. Of all adults, 4.1 percent have ever used, and 0.7 percent have used in past month. Among 18-25 year olds, 13.4 percent have cocaine experience and 2 percent used in past month. Comparable figures for those 26 years and over are 1.6 percent and less than 0.5 percent.

#### OPIMUM DERIVATIVES

##### *Heroin*

0.5 percent of youth and 1.2 percent of all adults have experienced this substance. Among young adults and older adults, the prevalence figures are 3.9 percent and 0.5 percent respectively. Use in past month is less than 0.5 percent for any age group studied (12-17, 18-25, 26-34, 35+).

##### *Methadone*

0.6 percent of the 12-17 age group and 0.8 percent of all adults ever used methadone. Among young adults and older adults, the prevalence figures are 2.3 percent and less than 0.5 percent, respectively. Use in past month is less than 0.5 percent for each of the four age groups.

##### *Other opiates*

6.3 percent of 12-17 year olds ever used other opiates and 2.3 percent report use in past month. Of all adults, 5.3 percent have experience with other opiates, and 0.5 percent used in the past month. Prevalence among 18-25 year olds rises to 14 percent and 1.3 percent report use in past month. Comparable figures for those age 26 and over are 2.9 percent and less than 0.5 percent.

#### NONMEDICAL USE OF PSYCHOTHERAPEUTIC DRUGS

In terms of experience, nonmedical use of psychotherapeutic drugs ranks second to marihuana among youth and all adults. One in ten young people and one in seven adults report having some nonmedical experience with an over-the-counter or prescription sedative, tranquilizer or stimulant. Among 18-25 year olds, fully one-fourth report such experience, whereas one in eight of those age 26 and over have used a psychotherapeutic drug for nonmedical purposes. Current use rates are: youth, 2 percent; all adults, 3.2 percent; young adults, 8.2 percent; older adults, 1.8 percent.

The public tends to have more experience with nonmedical use of prescription drugs than with nonmedical use of OTC drugs. Among youth, 7.5 percent have used a prescription drug nonmedically, while 5.5 percent have used an OTC drug nonmedically. Comparable proportions for all adults are 11.4 percent and 6.4 percent, respectively. Among 18-25 year olds, the proportions rise to 22 percent and 11.5 percent, whereas for those age 26 and over, the proportions drop to 8.3 percent and 5 percent.

#### CHAPTER 2

#### MARIHUANA

##### *Prevalence*

Overall levels of youth and adult experience are remarkably similar, with 22.4 percent of the young people and 21.3 percent of the adults age 18 and over having ever used marihuana. Nevertheless, there is a marked relationship between marihuana use and chronological age. Examination of the youth data shows that prevalence is 6 percent for 12-13 year olds, rises to 21 percent for the 14-15 age group and almost doubles for those age 16-17 (40 percent). Experience extends even higher among 18-25 year olds. In fact, this age group forms the highest experience cohort with more than half (52.9 percent) having ever used marihuana. The experience level drops to 36 percent for 26-34 year olds and to 6 percent among those 35 and over.

Marihuana use is also related to sex. Males are more likely than females to have ever used marihuana. Males age 12-17 report 26 percent ever used compared to 19 percent for their female counterparts. Among adult males age 18 and older, 29 percent have ever used compared to 14 percent of the adult females.

Educational attainment is also related to marihuana use. Among all adults, only 12 percent of those who are not high school graduates have ever used marihuana, whereas 30 percent of those with at least some college education have experienced it. Among current college students, prevalence jumps to 48 percent.

Although prevalence among 12-17 year olds has remained relatively unchanged since 1974 (1974, 23 percent; 1975/6, 22.4 percent), prevalence among adults rose 2.3 percent (1974, 19 percent; 1975/6, 21.3 percent). Most of this increase can be accounted for by the seven percentage point increase registered by 26-34 year olds (up to 36 percent from 29 percent).

#### PAST YEAR INCIDENCE

Past year incidence (i.e., first use in past year) is 8.2 percent for the 12-17 age group and 2.8 percent for all adults. In the 1974 study, similar proportions of youth (9 percent) and adults (2 percent) reported that they had used marihuana for the first time in the past year.

#### OTHER OBSERVATIONS

Many people who report having tried marihuana do not consider themselves marihuana users. Although 22.4 percent of the 12-17 age group report having ever used marihuana, only 15.3 percent consider themselves "regular" or "occasional" users. Among adults, 21.3 percent have tried marihuana, but only 10 percent label themselves "regular" or "occasional" users.

Regarding future use, about one in five youths and less than one in six adults feel they "definitely" or "might" use marihuana in the future. However, fully one-third of the 18-25 year olds anticipate future use. Among those 26 years and over, only about one in ten feel they "definitely" or "might" be future users.

Comparing current use of marihuana (i.e., use in past month) with current use of cigarettes or alcohol, the *least* used substance is marihuana. One-third of the 12-17 year olds drank in the past month, about one-fourth smoked cigarettes and one in eight used marihuana. Among adults, almost six in ten drank, four in ten smoked, but fewer than one in ten used marihuana.

#### HASHISH

One in ten young people, and a like proportion of all adults 18 and over have ever used hashish. The highest level of use is reported by young adults age 18-25. Among this age group, three in ten report having ever used hashish, while only one in twenty-five of those age 26 and over have experienced it.

Use in past month is reported by 2.8 percent of the 12-17 age group and 1.4 percent of all adults. Current use is highest among young adults with 5.6 percent reporting use in past month. Of the older adults, less than 0.5 percent used hashish in the past month.

Prevalence estimates for youth and for all adults have remained relatively constant since 1974 (youth: 1974, 10 percent; 1975/6, 9.6 percent; all adults: 1974, 9 percent; 1975/6, 9.4 percent).

Past year incidence is reported by 4.9 percent of the 12-17 year olds and 1.4 percent of all adults. These figures are similar to incidence rates for youth (5 percent) and adults (1 percent) in 1974.

Regarding future use, 9 percent of the youth and 6.4 percent of all adults feel they "definitely" or "might" be users in the future. However, among young adults age 18-25, a startling 19.5 percent anticipate future use. The comparable figure for adults 26 and over is 2.9 percent.

#### CHAPTER 3

##### COCAINE

Youth and adults report similar experience levels with 3.4 percent of the 12-17 year olds and 4.1 percent of those 18 and over having ever used cocaine. Current use of the substance is reported by about 1 percent of each group. The highest prevalence rate is found among young adults age 18-25. Of this age group, 13.4 percent have ever used cocaine and 2 percent have used it in the past

month. Comparable figures for older adults age 26 and over are 1.6 percent, and less than 0.5 percent.

Making comparisons across time, prevalence estimates for young people age 12-17 went from 1.5 percent in 1972 to 3.6 percent in 1974 and remained at this level in 1975-76 (3.4 percent). Among adults age 18 and over prevalence has remained relatively constant (1972, 3.2 percent; 1974, 3.4 percent; 1975-76, 4.1 percent). Over time, current use has continued virtually unchanged with 1 percent or less of each group reporting cocaine use in past month.

Past year incidence is reported by 2 percent of the 12-17 age group and 0.8 percent of all adults. These figures are similar to the rates for youth (1.5 percent) and adults (0.9 percent) in 1974.

Estimations of future use are comparable for young people and adults with 4 percent of the 12-17 age group and 3.7 percent of those 18 and over indicating that they "definitely" or "might" use cocaine. Among adults, future use is more likely to be anticipated by those age 18-25 (10.8 percent) than by those 26 and over (1.7 percent).

#### HEROIN

Experience with heroin is reported by 0.5 percent of the 12-17 age group and 1.2 percent of those 18 and over. Among adults, 3.9 percent of the 18-25 year olds have ever used heroin, while only 0.5 percent of those 26 and over have experienced it. Less than 0.5 percent of any age group indicate current heroin use.

Prevalence estimates for both youth and adults have remained relatively unchanged over time. For young people, prevalence rates are 0.6 percent in 1972, 1 percent in 1974 and 0.5 percent in 1975-76. Among adults, the figures are 1.3 percent in 1972 and 1974 and 1.2 percent in 1975-76. Over time, current use among both groups has continued unchanged at less than 0.5 percent.

Past year incidence for youth age 12-17 and for all adults is less than 0.5 percent. Similar proportions were reported in 1974.

Of all drugs studied, heroin is the substance whose future use is most often rejected. Among youth, 87 percent feel they "definitely will not" use heroin, while 93.8 percent of all adults reject it.

#### CHAPTER 4

##### GLUE, OTHER INHALANTS

Among the 12-17 age group, 8.1 percent have had experience with inhalants and 0.9 percent report current use. For adults 18 and over, prevalence is 3.4 percent and current use is less than 0.5 percent. Adults age 18-25 have higher prevalence (9 percent) and current use (0.5 percent) levels than those 26 and over (1.9 percent ever used and less than 0.5 percent current use).

Prevalence estimates for youth rose from 6.4 percent in 1972 to 8.5 percent in 1974 and continued virtually unchanged at 8.1 percent in 1975-76. Current use rates for 12-17 year olds have remained at 1 percent or less since 1972. Estimates of prevalence among adults increased by 1.3 percent since 1972 (1972, 2.1 percent; 1974, 2.8 percent; 1975-76, 3.4 percent). Current use continues unchanged at less than 0.5 percent.

Past year incidence among those 12-17 is 2.4 percent, and for adults it is less than 0.5 percent. These figures are similar to the youth (1.9 percent) and adult (less than 0.5 percent) figures reported in 1974.

The likelihood of future use of inhalants is acknowledged by 2.7 percent of the youth and 0.8 percent of the adults. These people feel they "definitely" or "might" use the substance in the future.

##### LSD, OTHER HALLUCINOGENS

One in twenty youths and adults have experienced hallucinogens with current use reported by 0.9 percent of 12-17 year olds and less than 0.5 percent of those 18 and over. Among adults, experience differs according to age with one in six 18-25 year olds having ever used hallucinogens compared to one in fifty adults 26 and over. Current use is reported by 1.1 percent of young adults and less than 0.5 percent of older adults.

Prevalence estimates for youth are relatively unchanged since the 1972 study (1972, 4.8 percent; 1974, 6 percent; 1975-76, 5.1 percent). Current use figures in the 1975-76 study remain at the 1 percent level reported in the two earlier studies.

Among adults, prevalence estimates have been remarkably steady with 4.6 percent in 1972, 4.5 percent in 1974 and 4.9 percent in 1975-76. Current use rates continue to be less than 1 percent.

Past year incidence has remained relatively constant with 1.8 percent of the youth reporting first use in past year in 1975-76 compared to 2.4 percent in 1974. Among adults, past year incidence continues virtually unchanged with 0.6 percent in 1975-76 and less than 0.5 percent in 1974.

Regarding future use, 4.1 percent of the 12-17 age group and 2.4 percent of adults 18 and over feel they "definitely" or "might" use hallucinogens. Among young adults, age 18-25, the figure rises to 6.5 percent and drops to 1.3 percent among adults 26 and over.

#### METHADONE

Only 0.6 percent of youth and 0.8 percent of all adults report experience with methadone. Among adults 18-25, 2.3 percent have ever used the substance compared to less than 0.5 percent of those 26 and over. Current use is less than 0.5 percent for each of the age groups.

Prevalence figures for both young people and adults continue unchanged since 1974. Among youth, prevalence estimates are 0.6 percent in 1975/6 and 0.7 percent in 1974; for all adults, 0.8 percent in 1974 and 1975/6. Current use remains unchanged at less than 0.5 percent for both youth and adults.

Past year incidence for youth age 12-17 and for all adults is less than 0.5 percent. Similar proportions were reported in 1974.

Methadone, like heroin, is a substance that most people feel they "definitely will not" use in the future. More than eight out of ten youths as well as more than nine out of ten adults reject the likelihood of using this substance in the future.

#### OTHER OPIATES

Experience with other opiates is reported by 6.3 percent of people age 12-17 and 5.3 percent of those 18 and over. Current use is 2.3 percent for youth and 0.5 percent for adults. Prevalence rises to 14 percent among adults 18-25 and falls to 2.9 percent for those 26 and over. Current use is 1.3 percent for young adults and less than 0.5 percent for older adults.

Prevalence estimates among youth in 1975/6 (6.3 percent) are unchanged since 1974 (6.1 percent). Current use is up to 2.3 percent in 1975/6 from 0.5 percent in 1974. Among adults prevalence increased 2 percent from 3.3 percent in 1974 to 5.3 percent in 1975/6. Current use remains at about one half of one percent.

Past year incidence among youth has risen 1.5 percent since the 1974 study (1974, 2 percent; 1975/6, 3.5 percent). For adults, past year incidence remained steady with 0.7 percent in 1975/6 and 0.6 percent in 1974.

Regarding future use, one in twenty young people feel they "definitely" or "might" use other opiates in the future as compared to one in forty adults. Estimation of future use differs by age with one in fifteen adults age 18-25 feeling they "definitely" or "might" use it in the future compared to less than one in fifty of those 26 and over.

#### CHAPTER 5

#### NONMEDICAL USE OF PSYCHOTHERAPEUTIC DRUGS

##### *OTC and/or Rx Drugs*

Experience with nonmedical use of psychotherapeutic drugs is less prevalent among youth than among adults. One in ten young people report nonmedical experience with an OTC or prescription sedative, tranquilizer or stimulant compared to one in seven adults. Among adults, the highest experience level is reported by 18-25 year olds. One-fourth of this age group have used one of these drugs, compared to one in eight adults age 26 and over.

Current nonmedical use or use in past month reflects similar age relationships. Two percent of the 12-17 age group report current use, compared to 3.2 percent of those 18 years or over. Among adults, current use is highest for those age 18-25 (8.2 percent) and lowest for those age 26 and over (1.8 percent).

Looking at prevalence figures across time (1974 to 1976), the experience level of young people has remained the same (1974, 10 percent; 1975/76, 10.5 percent). In the same period prevalence among adults went up two percentage points (1974, 13 percent; 1975/76, 15 percent).

*Rx Drugs Only*

Turning our attention to Rx drugs only, young people are less likely than adults to have used any of these substances for nonmedical purposes. The prevalence level for 12-17 year olds is 7.5 percent, compared to 11.4 percent for adults 18 and over. Making comparisons across time (1972 to 1976), prevalence estimates for youth are relatively unchanged (1972, 6 percent; 1974, 7 percent; 1975/76, 7.5 percent). After a drop in 1974, prevalence among adults is up four percentage points in the current study (1972, 10 percent; 1974, 7 percent; 1975/76, 11.4 percent).

TABLE 5-1.—NONMEDICAL EXPERIENCE WITH PSYCHOTHERAPEUTIC DRUGS: PREVALENCE (EVER USED) AND REGENCY OF USE AMONG SUBGROUPS OF YOUTH (OTC AND/OR RX)<sup>1</sup>

	Ever used (percent)	Past month (percent)	Past year, not past month	Not past year <sup>2</sup>	Never used
All youth: Age 12 to 17 (986).....	10.5	2.0	3.2	5.3	89.5
Age:					
12 to 13 (321).....	7.0	1.0	1.0	5.0	93.0
14 to 15 (342).....	11.0	2.0	4.0	5.0	89.0
16 to 17 (323).....	13.0	3.0	5.0	5.0	87.0
Sex:					
Male (519).....	9.0	2.0	2.0	4.0	91.0
Female (467).....	12.0	2.0	4.0	6.0	88.0
Race:					
White (809).....	10.0	2.0	4.0	5.0	90.0
Nonwhite (134).....	9.0	(*)	1.0	8.0	91.0
Region:					
Northeast (221).....	10.0	1.0	4.0	6.0	90.0
North Central (274).....	11.0	3.0	3.0	5.0	89.0
South (340).....	7.0	1.0	1.0	5.0	93.0
West (151).....	17.0	4.0	7.0	6.0	83.0
Population density: <sup>3</sup>					
Large metropolitan (315).....	13.0	2.0	5.0	6.0	87.0
Other metropolitan (317).....	8.0	1.0	3.0	5.0	92.0
Nonmetropolitan (354).....	10.0	3.0	2.0	5.0	90.0

<sup>1</sup> See Definitions, p. 2 for "nonmedical use;" p. 3 for "population density."

<sup>2</sup> Includes those who are not sure when their most recent use occurred.

<sup>3</sup> Less than 0.5 percent.

Note: Example of how to read table: Among all youth, 10.5 percent report ever using any psychotherapeutic drug for a nonmedical purpose.

Dr. JAFFE. I think the message they are given—it depends upon that and the message they are given by administrators.

Mr. SCHEUER. If our society downgrades the harshness, from criminal to civil penalties, while we do not encourage the use of marihuana and while we wish to discourage it, we are downgrading its importance in terms of claims on scarce law enforcement time and resources. Do you agree?

Dr. JAFFE. Yes.

Mr. SCHEUER. Having said that, do you have any feeling that once you have sent out that message—and that seems to be the unmistakable meaning of downgrading the harsh Draconian quality of the enforcement structure—do you have any reason to believe that the police are going to invest more time and scarce law enforcement resources in pursuing civil penalties than they have already spent in the last decade in pursuing criminal penalties?

Dr. JAFFE. I can think of one scenario where they might.

Mr. SCHEUER. Let's have it.

Dr. JAFFE. For example, we have talked high school administrators or school administrators. They are very reluctant to call in the authorities because that means a criminal sanction against the stu-

dent. They don't like the young people smoking marihuana in and around the school. If they could call in somebody and the smoker gets a \$100 ticket and has a big problem with his or her parents but there is no criminal sanction, it's an economic one, they could call attention to the use of marihuana at the school. Under those conditions, the police might feel they are doing a service to the community by discouraging use of a drug which we all concede has risks and dangers, but without necessarily causing irrevocable stigmatization or harm to a young person's future as a legitimate member of society.

Whether that scenario will evolve or not, I can't say.

Mr. SCHUEER. I think that is reasonable.

Mr. WOLFF. All time has expired. We thank you very much, gentlemen, for your contributions.

The committee will resume its session tomorrow morning at 10:30, in room 2200, Rayburn Building.

[Whereupon, at 5 p.m., the hearing was adjourned, to reconvene at 10:30 a.m., Tuesday, March 15, 1977.]



## DECRIMINALIZATION OF MARIHUANA

TUESDAY, MARCH 15, 1977

HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,  
*Washington, D.C.*

The Select Committee met at 10:30 a.m., in room 2200 of the Rayburn House Office Building, Hon. Charles B. Rangel presiding.

Present: Representatives Lester L. Wolff (chairman), Paul G. Rogers, E (Kika) de la Garza, James R. Mann, Fortney H. (Pete) Stark, James H. Scheuer, Glenn English, J. Herbert Burke, Tom Railsback, Louis Frey, Jr., Robin L. Beard, Benjamin A. Gilman, and Joe Skubitz.

Staff present: Joseph L. Nellis, chief counsel; staff members Donna Alvarado, Sam Baptista, Rosemarie Brooks, Elliott Brown, Ellsworth Dory, Fred Flott, Paul Snyder, and Lou Williams.

Mr. RANGEL. The committee will come to order.

We have the first panel here—our colleague, Congressman Edward Koch. And on that panel will be the Director of the Addiction Services—no, they will be separate.

Do you swear that the testimony you give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KOCH. I do.

[Witness sworn.]

Mr. RANGEL. Mr. Chairman, we have with us, of course, our colleague who spent a great deal of time and attention focusing on the problem of the Nation facing us as a result of marihuana.

Before you go into your testimony, Congressman Koch, I would like to read this statement prepared by the Chair as relates to these hearings for today.

Today, March 15, the Select Committee begins the second day of hearings on the highly volatile issue of decriminalization of the Federal law, the Controlled Substances Abuse Act of 1970, as it relates to the possession and sale of small amounts of marihuana.

Let me stress again that this committee is not engaged in legislative hearings. Therefore, we are not going to hear witnesses or take written testimony on any pending bills. Our purpose is to examine for the record the methodology of decriminalization as it has operated in California, Oregon, and the six other States which have adopted decriminalization laws and to give proponents and opponents of this proposal, both in and out of Government, an opportunity to be heard.

The first day of hearings provided the committee with testimony from members of the executive branch, from law enforcement and

from the treatment sector. This committee, which has no preconceived position, is engaged in assessing the national mood as it relates to the decriminalization of marihuana. It is important that we know whether the national mood has changed in any direction since the 1970 Controlled Substances Abuse Act and the Marihuana Commission report of 1972. That is why it is important for the witnesses to assist the committee in presenting useful data to determine the cost-benefit ratios of decriminalization, the impact on public health, the implications for the criminal justice system, and the social effects on large and small communities across America.

Throughout these hearings we are focusing on the reduction of penalty, not the promotion of use. The committee feels strongly that there are three clear options to be considered: continued criminal sanctions, decriminalizing the user, or legalizing the sale and use of marihuana. We urge all of you here today to listen to testimony in light of those options.

Some of the issues we hope to explore with the witnesses today are the methodology of decriminalization, the effectiveness of treatment services, the implications of the casual user as a common phenomenon, the rural climate as drug usage increases, the effects of decriminalization on the courts.

We have 11 witnesses to hear from today. This committee wishes to thank you for taking the time to provide us with the essence of your knowledge about this important issue facing all of us. You are all busy people, who have traveled to the committee at no small inconvenience to yourselves. Let me express the gratitude of the chairman and the committee for your public service.

I am requesting, in the interest of time, that each of you state whether you are a proponent or an opponent and then briefly summarize your statements before submitting to questions from the members of the committee. Your entire statement will be printed in the record of these hearings.

This morning, we will hear from Senator Javits; Congressman Koch; Congresswoman Burke; Jerome Hornblass, the director of the Addictive Service Agency, New York City; Brooksley Landau, American Bar Association; Jay Miller, ACLU.

This afternoon we will hear from Keith Stroup, executive director, NORML; Dr. Lester Grinspoon, professor of psychiatry, Harvard Medical School; Burton Joseph, Playboy Foundation, Inc.; Ramon Adame, director, Aliviane, El Paso, Tex.; and Dr. John Baird, director, HAVEN, New York City.

Mr. Koch of New York has been one of the leaders on the House side in the effort to decriminalize marihuana. He has submitted legislation with the same dedication as the distinguished Senator.

So, again, let me thank you Congressman Koch. Let me thank you for being with us, and you can proceed in your own unique style.

#### TESTIMONY OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN CONGRESS FROM THE 18TH DISTRICT OF THE STATE OF NEW YORK

Mr. KOCH. Thank you, Mr. Chairman and my good friends on the committee.

Let me summarize my testimony.

When I came to Congress in 1969 I introduced in May of that year my proposal to establish a Presidential commission on marihuana because at that time everyone had an opinion on marihuana, but we had not had any formal report on a congressional level, and I thought it would be nice to have the facts. So I introduced that legislation and people said, "We will never pass that bill because marihuana is such a controversial matter. First it's destructive to you politically to be identified with marihuana in any way, even simply acquiring the facts; and second, we will never get it passed."

Two things happened. One, it was not destructive to me politically, and second, the legislation was passed, because in 1970 of that year the Presidential commission on marihuana, known as the Shafer Commission, came into being, enacted into law by the Congress, and it performed a very important service to the country by providing us with the facts.

Senator Javits was on that Commission and as a result of the Commission's report, Senator Javits and I introduced the first decriminalization bill with respect to marihuana and it was different from the legislation which we have introduced this year. It was simply a flatout decriminalization without any civil penalty at all. That creates a problem with respect to treaties to which the United States is a party and so instead we have pursued the civil penalty route. The legislation, which is known as the Javits-Koch bill, provides for a \$100 penalty for personal use and possession, and it follows, broadly speaking, the Oregon legislation, and the California legislation.

There are a total, as you pointed out, Mr. Rangel, a total of eight States that have the civil penalty.

Now, then, why should we pursue it on a Federal level? That's a question, because after all, most marihuana arrests and convictions are not at the Federal level; they are at the State level. But the fact is that the Federal Government can play a role in leading the States in this very difficult area. Eight States have led the Federal Government, regrettably, instead of the other way around. But there are 42 other States and the commonwealths and the territories where the Federal Government can play this leading role of establishing as a national policy, without preempting the area, that this is the correct thing to do.

Now, what are the problems involved in pursuing the current state of the law which allows for arrests and convictions for personal use and possession?

Well, I'm not going to give you a lot of statistics, because I know you've gotten them from a lot of other witnesses. But there is one statistic that I think boggles one's mind and points out the irrationality of pursuing this matter of personal use and possession through the use of criminal statutes. That single statistic is that according to the Shafer report there are about 13 million Americans who smoke marihuana regularly and about 35 million Americans who have used marihuana. If you simply took the 13 million who use marihuana regularly however and applied the law equally, knowing that some Americans go to jail for personal use and possession since it is a violation in most of the States, 13 million people would be going to jail.

And if you took the cost of physical maintenance of a prisoner in jail for 1 year, which is a minimum of \$6,000—it runs up to more than \$12,000 if you consider the welfare costs for the family involved and so forth—and multiply it times 13 million people, that comes out to \$78 billion!

Now, nobody suggests that we imprison 13 million people. Nor should we do it for any who are in this category of personal use and possession.

Just to conclude my own formal comments, Mr. Chairman, there are those who say, "Well, now, look aren't you going to encourage the use of marihuana by providing for decriminalization."

I don't think so. A California report just issued refutes that point and I am sure the commission already has the report available to it.

There are others who say, "Now, look, notwithstanding the fact that 500,000 people have been arrested each year on an average since 1970, very few in fact go to jail."

But let me suggest to you that having an arrest record is not particularly helpful to advancing one's career in this country, and certainly, being convicted for personal use and possession is not helpful. If you want to become a lawyer, an accountant, a doctor, a barber—there are a whole host of professions and skills that require licensing. If you have been convicted, you have a very tough time being licensed; if you have been arrested and just simply been diverted to some other program and not actually sent to jail, you must explain that away. It is a stigma that we ought not to be putting on the lives of 13 million Americans who use it regularly and 25 million who use it occasionally.

And at that point, Mr. Chairman, I will stop, other than to say that the bill which Senator Javits and I introduced this year is now cosponsored on the House side by more than 30 Members of the Congress, and I expect that as a result of the hearings you are holding, that many more will join in that cosponsorship.

Mr. RANGEL. Thank you, Congressman Koch.

At this point in the record, I assume, you would want your full statement inserted?

Mr. KOCH. Yes, I would.

[Mr. Koch's prepared statement follows:]

PREPARED STATEMENT OF HON. EDWARD I. KOCH, U.S. CONGRESSMAN  
FROM NEW YORK

THE CASE FOR MARIJUANA DECRIMINALIZATION

Mr. Chairman, I am delighted to have this opportunity to express my views with regard to the decriminalization of marijuana. Let me first cite what is now almost ancient history. Eight years ago, on May 14, 1969, I introduced legislation to establish a Commission on Marijuana. My purpose was to provide a forum for a fully-researched and rationally-debated discussion of marijuana-related health, criminal justice, and social welfare issues. This legislation was adopted as a part of the Comprehensive Drug Abuse Prevention and Control Act of 1970. The Commission was established with former Pennsylvania Governor Raymond Shafer at its head. On March 22, 1972, the Shafer Commission issued its report in which it endorsed decriminalization of personal use and possession of small amounts of marijuana. The report also exploded some myths that had grown up around the issue. To the charge that marijuana usage lead to harder drugs, the Commission stated categorically that: "Marijuana use does not dictate whether or which other drugs will be used." At that

time, however, then-President Nixon chose to ignore the facts as they were stated by the Commission. Shortly after the Commission issued its report, Senator Javits and I introduced legislation drafted along the guidelines of the Commission's recommendations. The legislation which we introduced provided for the decriminalization of the personal use and possession of marijuana. Since the introduction of that original bill, Senator Javits and I, along with other co-sponsors, have introduced H.R. 432. This bill is somewhat different than our original legislation in that it provides for a civil fine of \$100 as the penalty for personal use and possession and not-for-profit transfer of one ounce or less of marijuana. The concept of the civil fine approach is to acknowledge that marijuana usage is a fact of American life, with 13 million regular users and with 35 million Americans who have used marijuana on occasion, and at the same time to discourage its use. There is, I believe, no sense and less benefit to be derived by labeling those who use marijuana as criminals.

I am certain that this Committee will be deluged with statistics on all aspects of this issue, so I will limit my use of them. I think it is important that the Committee is reviewing the experience of the states who have reformed their laws. Eight states—Alaska, California, Colorado, Maine, Minnesota, Ohio, Oregon and South Dakota—have adopted the civil fine approach. Again, rather than repeating reports that you will hear about first-hand or reciting statistics, I would rather provide the Committee with a few thoughts on why marijuana decriminalization is necessary by placing some of these statistics in a different light.

Let me cite one statistic which I have developed which I think is unique and startling. There are, as I have said, 13 million regular marijuana users in this country. Suppose that those Americans were imprisoned for one year. Aside from the expense of arresting and prosecuting these people, the cost of incarcerating these people at \$6,000 per prisoner per year, would be a staggering \$78 billion. And to imprison only some, as is the case today, displays a lack of justice and a denial of equal application of the law. And is that really the way we wish to spend our limited law enforcement and drug abuse control resources? I think not.

The California State Office of Narcotics and Drug Abuse just completed a nine-month study on the impact of the state's marijuana statute. The report concludes the new law resulted in savings to police agencies and courts of more than \$10 million. Further, the same study indicated that the more lenient policy had little bearing on an individual's decision to smoke marijuana.

The argument is sometimes made that our present marijuana laws provide a deterrent to the use of marijuana while the number actually punished is low. The fact is that since 1970, nearly half a million Americans have been arrested every year for marijuana use—the overwhelming proportion of them young people arrested for simple possession. I think we face the awesome possibility that nearly a whole generation of Americans are going to be denied the right to pursue various professional careers such as medical, legal, barbering, and accounting to cite just a few, all requiring licensing, because they carry criminal arrest records with them. Can we afford to lock a generation of Americans out of the economic life of our country? Such a possibility should demonstrate that our present marijuana laws are not simply anachronistic but a danger to the society as well.

Let me conclude by saying that we all agree that abuse of hard drugs in this country is a serious problem that we must attack relentlessly. But if we are to attack this real problem, we must use our law enforcement resources judiciously and we must have a population which respects all our drug laws. The present federal marijuana law acts only as a drag on our fight against harder drugs. I recognize that marijuana arrests and imprisonment are overwhelmingly made under state law, and there is no intention on my part to preempt the states with my bill, H.R. 432.

But the federal government can lead the way with its adoption of progressive legislation. Regrettably it has not been the federal government that has led the way: eight states have led us. But it is not too late for there are 42 states, territories and commonwealths that still look to the federal government for leadership in this area.

Mr. RANGEL. And with the committee's permission, we will withhold questioning until the distinguished panel has presented its views.

And at this time we welcome the Senator from New York, who has been a leader and outstanding proponent of decriminalization of marihuana since the issuance of the 1972 Marihuana Commission report, and has backed his belief by introducing legislation to each Congress since that time.

And knowing your very busy schedule, Senator, we certainly are glad that you were able to find time to come to testify.

**TESTIMONY OF HON. JACOB K. JAVITS, A SENATOR FROM THE STATE OF NEW YORK**

Senator JAVITS. Thank you very much, Mr. Chairman.

As a former Member of the House I have an enormous respect for the House, and it's always a great pleasure to be here.

I might tell the Chair, if it's any use to my colleagues, when I was here, from the very beginning, I never hesitated to testify here and in the Senate, either, when I believe in something strongly.

Mr. Chairman, my interest in this matter dates exactly from my service on the National Commission on Marihuana and Drug Abuse, and it was my own amendment which brought about the establishment of the Commission because I believed that we ought finally to get the facts on this issue.

Like every father of young children in big cities, though I had no personal relation to it, I'm sure my children at one time or another experimented with marihuana, and I really did not know what to tell them, how to handle it. And when they asked me about it, I would say, in my judgment it is probably at least as harmful as tobacco or alcohol and probably more so, but it shall be my job to find out. And in the meantime, I urged them not to have anything to do with it.

But it was tremendously important to me as a public official and as a father, to have the confirmation which came from the Commission.

Now, the reason I emphasize the Commission is it really did a fantastic job. I served on that body with Harold Hughes, who is no longer a Senator, but who was very deeply involved then, and, also with two distinguished Members of the House, Congressmen Paul Rogers and Tim Lee Carter. And whatever may be their opinions about this issue, I am confident Mr. Chairman and members of the committee, that they would testify to the really exhaustive efforts of the Commission. They spent over \$1 million in the inquiry into this matter, and sponsored very important original research on the medical, social, legal, and other aspects of this issue. And we had three very distinguished doctors on the panel, which was small, only 11. And the doctors, who certainly had no hangups or axes to grind, fully confirmed the medical findings of the research. And in every year since the Commission reported its findings, those findings have been confirmed in other major studies. And to me, with all respect to all of us as legislators, that was the \$64 question.

And I think it is critically important that whatever we do, we make our case based upon those findings. And based upon its broad conclusions of fact, the Commission recommended, quote—and I quote from page 152 of the Commission's report which has already been referred to here—the following:

Possession of marihuana for personal use would no longer be an offense, but marihuana possessed in public would remain contraband subject to summary seizure and forfeiture. Casual distribution of small amounts of marihuana for no remuneration or insignificant remuneration not involving profit would no longer be an offense.

And various other provisions of that kind.

And the fundamental question of fact, in my judgment, has been conclusively determined by what I am satisfied is the most exhaustive inquiry which had been made up to that date. And then since then, as the Chair said, I have sponsored these bills with different Senators now. The sponsors are the distinguished Majority Whip, Senator Cranston, Senator Ed Brooke, and Senator Gaylord Nelson. And like Congressman Koch, to whom I am very grateful for undertaking this responsibility here, and Congresswoman Burke, who is also working with us on it, I am sure we will get added sponsors based upon your hearings, because there is nothing like enlightenment to deal with the scare aspects of this problem, and that's what it is.

And I mentioned tobacco, and I might say, I have done many television and other shows on this subject, and I'm always asked, "Well, would you apply the same rules that you seek to apply to marihuana to tobacco?"

And my answer is, "Decidedly, yes, indeed, if I had been in a position to at the time." I would feel exactly the same way about tobacco, the long-term use of which is extremely harmful.

I have a doctor friend I play tennis with who is one of the great surgeons at Memorial Hospital in New York, and he says that when he sees adult men smoking, he says it is impossible for me to imagine the effect it has on him, because he has seen their insides, and it is just beyond belief that people would inflict such damage upon themselves.

So what we are doing in respect to a total approach to marihuana is simply dealing with the fact that it is not a substance which, like tobacco, for 300 years has been an accepted convention. We had our experience with liquor in an effort to prevent the use of that and found that it was socially impossible. But it is possible at this point to adopt a meaningful governmental policy aimed at discouraging marihuana use.

So I hope the committee will understand my purpose. My purpose is, in respect to my proposed legislation, to discourage its use, but not to make its possession for personal use a crime which destroys lives and occupies an unbelievably undue amount of law enforcement resources. It is also my purpose to endeavor to avoid the discrimination which is involved in selective arrest and prosecution which can result in a 30-year sentence for the mere possession of marihuana in one State, and in most every other place, district attorneys just don't do anything about it, or police chiefs don't have their people pay any attention to it. And yet, great possibilities of injustice prevail in the selective-case theory; that is, you can bust one group of kids because you don't like them and send them all to jail even though you might not be doing that with 99¼ percent of the community which may be engaged in exactly what you caught them engaged in. And these are the inequalities.

Now, the Federal Government's law cannot reach beyond the Federal writ, so we cannot change the laws of States, and the Carter administration quite properly makes that distinction, and I agree with them. But I think once the pattern has been set on the Federal level, States will follow.

Now, our plan is to decriminalize the possession of small quantities—that is, up to 1 ounce—for personal and private use. We make no changes whatsoever dealing with sale and traffic for profit. We make no changes in export/import. The laws remain exactly the same where any effort to transact for profit is involved. Our bill would impose a civil penalty of up to an ounce. That is essentially it.

Now, the approach has been now supported by many, many distinguished groups of Americans, notably—and I will just give you the notable ones, from our point of view—the Carter administration which I have just mentioned, the American Bar Association, the American Medical Association through its governing board, the National Education Association, the National Council of Churches, and many others.

And, of course, we all know—and I'm sure Congressman Koch has already testified to it, so I won't repeat it here—but the unbelievable burden on police activity which is so devastating to us because of our crime situation, if there was no other reason we should enact this legislation for that reason alone. It is like jettisoning ballast when your balloon is going down. It may be good or bad ballast, but you have got to jettison it just the same. And this is just that kind of a tax upon the law enforcement authorities.

Finally—again, as I'm sure Congressman Koch has already said—it is an enormous constituency we are dealing with. The figures found show 35 million Americans who have tried it at least once, and 13 million to be using it today.

Now, you will be hearing, I'm sure, from the National Organization for the Reform of Marijuana Laws and its talented director, Keith Stroup, and the work of Dr. Thomas Bryant and Dr. DuPont and others in the field who have this view.

Eight States have already done what we are urging the Federal Government to do: Oregon, Ohio, Alaska, California, Colorado, Minnesota, Maine, and South Dakota. And our reports are that in Oregon it has worked extremely well. In California it is claimed that marihuana use has diminished rather than increased because of this particular law. And we have got our experience there to back up the fact that decriminalization will result in no increase in marihuana usage, particularly among adolescents.

Now, that, Mr. Chairman, essentially is our case.

I again wish to repeat in closing: (1) That we are seeking a discouragement policy; (2) that we are not in any way seeking to say that this is good for you. In fact, chronic, heavy use is bad for you—but that we are recognizing the reality of widespread public use and in view of that fact and the Commission's extensive medical and other findings, society has very poor justification for using such harsh means; that is, the criminal sanction in order to prevent its use in the strictly limited cases to which I have referred. If we pass this law, as I hope we will, we will act on the certain knowledge



that criminal penalties cannot be justified for the mere possession for private use of a small quantity of a substances not known to present substantial danger to the individual or to society. We will be eliminating the very damaging impact we know these criminal penalties are having upon tens of thousands of Americans who believe, with justification, that the discrepancy between the facts and the law is unfair and hypocritical. And by retaining the penalties for those who sell this substance for profit, we will preserve the governmental policy of discouragement.

Mr. Chairman, there is only one last thought that enters my mind, and that is a popular fallacy—and it is a fallacy—that marihuana is a threshold to the use of harder drugs. What is the threshold to the use of hard drugs, Mr. Chairman, is a question of unbelievable complexity involving social and psychological factors which relate to the very nature of modern life itself.

And, again, I refer to the findings of the Commission to sustain that.

Thank you.

Mr. RANGEL. Thank you Senator. I hope you would allow us to put your written statement into the record at this point.

[Senator Javits' prepared statement follows:]

PREPARED STATEMENT OF SENATOR JACOB K. JAVITS, U.S. SENATOR  
FROM NEW YORK

Mr. Chairman and Members of this Committee, I am most grateful for the opportunity to present my views on the subject of marihuana decriminalization. In every Congress since the 92nd, Congressman Edward Koch and I have sponsored legislation strongly and unanimously recommended by the National Commission on Marihuana and Drug Abuse to decriminalize the possession and use of small amounts of marihuana. I am particularly pleased that President Carter has indicated his support of our approach at the Federal level as well as a state by state approach to decriminalization.

Next Tuesday, March 22, it will be exactly five years since the Nixon Commission on Marihuana and Drug Abuse published its massive study on the extent and nature of marihuana use in our society, and the medical, legal and social problems associated with such use. I and three of my Congressional colleagues—former Senator Harold E. Hughes, Congressmen Paul Rogers and Tim Lee Carter—served on that body with a distinguished group of educators, lawyers, psychiatrists, law enforcement officials and others. Its work and recommendations were widely acclaimed and endorsed by commentators throughout the country and abroad.

Our current bills, S.601 in the Senate and H.R.432 in the House would decriminalize the personal possession and use and not-for-profit transfer of up to one ounce of marihuana and substitute in lieu thereof a civil fine not exceeding \$100. This would be enforceable with a citation rather than an arrest. Current Federal law provides a penalty of up to one year in jail for this offense. The principal sponsors of this year's Senate bill are the distinguished Majority Whip, Senator Alan Cranston, Senator Edward Brooke, and Senator Gaylord Nelson. The civil fine approach represents a variation from our original bill and the Commission's actual recommendation which proposed straight decriminalization for possession of three ounces of marihuana.

Since our initial efforts in 1972, the following have endorsed the removal of all criminal penalties in connection with such possession and use: President Carter, the American Bar Association, Consumers Union, National Conference of Commissioners on Uniform State Laws, American Public Health Association, National Advisory Commission on Criminal Justice Standards and Goals, National Council of Churches, the Governing Board of the American Medical Association, the National Education Association, B'nai B'rith, Canadian Commission of Inquiry into the Non-Medical Use of Drugs, the San Francisco Committee on Crime, syndicated columnists William F. Buckley and Ann

Landers, and John Finlator, retired Deputy Director of the Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice.

Meanwhile, the number of people experimenting with and using marihuana, and getting arrested for the same, continues to increase, and so does the number of criminal justice system professionals who are engaged in detecting, prosecuting, defending, counseling, judging and punishing alleged offenders. This in spite of the fact that the National Commission found that in excess of 90 percent of all marihuana arrests are for possession and use of minimal amounts. Consequently, the cost of law enforcement involving marihuana is skyrocketing. According to the FBI, more than 2 million persons have been arrested for marihuana offenses in this country since 1970. We continue to reap more than 40,000 marihuana arrests per year, and this distorted priority has cost us the equivalent of billions of dollars in scarce law enforcement resources which are so desperately needed in programs to reduce violent crime and hard drug use.

Mr. Chairman, criminalization of marihuana has failed. It is now time for Congress to join with the President and our state governments to readjust our priorities and eliminate the profound inequity which results from random enforcement of these laws when 35 million Americans have tried marihuana at least once, and 13 million Americans are using the drug today.

In the past five years, we have already seen important changes in public attitudes and public law on this subject. This is due in large measure to the extraordinary job done by the National Organization for the Reform of Marihuana Laws, and its talented Director, Keith Stroup, and the work of Dr. Thomas Bryant, formerly President of the Drug Abuse Council, Dr. Robert DuPont, head of the National Institute for Drug Abuse and many others. Eight states have enacted decriminalization/civil fine statutes—Oregon, Ohio, Alaska, California, Colorado, Minnesota, Maine and South Dakota—and such legislation will be considered in at least thirty state legislatures. In addition, many recent public opinion polls show consistent majorities for decriminalization and a recent general lessening of fear about the nature of marihuana and the effects of its use. Without doubt, the case for reform has become clearer and more broadly accepted.

Nevertheless, Congressman Koch and I know how controversial this matter is, not because of the basic differences in approach, but because many legislators at the Federal and state levels still believe that their constituents will not approve of such legislation. But when people understand that we propose decriminalization—not legalization—and when they realize the loss to criminal law enforcement for violent crime and the extraordinary cost and inequities inherent in the present approach, I believe they will endorse our efforts.

There are several specific reasons why Congressional support for this bill has been difficult to obtain.

First, many have been concerned about the health consequences of marihuana use. This Committee will undoubtedly receive testimony and review the voluminous literature on this question. Nevertheless, I think it is fair to summarize this issue by saying that marihuana, like any other psychoactive drug popularly used, can be used in moderation by most people with no measurable ill effects due to the drug use itself, but in sufficient quantity it is capable of producing a number of ill effects. Our bill is predicated therefore, upon the proposition that society must discourage the recreational use of non-medical drugs like marihuana, alcohol and tobacco, and warn people against excessive use if they use the drug at all. But, because it has a relatively low health and social impact, society has poor justification for using harsh means to that end.

Second, many have been concerned that decriminalization will result in an increase in marihuana usage, particularly among adolescents. It is my understanding that changes in the rates of marihuana consumption in the eight states which have enacted decriminalization statutes have not differed from usage patterns in the other 42 states. The only state in which systematic, continuing surveys of marihuana use have been done and reported is Oregon. Under the sponsorship of the Drug Abuse Council, these surveys conclude that marihuana decriminalization did not lead to an increase in the number of persons using the drug, or heavier use among established users. In fact, contrary to trends outside the state, Oregon's trend was toward lower volume of marihuana use.

Third, as these efforts go forward, I want to emphasize to the Committee that our bill does not and cannot pre-empt state law on marihuana policy.

Quite the opposite is true. We agree with the President that this is a matter which can more appropriately be decided on a state and local level, allowing for a wide divergence of approaches in various states. We do believe, however, that Federal action to decriminalize at the Federal level can and should serve as a powerful model to the states to remove such unjust, unworkable and discriminatory laws wherever they exist. Many states will retain their criminal penalties so long as the Federal law remains unchanged and that status quo—and the more than 400,000 arrests annually—in intolerable.

But there is another reason why the Congress should act. It is surely a matter of national—i.e. Federal—concern that criminal approaches to the marihuana possession problem have had a disastrous impact upon the criminal justice system in terms of the perceived injustice of its application to individual violators. These concerns can have a constitutional dimension if national standards of fairness in the administration of criminal justice are violated. We cannot continue to ignore at the national level the subjectivity of the process by which offenders are chosen from among the millions of marihuana users for application of criminal sanctions. These national concerns surely justify and require legislation at the Federal level to influence the formulation of state and local laws regarding marihuana consumption-related activities.

Senator Cranston, Congressman Koch and I recently discussed this point and the larger issues in a letter to President Carter, and I ask the Committee to include a copy of that letter in the hearing record at the conclusion of my statement.

Mr. Chairman, I believe very strongly that we must preserve a governmental policy of discouraging the use of marihuana. Our bill seeks to achieve that objective by serving several distinct and vital public interests while recognizing the social and historical contexts in which public policy toward marihuana has developed. We must act in this Congress to move the law more closely into accord with the current body of knowledge about this drug.

In doing so we will act on the certain knowledge that criminal penalties cannot be justified for the mere possession for private use of a small quantity of a substance not known to present substantial danger to the individual or to society. Second, we will be eliminating the very damaging impact we know these criminal penalties are having on tens of thousands of Americans. They believe with justification that the discrepancy between the facts and the law is unfair and hypocritical. Third, by retaining penalties for those who sell drugs for profit, we will preserve the governmental policy of discouragement.

Mr. RANGEL. The committee has agreed to withhold questions until we hear from the entire panel, and of course we are pleased to have with us our distinguished colleague from California whose State has decriminalized marihuana for some 3 years now, and demonstrated an interest in the health of our children as well as this subject matter in the criminal justice system.

And we thank you for taking time out to be with us, Congresswoman Burke. You may proceed at your—in any manner that you want. And if you have a written statement, we will have it inserted into the record.

#### TESTIMONY OF HON. YVONNE BRATHWAITE BURKE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. BURKE. Thank you very much, Mr. Chairman.

To the chairman and the members of the Select Committee and to the distinguished members of the panel, I would like to ask that my prepared statement be introduced into the record. And I would like to make a few comments.

It is true California is one of those States that has decriminalized marihuana possession, and that law went into effect January 1976.

I know you've heard a great deal about the studies that have been made and released in the last few months on the effect of that decriminalization. I would just like to emphasize a few things that have been discussed so much.

The Secretary of the Health and Welfare Agency in California, Mario Obledo, instituted a poll, which was conducted by the Field Research Corp. This was an analysis of arrests and citation data collected from the Department of Justice Bureau of Criminal Statistics. The approach was to compare the number of arrests in 1975 with the arrests in 1976, and this was during the time that there was a new marihuana law that had been approved. And, incidentally, the people of the State of California accepted this new law and accepted it readily. There was no great consternation or objection when this law went into effect, and the important thing that I think that Congressman Koch has pointed out is the cost effectiveness and the amount of police effort that could be moved away from marihuana arrests into more meaningful actions.

May I say this: Most of all, we know that within the inner city it has been estimated that one-half of all of the crimes are drug related. Also that within the inner city people felt very strongly that they would rather see the police working on apprehending these criminals who were involved in serious crimes and stopping the drug-pusher who was out there subjecting children to hard drugs rather than spending their time making arrests for minor offenses such as marihuana possession.

If we just compare the number of arrests, there was a decrease of 47 percent. Now, this answers the question that many people raise: If you decriminalize marihuana possession, won't everyone go out and smoke marihuana? You can see that this has really been clarified by this report.

In 1975 there were something like 24,000 marihuana possession arrests, and in the following year, under the new law, something like 12,913. So that within the State the actual number of people who were using marihuana—adult offenders—was reduced.

It saved the police agency something like \$5 million within the State of California, just for the first half of 1975 as compared with the same period of 1976.

So, you're talking about within our State something like a saving of close to \$10 million a year.

Now, this substantiates, I think, this question that comes up again and again: Whether or not there will be an increase in the use of marihuana. And immediately you say, well, why was there a decrease?

In my own opinion, I think we're all involved to a certain extent in conjecture when we analyze statistics like this, but I believe as far as young people are concerned, we took away the factor of rebelling. Certainly one of the reasons that many young people probably smoked marihuana was that they felt they were rebelling against society and were opposing some of our institutional regulations. But once we removed that, they were able to evaluate marihuana along with other things, and we find many young people today who to their peers, we don't want you to smoke and we don't

want smoking around us. They were able to look at marihuana just like any other kind of smoking and look at it as other things rather than as something that we had set apart. As a result, what you see is a totally different attitude toward marihuana than where we had allowed it to be projected in our laws.

So, this certainly makes a strong case, if we are truly attempting to give to our policy officers the resources to do the things that are important.

Now, I know immediately you can say, well, your police chief in Los Angeles took a very strong position and indicated that he did not want to see decriminalization of marihuana.

Well, to that I say, it is a case of the cops "copping out." I think it's a lot easier to go around and give parking tickets than it is to go out and chase a dangerous criminal. And it is a lot easier to come into a group of high school students and spend your time and the efforts of your police department going around arresting and bringing them all into court and have your court system bogged down than it is to have to go out and face some of these dangerous criminals.

What we are going to have to do is to take some of that money and use it to face those dangerous criminals—who in many instances are white-collar criminals or involved in organized crime. I would hope that our law enforcement officers would look at this as an important way to use their time and their resources to try and make an impact on our community.

I would hope that the Federal law will benefit from the experiences that we have seen in other States that have led the way. Not only is it good for law enforcement, it is also good for making our law enforcement system one that is credible and utilize its resources in the best possible way.

So, I would hope that we use all of our efforts to insure that realistic, progressive legislation is developed and that it does provide help and guidance in this vital area.

Now I would like to also add to what Senator Javits has said. I oppose smoking at all, and I am not encouraging anyone to smoke. The point is, do you make criminals out of those who smoke. This is especially important when we look at marihuana and the number of young people who have become criminals and who are unable to take meaningful jobs because they have a criminal record and this record has carried forth with them over the years, in many instances preventing them from moving into meaningful occupations.

You cannot justify this impact on their future lives, and one of the things that this legislation in California has led the way in—it provides a penalty, it's true, which is a fine, but it is not part of a criminal record. A person who has over three offenses must go through a program of education, rehabilitation, and be subject to a social program if there is an arrest for three or more times.

In my opinion, this is working. The statistics bear it out. The studies bear it out. And I would hope that the Nation could benefit from this experience.

Thank you very much.

[Congresswoman Burke's prepared statement follows:]

PREPARED STATEMENT OF HON. YVONNE BRATHWAITE BURKE,  
U.S. CONGRESSWOMAN FROM CALIFORNIA

Mr. Chairman, First of all, I want to urge the Committee to review thoroughly the experiences of the eight states that have acted to reform their laws. The California experience is an important case in point and I would like to place before the Committee recent findings reported by the California Health and Welfare Agency.

In a news release issued January 21, 1977, Mario Obledo, Secretary of the Health and Welfare Agency in California summarized the main points of an effort made to measure the impact of the new marijuana law. Using a poll on usage and attitudes conducted by the Field Research Corporation and an analysis of arrest and citation data collected from the Department of Justice, Bureau of Criminal Statistics, Mr. Obledo compared 1975 data with that collected in 1976. As he so clearly put it, "The state's new marijuana law evidently has the approval of a majority of Californians. It has reduced costs substantially, and although there has been some reported increase in current users, frequency of use has declined, and people do not attribute their decision to use marijuana to the reduction in penalties."

I am most interested in this analysis of comparative data between 1975 and 1976. In comparing the first half of 1976 to the first half of 1975 (prior to reform), we see that the number of adult marijuana possession offenders decreased by 47%. Arrests for marijuana trafficking offenses decreased somewhat and the amount of marijuana reported seized by federal, state and local law enforcement agencies also decreased. All of this led to a substantial reduction in the effort expended by our law enforcement and judicial systems in handling cited cases. The report to the California State legislature conservatively estimated the savings in workload costs for local criminal justice agencies at \$25 million for 1976. In addition, there have been some savings in the State Department of Justice and an increase in both state and local revenues from fines collected by the courts.

Another study, which was just released Monday, showed that there were 24,000 marijuana possession arrests in the first half of 1975—before the reformed law was instituted—and 12,913 for the same period in 1976 after the liberalization law was in effect. This study from the California state Office of Narcotics and Drug Abuse which used figures from the Justice and Health Departments and other agencies in the state, showed that under the liberalized law, enforcement costs were cut some 74%. It was further estimated that police agency costs to enforce the possession laws for adults were \$7.6 million in the first half of 1975 compared to \$2.3 million in the same period of 1976.

In my opinion, this makes a strong case for the point made by my colleague, Congressman Koch, that we must be concerned about the cost-benefit relationship between our efforts to deter use and the reality of the existing situation. For many of our citizens, use of marijuana is a fact and the cost of arresting, prosecuting and incarcerating people is becoming impractical and unnecessary given our very limited resources for law enforcement and drug abuse control. I have a great concern and even fear that we will expend our resources on marijuana users and move even farther away from controlling the rising use and traffic in hard drugs \* \* \* drugs that regularly lead to many serious crimes and often threaten the lives of law enforcement personnel.

Our experiences in California also lend support to another key point that really gives me great concern \* \* \* that is the very real harm that can be done to the youth of our society when we put them through the criminal justice system and by that very act deny them access to pursuit of livelihood, employment and career progression. We must be aware of the injustice in that. We must place this whole issue in perspective and treat the problem not the symptom. The lessons of the civil fine must be studied and analyzed. The information and understanding that develops must be disseminated and we in the Congress, must make a diligent effort to ensure that realistic, progressive legislation is developed and that it does provide help and guidance in this vital area.

Mr. RANGEL. Thank you, Congresswoman Burke.

I hope that our distinguished panelists will be able to stay for some questions. That being so, we will proceed under the 5-minute rule, and now, our chairman, Congressman Wolff.

Mr. WOLFF. Thank you, Mr. Chairman.

I want to compliment the panel for their statements.

I would like to ask my colleagues from New York how they see the present New York law. We do have, perhaps, the toughest law in the country so far as this type of substance is concerned. What do you think is going to happen in New York?

Senator JAVITS. Well, I think New York is rather a classic illustration of just exactly why we are here. In New York, it is left pretty much to the local option of a police chief of the local district attorney, as to what happens in a given community and what happens even in a given case. And that becomes really arbitrary and really discriminatory because of the pattern which exists throughout the State as a whole.

And in my judgment, the New York situation will ultimately be much fairer, will be much more settled, will relieve a lot of anxiety, and will relieve the atmosphere of criminality. After all, every kid who goes down the street and buys a reefer feels he's really a criminal. And he really is, under current law.

Mr. WOLFF. But, Senator, you say that it is discretionary. Actually, the New York State law itself is not discretionary.

Senator JAVITS. Actually in practice it is, because the police chiefs issue orders to their fellows not to pick up kids smoking marihuana; to forget it.

On the other hand, the police chief in some other town or a sheriff who wants to get reelected will go bust 50 kids who have gone to a party knowing that nothing like that has happened for 6 months. That's what makes it so really deeply unfair. It is a classic example of what we're talking about.

Mr. KOCH. As I understand this current situation in Albany, the pending legislation which would decriminalize personal use and possession of marihuana is supported by Governor Carey. There has also been a change in the New York State Senate, which formerly had indicated objection to the legislation although it had been supported on the assembly side. And it is my expectation that we will have in New York a decriminalization law comparable to that which we now have in California, Oregon, and eight other States.

Mr. WOLFF. One of the problems that I see with this entire matter—both the legislation as well as the hearings—is the confusion that has resulted from some of the statements that have been made by both the witnesses and some of the reports that we have seen.

First of all: The minute you say "decriminalization", you wave a red flag or something like that. And I think the choice of terms is a very bad one.

I think what we're talking about here is a reduction of penalty. I don't think we are indicating in any manner, shape, or form, that this is not a crime.

Second: We tend to talk in absolutes. Each witness that has come before us talks in the terms of absolutes, and here I am smoking a pipe, you see. People have talked about being against the question of smoking.

Now, I don't know any medical authority that has come and said "This is a mind-altering substance" that I have, and yet there is a situation that there is a difference in the smoking of marihuana and smoking of another substance.

Therefore, I think one of the problems that faces us here in the Congress is the question that is created by the use of the term "decriminalization". Testimony here has stressed continuance of the penalties for one who sells for profit. Well, how then does the individual who desires to be a casual user come into possession?

One of our witnesses said that you can grow it in flower pots. This is an obtuse way of evading the real problem that we do face. How does someone come into possession of a substance which is illegal in its sale, but in some sense permitted for use, if it is used in small quantities.

Mr. KOCH. Let me address myself to that.

First: I would disagree with you with respect to the definition of what we are doing here. We are decriminalizing it.

Now, if it helps, by ways of semantics, to use another term, I'm happy to do that. But there is a difference between a civil offense and a criminal offense, as lawyers know. And I know that you're not a lawyer, and maybe you'll bring some sanity to the situation as a result of that.

But the fact is, I do believe that what we are all about here is to preclude providing someone with a criminal record as opposed to a civil penalty. We are not removing penalties. You're right with respect to that.

Let me then take the second point which you raise, which is: Is there an inconsistency in allowing for personal use and possession but still punishing the sale for profit?

I do not think that there is an inconsistency. The purpose of the legislation and the thrust of the Shafer report was that we ought not to be giving criminal penalties for personal use and possession and at the same time we ought not to be encouraging the use. When you have the sale for profit, the concept is that you are encouraging the pushing of marihuana, the selling of marihuana. You are going to encourage its use. And one way to discourage its use is to continue the penalties for the sale for profit.

And I support the continuation of those penalties, because the American public does not want to allow the encouragement of marihuana.

Just one another point. It is not different from what we have done in a number of areas. For example, there was a time when contraceptive devices in some States were illegal—that it was illegal to sell them. It was not illegal to possess them, but it was illegal to sell them.

It is not illegal to possess obscene material for reading purposes in your home. It is illegal to sell it.

So, we are not embarking on new territory, if you will, in distinguishing between the sale of material and the personal use and possession of it.

Mr. WOLFE. But you say you are not encouraging the sale of it. And yet, Dr. Jaffe, who was the former head of SAODAP, came before this committee yesterday and indicated that there would be an increased use of marihuana and other drugs as a result of the decriminalization.

Mrs. BURKE. Of course, this is the reason I went through the figures on California's experiment. The California Field poll indicates



there was a reduction in use in California, taking the year immediately before decriminalization and the year after decriminalization.

Now, if there is another study that someone shows under this controlled situation by a recognized polling group that would indicate to the contrary, I think we have to compare those two and distinguish what the situation is.

Mr. WOLFF. Excuse me for interrupting you, but the Alaska State Troopers were here yesterday as well. They have a decriminalization statute on their books, and they indicated that there was an increase, as did the police chief of the city of Los Angeles.

Mr. BEARD. I think it would be interesting to point out, Mr. Chairman—

Mr. RANGEL. The gentleman will be recognized.

Mr. BEARD. The chief from Los Angeles stated his department was not even contacted regarding the study that was done, which he found somewhat mystifying.

Mrs. BURKE. Well, they took the criminal statistics, the records—his department reports all of their arrests to the department of California State statistical records. They all have to go through the same system, so there would be no reason to go to every single police department. That's the reason they have one area where they bring all of those. They keep the actual records in the State so that they don't have to go to every police chief to find out how many arrests they have made and his arrests were submitted, I assume, to the State criminal records. And if they were not submitted, he has not fulfilled the requirements of the State law.

Mr. RANGEL. The gentleman's time has expired.

I recognize Mr. Railsback, who can yield to our colleague, Mr. Burke.

Mr. RAILSBACK. I'll be happy to yield to my good friend.

Mr. BURKE. Mrs. Burke, when was the Field report issued?

Mrs. BURKE. Just a moment. Let me give you the exact date. January 21, 1977.

Mr. BURKE. When did California reform its laws with regard to the reduction of the penalties?

Mrs. BURKE. Just a moment. I'll get the exact date. The effective date was January 1, 1976, the effective date. The law was passed before that.

Mr. BURKE. Were there fewer arrests because of that law going into effect in January of 1976, which would show a reduction in the amount of marihuana arrests?

Mrs. BURKE. Let me explain exactly how the law works. What the law requires is that if someone is apprehended with less than 1 ounce of marihuana in their possession, they are given a citation and the maximum fine that is imposed based upon the citation is \$100. Now, that citation would be treated just as the other arrest record and would be submitted to the State of California.

Mr. BURKE. Yes; but I ask you if, because of the change of law, could there have been a reduction in the amount of arrests by the police?

Mrs. BURKE. The number of arrests were less. They were one-half the number of arrests.

Mr. BURKE. Yes; but because of less enforcement on behalf of the police department, which was the purpose of the law, as I understand?

Mrs. BURKE. No; the purpose of the law was to save the court costs and the actual penal costs. The police were—just like we have laws that provide a parking citation because we have a parking citation other than an arrest as some places have for parking. You do not say that the police do not enforce parking citations.

Mr. BURKE. Yes; but your chief of police disagrees with your statement. How could this report, by the way, show whether there was a reduction in users or not, merely because it shows a reduction in the arrests.

Mrs. BURKE. Well, the only thing we can go by in terms of users are either polling statistics or actual arrests. Now, this study by the Field research poll, based on polling and also arrests, came up with the conclusion that there was a reduction of approximately 47 percent.

Mr. BURKE. How many did they poll on this latter question?

Mrs. BURKE. How many did they poll?

Mr. BURKE. Yes.

Mrs. BURKE. Just a moment; I don't have that readily available, but I do have that here and I can provide you with that information. You want to know the procedure used by the Field poll?

Mr. BURKE. Yes; who they polled and how many they polled and during what period the poll was made.

Mrs. BURKE. I don't have that readily available, but I will provide you with that. The period of time of the poll and the number of actual questions that were—I think I have that. I will get you all of that information.

Mr. BURKE. I can probably find it by the time the next question is answered.

Mr. BURKE. Well, then, let me ask the next question of Senator Javits.

Senator Javits, I believe you stated in your statement that you felt, despite what your testimony is, that the use of marihuana was bad. Did you?

Senator JAVITS. I did.

Mr. BURKE. Well, then, how can you suggest then a reduction in penalty which might lead, as far as any of us know, to the greater use of drugs in other forms?

Senator JAVITS. By that theory, I would suggest a criminal penalty for the drinking of alcohol and the smoking of tobacco and for the taking of some kind of pills. Societally, this is a situation which we have to cope with in order to be fair, as exactly like we are coping with others. We don't prevent by use of criminal sanction everything that is bad for you. Perhaps if you eat a very rich cream dessert, that could be a killer for you. That doesn't mean that we penalize you criminally for eating it. And so, there are many things in life which are not good for you which we don't penalize—I don't think this is good for you, but I think we make a great mistake penalizing it as a crime.

Mr. RANGEL. Mr. Burke will be recognized on his own time.

Mr. BURKE. I yield to Mr. Railsback. But I would hope you would yield back?

Mr. RAILSBACK. Sure.

Mr. BURKE. Based upon that, then, alcohol is regulated by every State agency I know. The penalties for drunken driving are strong, and the penalties in other fields of alcohol are strong with regard to the sales, who they sell it to and so on.

Therefore, I must disagree with your conclusion in that respect. I yield back.

Mr. RAILSBACK. May I just comment about that, which is that alcohol, as far as consumption, has not been made a criminal offense except as it may relate to minors, usually.

Senator JAVITS. Even for them it's not a criminal offense. Any minor can drink, and you can't arrest him for drinking. You can arrest the person who sold it to him. So, it is the same thing.

Mr. RAILSBACK. Let me just say, from reading your statements, I want to thank you for coming, No. 1.

Senator JAVITS. Thank you.

Mr. RAILSBACK. And simply express my belief that, in respect particularly to possession and even personal use, there have been great inequities as far as criminal treatment and particularly sentencing.

I know, Senator Javits, that you in the Senate, along with some others, are very much concerned about the disparity in American sentencing generally. It was not too long ago that somebody in Virginia was picked up, I think, for possession of marihuana of a relatively small quantity and got a very excessive sentence that was finally considered to be excessive.

The other thing is, as I understand it, you have changed your original approach to provide for a civil fine. So, by no means are you endorsing or sanctioning the personal use of marihuana. You are recognizing that there is a difference between the sale and the use—which is very prevalent.

And let me just say, from my standpoint as a member of the House Judiciary Committee, there is a real concern that I have about the criminal stigma and the fact that when a first-time offender is formally recognized as a criminal and that goes on his record, that can have some consequences that instead of leading to him becoming a constructive—a reconstructed good citizen—might have some very harmful effects.

And I just wonder if you would comment on that, either one of you?

Senator JAVITS. Yes. Congressman, you have, I think, analyzed it very, very correctly. Like every piece of legislation, there is no black and white; it's gray. And we're going to have to take a certain decision one way or the other because on this question we should not have the privilege of parlor discussions and leaving the question in the air. We have got to vote aye or nay.

This does seem to be a really burgeoning difficulty for the young people of America. Why this unfairness, they ask? Father can take two martinis, but I can't smoke a reefer without jeopardizing my whole future.

And I think that's really what we're trying to answer, in all honesty. And as I say, it is by no means a perfect answer. And I

have deep sympathy with the feelings that you express and Congressman Burke expresses, but we have to come to a resolution of what has become a dilemma which we cannot leave as it is.

That would be my answer.

Mr. KOCH. Let me answer that, if I may.

Congressman Burke and Congressman Beard point out that we have laws that make the use of marihuana, personal use and possession, the subject of criminal penalties. That's the law today in 42 of the States, and it's the Federal law. And yet 35 million Americans have used it, 13 million are using it regularly. My recollection is the Shafer report said "regularly" meant three times a week.

Well, if there are 13 million Americans out there right now, today, using marihuana, and it is illegal, and they are subject to penalties up to 7 years in some States and maybe more in some others—my recollection is, there is the state of the law in my own State, New York—what have we done? Have we stopped those Americans from using marihuana? What happens when you have 500,000 people arrested every year—that's just a drop in the bucket if 13 million are using it regularly. So you don't have equal application of the law. You have the vast majority going scott free. But then take those that are arrested and those who are convicted. What have you really done when you have sent someone to jail and given that person a criminal record? Is someone then less of a person to be a lawyer or a barber or a doctor or an accountant? And yet if they have been convicted and they have those criminal convictions, in fact, they will not become, in many States and many jurisdictions, professionals.

And the cost to society, the physical cost, the cash cost is \$6,000 a person when you put them in jail. The cost to the family is enormous. Do we really believe we have accomplished anything? I think not.

Now, again, when we had prohibition—we ended that—but when we had it, it was not illegal to possess liquor; it was illegal to sell liquor. Our legislation takes that same point of view. It is illegal to sell it. It is not illegal to use it in small amounts. But still, even subject to a civil fine, we go further than prohibition with respect to what we are doing in this legislation vis-a-vis marihuana. And I think it is not in the interest of the country (a) to have unequal application of the law—500,000 people arrested and 12,500,000 not—and (b) when we do arrest them and send them to jail, to cause these personal tragedies. I don't think it's helpful to our society to do that.

Mr. RANGEL. Mr. Beard will be recognized for 5 minutes.

Mr. BEARD. Thank you, Mr. Chairman.

Senator Javits, did you serve on the Shafer Commission?

Senator JAVITS. I did.

Mr. BEARD. You did?

Senator JAVITS. Yes.

Mr. BEARD. Did you express at any time or did you have any feelings expressed regarding the legalization of marihuana?

Senator JAVITS. Yes. I'm against legalization.

Mr. BEARD. You were against legalization?

Senator JAVITS. Right.

Mr. BEARD. Where do you see the total difference, as far as decriminalization versus legalization? Would you not think, as far as related to organized crime, that decriminalization would be the best of both worlds?

We talk about controls, we talk about alcohol, we talk about cigarettes, but through decriminalization would there be any controls regarding the type of a marihuana cigarette, what goes into it? Some are much more powerful; some are much weaker. Do you not see any type of danger there?

Senator JAVITS. Decriminalization would not relax existing controls on criminal sale for profit.

There is an argument which has been made for legalization, that is, legitimacy and regulation, which is what you have just quite properly laid before me. But I think when you compare that with the fact that we do not wish to encourage—we wish to discourage the use of this substance—then I must answer the question in the negative: I do not wish to legalize it. And I explained my same position respecting—

Mr. BEARD. Well, I think you have answered my question, and my 5 minutes, as you know, is very short. And excuse me for interrupting, but you have answered my question to my satisfaction.

You mentioned Dr. DuPont's testimony—you mentioned several other medical individual's testimony—but you know, I found it somewhat concerning to me that during the Ford administration Dr. DuPont seemed in his testimony before Senator Eastland's committee a lot more concerned about the medical consequences of using marihuana than he did yesterday. As a matter of fact, I found him to be—until we finally—I had to drag it out of him—there really, after research there was no real serious medical or potential medical problems. Yet just a short year and a half ago it was like there was a different man testifying.

I found Dr. DuPont, who you have referred to, state that the law was No. 3 on the reasons of deterrents, but he failed to leave out a little statement he made under the Ford administration that on sampling 2,000 23-year-old males asked about their reasons for not using marihuana, the No. 1 reason for stopping use was concern about getting arrested.

So there is, apparently, some concern on users or potential users, as far as the law enforcement aspect.

I will be very honest with you, Senator. I find it very offensive, and it concerns me when I hear you express your concern about the horrendous discrimination by law enforcement officers where during an election time or campaign time they go out and bust 50 people. It is as if they are the criminals or as if they are part of the crime syndrome. And I really was quite disappointed in that statement. We don't hear about the millions of dollars being made by organized crime that are leading our young people down the path in many areas of the path we would not like them to take. And I just don't think we are being absolutely, totally fair with the American people.

And this is not a question; this is a sermon which you have given and you have heard.

Senator JAVITS. I am going to ask for 5 minutes, too. [Laughter.]

Mr. BEARD. You are probably going to need more than 5 minutes.

But I just think we are playing games with the American people. As I look here at the U.N.—have you read the U.N. report by the medical team, by the U.N.—that came out and stated without question there were serious health problems or potential health problems?

Senator JAVITS. I must have read it at the time. I haven't a fresh recollection of it at this time.

Mr. BEARD. No one mentioned that yesterday until we mentioned it. The fact that they came out with a unanimous resolution against the decriminalization of marihuana—the U.N. did—I haven't heard that mentioned.

Mr. KOCH. Mr. Beard, do you normally support the U.N.? [Laughter.]

Mr. BEARD. I will put it this way. I support Israel a lot more than I do the U.N.

Mr. KOCH. I commend you for that.

Mr. BEARD. Thank you.

Mr. BURKE. And I might say, prior to the Israel problem, Mr. Koch, you always supported the United Nations, too.

Mr. KOCH. I have supported them when they are right and I've attacked them unmercifully when they are wrong.

Mr. BURKE. Well, that's the same thing Mr. Beard does.

Mr. RANGEL. I would like to inform those that are here that you can demonstrate your feelings within yourself, but it is against the rules of the House to display publicly.

Mr. BEARD. Are you talking to the questioners or to the audience? [Laughter.]

Mr. RANGEL. I assume you wanted a response from the Senator, Mr. Beard.

Mr. BEARD. Yes, I would love to hear what he has to say.

Senator JAVITS. Well, I think we have stated our arguments respecting this measure. For us, in this country, I don't think it involves general questions of the U.N. I haven't a fresh recollection of their report. I will gladly refer to it, but I can't answer it or anything else without knowledge of what you are referring to.

But I do want to answer one point, that is, the offensive nature, as you put it in pretty strong words, of my statement respecting busting 50 kids. I think it is most unfair to me, and I reject it unequivocally, that I criticized the police. I am not criticizing the police at all. They are sworn to uphold the law. Their duty is to pull in every kid, if they can find him.

All that I say is that this selective application of the law does them an injustice. It demeans them, because they can't possibly enforce it across the board, and does them an added injustice in taking them off the work of dealing with serious crime, as Congresswoman Burke has said, because they are diverted to this, which certainly does not represent any serious criminal threat to the community compared to burglars and rapists and murderers. That's all I'm saying.

I don't in any way denigrate our police authorities or any such thing, and as a matter of fact, the best answer is the facts. For one Los Angeles police chief you have got who testifies that there are

50 who tell their men to make no such arrests. They can't afford to divert their men for that purpose. Or maybe 100 or maybe 1,000. I mean, we know that's almost the universal practice in State after State. Why? Because we are dealing with an impossible situation, and that is what our job is, to try to design our law so it is realistic.

Mr. BEARD. But the majority of those police chiefs would be against the decriminalization of marihuana.

Senator JAVITS. I don't know whether they would be for it or against it. I only know their acts. Their acts are to tell their cops to forget it.

Mr. RANGEL. The gentleman's time has expired.

Counsel, you had a question?

Mr. NELLIS. Yes; I wanted to add to this colloquy the fact that I have just returned from a meeting of the International Association of the Chiefs of Police in Phoenix. They represent 10,000 high-ranking police officers and they unanimously voted to oppose decriminalization of marihuana laws.

Why is it, do you suppose, that the police, for whom this would be an act of benefaction, I assume, since they would not have to go chasing cigarette smokers—why are they so uniformly, so constantly, and so openly opposed to decriminalization?

Mr. KOCH. I have sort of a counterquestion. Do you know of a single occasion when police chiefs have voted to decriminalize anything? [Laughter.]

Mr. NELLIS. Well, I'm not so sure whether they have or not. But it is a paradox to me that when you offer the police an opportunity to reduce their workload, they vote against it. Now, why is that?

Mrs. BURKE. May I comment on that?

Mr. NELLIS. Surely.

Mrs. BURKE. I think it is twofold. For one thing, I believe that many law enforcement officers see this as a tool for attaching another crime, and those of you who have practiced law know that often, when there was a desire to perhaps investigate a suspect, the easiest thing to do would be to arrest that suspect on suspicion of a marihuana possession so that there could then be additional investigation.

But this has been used in many instances, I think, by law enforcement officers selectively, and there is no question—I did not know there was even an issue within this country that most police officers do not have large numbers of their personnel out rounding up people for marihuana possession, because you find television showing large gatherings of thousands of people where they show them smoking marihuana, and you don't see the police come in there, even at that time, to arrest them. So that I thought that this was understood, that police departments use this selectively. But in my opinion it is used often as a technique in apprehending criminals.

Mr. NELLIS. It is that because traditionally marihuana possession has been associated with the drug subculture, and you find many times that other drugs were involved. It isn't that you're just picking up people who are smoking pot. These people sometimes are involved in the use of harder drugs—hashish, mescaline, even heroin.

Mrs. BURKE. Well, I think there was a time perhaps when this was true.

Mr. NELLIS. You don't think that exists now?

Mrs. BURKE. I think the statistics in terms of marihuana possession, small—now, I'm not talking about large quantities of marihuana, because certainly—again, let me say this. I support the continuation of laws that would enforce—that would prohibit sale and possession of large amounts of marihuana. But we are talking about the less-than-1-ounce possession situation, and I do believe there may have been a time, historically, when this was true, that a 1-ounce possessor might be involved in the drug culture. Today, with 35 million people saying that they have at one time possessed 1 ounce, I don't think that you could say that that 35 million people are part of a drug culture.

Mr. NELLIS. Yet DEA statistics show that there is a considerable crossover in the use of marihuana to other drugs.

Mr. KOCH. Can I just give one statistic. The largest figure ever given for drug addicts, heroin drug addicts in this country—and people think that it is larger than the actual number—is half a million, 500,000.

Mr. NELLIS. This committee has said 800,000.

Mr. KOCH. Then I will take 800,000 as the largest figure, and if this committee said it, it must be true. But taking 800,000 as the largest figure and contrasting that with 35 million people who have used marihuana, wouldn't you come to the conclusion that if the crossover is there, it certainly doesn't indicate that it is 1 for 1.

Mr. NELLIS. You are making a persuasive point.

Mr. RANGEL. Senator Javits.

Senator JAVITS. Mr. Chairman, I have to ask the indulgence of the committee. Other things have now caught up with me. I would like to take another 5 minutes. I don't want to cut anybody off who might want to question me, but I would like unanimous consent to introduce into the record a series of statements by various authorities, including Dr. DuPont, as to the medical findings respecting the use of marihuana including the Commission upon which I served.

Mr. RANGEL. Without objection, Senator Javits.

[The information referred to follows:]

PREPARED STATEMENT OF ROBERT L. DUPONT, M.D., DIRECTOR,  
NATIONAL INSTITUTE ON DRUG ABUSE

MARIHUANA: OUR NEXT STEP

When you consider the fact that marihuana has been in use for 5,000 years, "the next step," as I have titled my talk today, sounds grandiose.

The plant, a weed actually, has a fascinating history. It has been used as fiber, food, and medicine. A botanist over 400 years ago noted that it will "kill every kind of vermin" and that it remedies horses with colic and gouty swellings. Hemp porridge was eaten in the monasteries in the Middle Ages. In Russia, where cultivation has been traced to the 7th century B.C., marihuana seeds were thrown on hot stones and inhaled to alleviate toothaches.

While these facts are interesting and the medical application of this plant is being explored actively in light of today's needs, it is a fact that marihuana is used in this country as an intoxicant, not as fiber, food, or medicine. Thirty-six million Americans have used marihuana and over 15 million are current users.

My theme is simple: Decriminalization of marihuana possession makes sense on economic and humanitarian grounds. The widespread assumption that it is a short step from decriminalization to legalization of marihuana is, in my judgment, neither inevitable nor wise. Many have assumed from past statements that I favor legalization and that I have supported decriminalization only as an expedient first step to that end. The facts are otherwise, which I hope to make clear this afternoon. As a Nation we are now in midstride



moving toward decriminalization of marihuana possession. What should be our next step? I am suggesting today that legalization should not be the next step. Rather the next step should be a thorough overhaul of our national policy toward tobacco and alcohol.

Several times during the last few years, I've found my name in print. Most of what's been written does not merit repeating, but I came across an article a few days ago which I'd like to share with you. It was in the Highwitness News section of the February High Times magazine. It ran next to a quarter-page advertisement for Baby Wood Rose Marihuana seeds straight from Lawrence, Kansas. The headline read, "Boo Bureaucrat Rises Higher." There under a UPI picture of me smiling gaily ran the following words:

"For people who use marijuana in moderate doses, in a safe setting and in a reasonable fashion, there is no evidence of harmful health consequences," reported the director of the National Institute on Drug Abuse in 1975. Often quoted but rarely seen Dr. DuPont has had his now famous report on marijuana relegated to basement files by officials of the Drug Enforcement Administration. But with Carter at the reins in Washington, DuPont's role as advisor on the legal control of substances should be enhanced."

That may be my last appearance in so favorable a light in that magazine!

Today I speak for myself. I am not announcing a new national policy. I will, however, address some of the most significant problems in the drug abuse prevention field: What should we do about the reality of marijuana as a mass consumption drug?

Marihuana law reform has been on the Nation's political agenda for a decade now. For the last 4 of those years, I have been part of the Federal Government's drug abuse bureaucracy, serving under the leadership of three Presidents.

During this time we have learned much about the effects of marihuana and the patterns of its use in the United States. The National Institute has itself spent about \$20 million for marihuana research during this period. The Federal Government has attempted to share the new knowledge with the interested public. In fact, the Secretary of HEW will soon release the Department's sixth annual Marihuana and Health Report.

In 1972 when the National Commission on Marihuana and Drug Abuse recommended decriminalization, the public was startled by the proposals for reform. In the past few years, I am convinced that we have gone a long way toward clearing away the accumulated debris of misinformation which had confused and distorted public attitudes about marihuana for 40 years.

As public fears have abated, the case for reform has become clearer and more widely acknowledged. Two years ago, I pointed out in a speech before the annual conference of the National Organization for the Reform of Marihuana Laws that I thought a consensus had already emerged in favor of discouraging marihuana use without criminalizing the user. I endorsed the view that the benefits of discouragement could be achieved at considerably lower social costs than those exacted by criminal sanctions against marihuana possession. At that time, only Oregon had actually enacted an alternative scheme, and I emphasized the need to watch the Oregon experiment. I asked:

"Will the use of marihuana increase? In what age groups? Will the experimentation of other drugs increase? Will the new violation statute be enforced? How? At what costs? Will the criminal justice system be relieved of a significant enforcement burden? Will there be a discernible reduction in the human costs of a criminal sanction against pot? Will the public continue to support the new policy? What about the criminal justice system's support? Will other States follow the Oregon lead? With what modifications?"

Since my NORML address, seven other States have enacted equivalents of the Oregon "civil fine" scheme. President Carter has specifically endorsed this approach. The National Governors' Conference has sponsored a comprehensive study of these recent marihuana law revisions. Their report, which will be released in the next few weeks, will address some of the questions raised in my NORML speech. My impression is that changes in the rates of marihuana consumption in these eight States have not differed from the pattern of the other 42 States. On the other hand, this new approach has minimized the injustices of the previous use of criminal sanctions and has conserved valuable criminal justice resources in a way which has received widespread public support.

I am gratified by these developments. But I continue to be impatient about the reluctance of Congress and most State legislatures to adopt similar reforms. The latest FBI Uniform Crime Statistics indicate that about half a million

persons were arrested by State and local police for marihuana possession offenses in 1975. This is more than twice the number of arrests reported in 1971, the year before the National Commission urged decriminalization.

At the Federal level, the Drug Enforcement Administration concentrates on large-scale smuggling and trafficking. DEA does not make criminal cases for simple possession. Some have argued that there is, accordingly, no reason to repeal the Federal offense. I do not agree. The history of drug legislation in this country since passage of the Harrison Act in 1914 demonstrates clearly that the States model their statutes and penalty provisions after the Federal law. This also was true with the Marihuana Tax Act in 1937, the Boggs Act in 1951, the Narcotics Control Act in 1956, the Drug Abuse Control Amendments in 1965, and, more importantly, with the Controlled Substances Act in 1970. While it is true that the decriminalization issue is now primarily an issue for State action, and while it is important for us to learn from and even encourage diversity in the States' approaches to the marihuana possession offense, nevertheless it is my opinion that Congress should enact decriminalization of marihuana possession at the Federal level.

Let me make clear why I think the case for decriminalization now is so clear. First, it is not a health issue. Instead, the relevant question is the wisdom of using the criminal sanction as a means of discouraging consumption, when considerably less costly avenues of discouragement are available. Second, decriminalization of the user is designed primarily to correct the mistakes of the past—to adjust our social policy to contemporary knowledge about the effects of the drug and to current social realities regarding its use. Third, decriminalization is not an irreversible reform; if research should uncover some unforeseen dread effect of use, and if the removal of criminal sanctions results in significant increases in consumption and therefore in the public health risk, there will be time enough to readjust our laws.

Thus it seems to me that the basic principle is clear; the role of the legal system should be readjusted so that persons who have chosen to use marihuana, despite our sincere effort to discourage it and despite the efforts of law enforcement officials to restrict availability, are not unnecessarily punished for this choice. I realize that there are many subsidiary questions regarding the drafting of a decriminalization scheme. Many of these questions are technical but there are two issues I do want to address.

Thus far the trend has been to decriminalize possession of small amounts (usually one ounce) and sometimes "casual" accommodation transfers between users. No State has decriminalized cultivation in the home for personal use—leaving the anomalous situation that this consumption-related behavior is, in most States, still a felony.

Personal cultivation in the home can be considered the functional equivalent of private use. Home-grown marihuana will generally be less potent than much imported supply. Also, persons who draw on their own supply will no longer be in constant contact with dealers who may offer other illicit items for sale. Also, it is unlikely that decriminalization of personal cultivation of small amounts will result in substantially increased use above and beyond any increases attributable to decriminalization of possession alone. For these reasons, it makes sense to me to reduce the penalty for cultivation of small amounts in the home to a civil fine, or at most, a misdemeanor punishable only by a fine.

This is the one part of my speech today which is most likely to be misunderstood. My arguments are rooted in two principles; (1) marihuana use should be discouraged, and (2) the techniques used to discourage its use should themselves do as little harm as possible. Thus, the criminal law should be used sparingly and individual choice should be maximized. It does not make sense in the light of these principles that the individual who grows a few marihuana plants in his backyard should be penalized as a major trafficker by using felony penalties. On the other hand, I am aware that lines must be drawn and that at the margins these lines must be arbitrary. Large-scale cultivation like large-scale trafficking in marihuana is a serious crime and merits tough criminal sanctions. I am not arguing for home cultivation of marihuana, but I am saying that prison does not seem the appropriate response to the growth of a few plants. A civil fine makes the point that this is prohibited behavior.

The second issue which warrants some comment is the crucial distinction between public and private use. Using marihuana in public—or in places of public accommodation—is no more implicit in the concept of personal liberty than a similar use of alcohol or tobacco. A meaningful discouragement policy

would be undermined if such behavior were to go unsanctioned. What is more important, social and legal sanctions for driving under the influence of any psychoactive substance, including marihuana and alcohol, are imperative.

In the remainder of my remarks I want to turn my attention to long-term changes in marihuana policy, but before doing so, I should address one other frequently mentioned proposal of some immediate consequences—the notion that marihuana should be rescheduled under Federal law. The proponents of this change argue that, in light of its effects, marihuana should not be placed in the same schedule as heroin and LSD. In order to make sense of this argument, we have to untangle two separate issues which are often confused. The first is the classification of marihuana for regulatory purposes, and the second is its classification for penalty purposes.

As far as its scheduling for regulatory purposes is concerned, the key question is whether marihuana has an accepted medical use in the United States. If not, the basic structure of the Controlled Substances Act appropriately requires that its availability be limited only to research needs, and therefore, that it be classified in Schedule I together with other drugs which have no accepted medical use in the United States. Thus, the real question here is whether marihuana should be available for the treatment of glaucoma, asthma, the nausea and vomiting associated with anticancer chemotherapy and other illnesses. The National Institute on Drug Abuse is now funding investigations which will settle this question on appropriately scientific grounds over the next several years.

The remaining issue is how marihuana should be classified for penalty purposes. Under the Controlled Substances Act simple possession of any illicit substance is a misdemeanor. This penalty is not tied to the schedules at all.

For trafficking offenses, the penalties for "producing" or distributing the drug outside legitimate channels are tied to the schedules. However, a distinction is drawn between the narcotic and non-narcotic substance in Schedules I and II, with the penalties being lower for non-narcotic trafficking offenses. On the other hand, the penalties for marihuana trafficking offenses are now somewhat higher than those for trafficking in the substances which appear in Schedules III, IV, and V.

It may make sense to reduce the penalties for marihuana trafficking. But, in my view, the answer is not to reschedule marihuana. In any event, I strongly support continued tough law enforcement against major marihuana trafficking, and the newer crop eradication programs.

The real question no longer is "Should we decriminalize possession?" but rather: "After decriminalization, then what?"

Many supporters of decriminalization presume that this reform is merely a temporary way station to more substantial change in the legal approach to marihuana. At the same time, I suspect that some who are uneasy about decriminalization are resisting it precisely because they view it as merely a first step toward the ultimate "legalization" of the drug.

Let me state here in no uncertain terms that I do not view decriminalization, which I endorse, as merely a stepping-stone to the ultimate legal distribution of marihuana; nor did I view what the Marihuana Commission called "partial prohibition" and what others have called "the vice model" as being illogical. To the contrary, I believe decriminalization is the most sensible approach for at least the next decade.

The primary reason I oppose the move toward legalization of marihuana is our current experience with legalizing other psychotropic substances.

Alcohol is legitimately available in the United States, its distribution being regulated in varying ways in each of the 50 States. Recent data indicate that 32 percent of American teenagers and 59 percent of adults consider themselves to be current alcohol users. In addition, 4 percent of those aged 18 to 25 and 8 percent of Americans over the age of 26 drink alcohol every day. The National Institute on Alcohol Abuse and Alcoholism estimates that there are over nine million alcohol-abusing men and women in the country today. Each year we count more than 25,000 alcohol-related traffic fatalities, 15,000 alcohol-related homicides and suicides, 200,000 deaths from alcohol-related disease, 20,000 fatalities due to alcohol-related accidents on the job and in the home. The police record two million arrests each year for public drunkenness. One out of every ten members of the Nation's work force is a serious alcoholic abuser. Alcohol abuse not only brings suffering to individual's and families and wastes vast human potential—it also exerts a heavy financial drain on the country's health and welfare resources, a drain recently estimated at some \$25 billion a year.

Consider also the fact that 53 million Americans smoke tobacco; and, while the number of teenage smokers is no longer increasing at the rate it was several years ago, there are still some six million teenaged smokers. The American Cancer Society estimates the cost of tobacco smoking is now \$17 billion each year. Cigarette smoking is responsible for nearly 70,000 cancer deaths a year, practically one in every five deaths from cancer in America. Coronary artery disease, emphysema, bronchitis and many other diseases are strongly related to the use of tobacco. Women who smoke during pregnancy have a higher than average rate of newborn deaths and stillbirths.

I needn't belabor the obvious. This Nation's experience with the consumption of psychoactive substances which are now legitimately available for "non-medical" uses should raise a red flag when we assess the consequences of a legalized regulatory approach to the availability of marihuana.

What are the arguments for legalization of marihuana? One argument can be called "consumerism." The consumers of marihuana, like other American consumers, are entitled to quality control. Legal access and Government regulation are essential for that to happen. A second argument for legalization of marihuana is that the current approach of "almost" legal use but totally illegal supply creates a vast profit for criminals. Legalization would bring the profits from this drug business out into the open. It would also remove one of the major sources of funds for organized crime.

This is not the place to pursue these arguments fully. But let me address them briefly. The first argument is based on the rejection of the current prohibition policy. If prohibition is rejected, this argument stands.

The second argument for legalization—the mafia fuel argument—needs to be tempered by our recent experience with legalized gambling. Such arguments have been presented in that area as well as in the areas of prostitution and drug use. It is my understanding that legal gambling has succeeded in bringing in revenue to the governments which supported it (although not as much as anticipated), but that legal gambling has not eliminated, or perhaps even reduced, illegal gambling. In fact, it appears that a whole new group of gamblers use the legal gambling system. Thus, while legal gambling brings in government revenue, it has not eliminated criminal revenue from illegal gambling.

A third problem with decriminalization is that the user is in a legal limbo which forces him into regular contact with criminals. Like the other arguments for legalized marihuana, it has merit, but in my opinion, it does not produce costs which outweigh the benefits of discouragement of a decriminalized prohibition policy.

Unlike decriminalization of the user, repeal of prohibitory approaches toward the availability of marihuana is not an urgently needed reform. Unlike decriminalization, legalization probably would be an irreversible step, as our experience with alcohol in the early decades of this century demonstrated. Once marihuana were legitimately available through a regulatory scheme, it would be virtually impossible to reenact prohibition. Pandora's box has been opened only a crack in the last decade. While we will never be able to close the lid as tightly as it had been closed before 1965, I think it behooves us not to open it all the way too hastily when we know full well that we will not be able to close it again.

Unlike decriminalization, forging a legalized regulatory approach to marihuana is not a question amenable to easy resolution; indeed, we have hardly begun to ask the right questions, much less formulate a consensus about the right answers.

Unlike decriminalization, this is a public health issue. And, as a public health official, I am concerned about the adverse social consequences of the rise in marihuana consumption which would surely result if availability were substantially increased.

I want to highlight the fact that I am shifting perspective here. I pointed out earlier that decriminalization is essentially a backward-looking reform. It is designed to ameliorate the clearly documented harms which have attended a repressive use of the criminal sanction against the marihuana user. But the legalization controversy requires us to look ahead to the future, not to the past, and to speculate about the likely effects of substantial changes in the conditions under which the drug is available. It is in this connection that a traditional public health perspective becomes imperative.

Mere speculation about a public health cost, such as has been documented for alcohol and tobacco does not make the case for prohibition and against all legalized regulatory approach to marihuana. What makes the marihuana

issue difficult is that the individual marihuana user claims that he benefits by using the intoxicant and wishes to be permitted to make his own choice. I cannot resolve the underlying dilemma. But I can call attention to the relevance of the aggregate public health concerns, the value on the other side of the equation which must be weighed against the society's general preference for individual choice.

What are the possible consequences of substantially increased availability of marihuana? Under any regulatory approach, no matter how restrictive, I would expect a significant rise in consumption, in terms of both the aggregate amount consumed and the number of persons who are regular users.

Even under currently restrictive policies, there are many youth populations where marihuana use equals or exceeds the use of tobacco and alcohol. For example, among last year's high school graduating class, 8 percent reported daily marihuana use while "only" 6 percent reported daily alcohol use. In San Mateo County, California, last year 57 percent of the 9th through 12th grades reported use of tobacco during the preceding year and 55 percent reported the use of marihuana during the same period of time. Thus it is not unreasonable to assume that if marihuana were treated as we now treat alcohol and tobacco, the current marihuana-using population in the United States could increase to the size of the tobacco-using (67 million) or even the alcohol-using population (94 million).

In one of the most worrisome trends among the current-using population, the proportion of marihuana users who use the drug daily has continued to increase and is somewhere between 10 and 20 percent of the regular users. Thus, if under a regulatory scheme the using population approximates 50 million, the daily-using population could fall somewhere between 5 million and 10 million Americans.

One unanswered—and perhaps unanswerable—question which is posed here is whether the population of daily users would be in addition to or substituted for the population of daily alcohol and tobacco users. Our current estimate is that many of the regular cigarette smokers and regular alcohol drinkers would also become regular marihuana users. In addition, a substantial number of people who are neither daily alcohol drinkers nor daily cigarette smokers would become daily marihuana users.

In the youth population, which now reports, high rates of marihuana use, it is already clear that there has been no reduction in the number of regular smokers or regular drinkers in the last ten years. Thus, on the basis of our current knowledge, it is clear that a rise in the daily use of marihuana would almost certainly not reduce our problems with alcohol and tobacco.

I noted above that we have learned a lot about marihuana in recent years. But I now want to emphasize what we still do not know about the effects of chronic marihuana use—especially daily use—in American populations. All of the unanswered questions about the possible adverse effect of marihuana on the body's immune response, basic cell metabolism, and other areas of functioning become vital here. So too do the continuing concerns about the impact of the use of the drug on reproductive functions.

To this I should add several additional concerns. First, the data now indicate that some users are showing a preference for more potent preparations. I would presume that under any regulatory scheme varying degrees of potency would be available; even if this is not true, I think we can assume that an illegal market in hashish or more potent preparations of marihuana will develop to supplement any legitimate available drug which is of low potency. I would speculate that the risks to individual health and functioning will increase directly with the potency of the substance consumed.

A second concern relates to the types of persons who become users. From a public health standpoint, we may be fortunate that marihuana users are now concentrated among young adults, persons who are generally healthy. The current data continually show that there is a precipitous drop in the rate of marihuana use in the over-30 generation, even among those who had tried in their younger years. Undoubtedly, use would be distributed more evenly throughout the population under a legalized regulatory supply system, and the user population would include more individuals with already impaired physical or psychological functioning for whom use, and particularly regular use, may have considerably different implications than does occasional use by those in fairly good health. The evidence on cardiac patients which has been cited in the literature for several years now is but one example. Many patients with inadequate coronary arteries experience chest pains when they use marihuana. Similarly, the implications for use of marihuana by

persons having greater problems with coping or less skills for doing so may be quite different from those of the more competent, advantaged students who predominate in current-using populations.

Any legalized regulatory model also has the inevitable effect of increasing availability and consumption among young populations. Although the rate of teenage consumption even under our current prohibitory model is already high (12 percent of the 12- to 17-age group indicated current use of marihuana in our last national survey), this rate of use would be increased if the drug were legitimately available to their elders. Despite prohibitions against distribution of alcohol to teenagers, some 31 percent of the teenage population uses alcohol regularly. Similarly, some 23 percent of the teenage population are current smokers and 4 percent smoke a pack or more of cigarettes per day despite prohibitions against distribution to minors. We can assume that under a regulatory approach, the proportion of teenagers who use marihuana at all would be in the range of 20 to 30 percent, and the proportion who use the drug every day would constitute at least 20 percent of the regular users. With this in mind, I think we should be exceedingly careful—we still know very little about the long-term consequences of marihuana use when it is used by adolescents during critical stages of their development of intellectual and psychosocial skills.

Finally, let me add a note about the possible implications of increased marihuana consumption from the public safety standpoint. Research has shown that the acute effects of marihuana intoxication do impair both driving skills and the kinds of psychomotor functioning which are required in many occupations. Experience shows that a significant proportion of alcohol users drink irresponsibly under circumstances which put themselves and others at risk. I assume that similar behavioral patterns have already emerged among marihuana users. This problem would only be accentuated if the drug were more widely consumed, especially by teenagers and young adults.

The preliminary data on marihuana and driving is particularly disturbing. A recent study of 300 drivers responsible for fatal accidents in Boston showed that 39 percent were intoxicated on alcohol and 16 percent were under the influence of marihuana at the time of the fatal crash. We now urgently need a practical roadside test of marihuana intoxication and some sound national studies of this problem.

It is often assumed that the search for a rational policy toward marihuana use is exclusively an American problem. Over the last several years, I've learned differently. Many nations are exploring this issue and at least four have recently changed their laws to decriminalize the possession of marihuana: Italy, Switzerland, the Netherlands, and Colombia. I know of no reports from these nations about their initial experiences with these new approaches. A review of these experiences would be appropriately carried out by the United Nations Commission on Narcotic Drugs.

Most of the nations in the world are now looking to the United States for our research into the health consequences of marihuana use. Our Federal investment of about \$5 million each year is vital for all the world. Just as other nations can learn from us, it is important for us to learn from them. Many States in the United States and many other nations are now approaching marihuana use in different ways. We must learn from these differing approaches. It's clear to me now that no one has yet found a satisfactory approach.

I've been responding thus far to the importance of tailoring regulatory systems to our objectives of discouraging marihuana use. By doing so, however, I do not mean to overemphasize legal considerations. Equally important are the other social and psychological—and maybe biological—factors which influence drug-using behavior.

In the coming year, I expect the National Institute on Drug Abuse to continue its research into the health effects of marihuana use, targeting more specifically on those areas of greatest concern such as the areas of endocrine functioning, the immune mechanism, bronchitis, and possible cancer of the lung, and problems of daily use, particularly among the very young. In addition, we will move aggressively in the areas of driving safety and marihuana use. We will continue our investigations into the possible medical uses of marihuana and/or its constituents. We will also ask the National Academy of Sciences to look with us into the interrelationship of all drug-using behavior in our search for common pathways to dependence and to quitting drug use, and to help us evaluate alternative noncriminal approaches to discouraging destructive drug use.

A few minutes ago I tried to anchor my discussion of the legalization issue in a broader context—I specifically called attention to the adverse public health consequences of widespread tobacco and alcohol consumption. In so doing, I have tried to raise doubts about the wisdom of advocating the "alcohol model" or the "tobacco model" for the distribution of marihuana. One of the most important by-products of the debate amount marihuana has been to highlight the failures of our present approach to alcohol and tobacco.

In the search for noncriminal approaches to reducing the cost of drug use, our Government has much to learn from the private sector. I was greatly impressed by the new antismoking campaign of the American Cancer Society. They recently published Task Force on Tobacco and Cancer and the plan they announced 2 days ago for a commission of Nobel laureates, doctors, and researchers to hold public hearings in eight cities are important milestones in the search for more effective national policies toward drug use.

We are not alone in our search for new approaches to reducing the high cost of drug use. Sweden recently announced the national goal that no Swede born after 1975 will smoke cigarettes. They are adopting a broad range of responses. Their regulatory responses include raising the price of cigarettes and limiting the places where cigarettes may be smoked and sold and limiting the ages of persons who may buy cigarettes. Other approaches are voluntary. These include treatment for those dependent on cigarettes and a major health education campaign.

In this connection, I might point out that our colleagues in Canada and the United Kingdom have launched vigorous programs to discourage dangerous lifestyles. Similarly, the Institute's parent agency, ADAMHA, recently sponsored a multi-nation conference on prevention in the mental health/alcohol/drug abuse field which focussed on the many difficult questions attendant to "preventive" public health policies. The longer I have been in this field the more I have realized how little we know about prevention. Of one thing I am sure, however, pending a serious study of the questions that I have raised here today, the retention of the current prohibitory approach toward the availability of marihuana is a prudent public health policy.

Perhaps in the years ahead, it will become clear that prohibition of marihuana is no longer a realistic alternative. Certainly that was the case for alcohol in 1933. But I hope that if prohibition proves infeasible or incompatible with important social values, we will have learned enough in the interim about the consequences of marihuana use and the efficacy of various noncriminal approaches that we can avoid the heavy social price exacted by alcohol and tobacco consumption in 1977.

Today I have tied further moves toward legalization of marihuana use to the reform of our approach to tobacco and alcohol use for several reasons. First, it is essential that the marihuana issue be seen as part of a larger human problem of the use of psychoactive substances—and in this regard the big issues for us all are the use of tobacco and alcohol. Second, it seems likely that over the next decade we can make real progress in dealing with alcohol and tobacco as we search for regulatory and other techniques to limit the devastating effects of these drugs on our lives. Finally, such an approach moves the marihuana issue from a problem of "them" to a problem of "us" for almost all Americans. Surely we cannot continue to see the drug use of youth in isolation from the drug use of all the rest of us!

In these remarks I have entered a strong endorsement for the reform that goes by the name of decriminalization—withdrawing the criminal sanction from the user of marihuana—and at the same time expressed my reservations about substituting a regulatory or "legalized" approach toward distribution of marihuana in the immediate future.

I may be accused of being inconsistent. The National Commission was so indicted when it recommended a similar stance in 1972. But I am convinced that my position is congruent with my obligations to promote the health and welfare of the American people.

We have a lot to learn both about the effects of chronic marihuana use and about implementing regulatory and voluntary ways to promote the public health and welfare. To me, it makes no sense to use marihuana as our test case for legalized regulatory reform. Instead we should first launch serious efforts to reform the existing alcohol and tobacco systems, a task which will take at least a decade. Hopefully, we will learn about the techniques which most effectively discourage costly patterns of consumption while retaining meaningful opportunities for individual choice.

In short, I am advocating a more mature policy toward alcohol and tobacco use as our "next step"; if we succeed, regulatory approaches to the distribution of marihuana will merit our most serious consideration.

# II

## **marihuana use and its effects**

"Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence."

—John Adams (1770)

The ultimate objective of the Commission is to evaluate the total impact of actual and potential marihuana use on contemporary American society. This endeavor involves three phases: first, an evaluation of the nature and scope of contemporary American marihuana use; second, a careful reevaluation of the pharmacological effects of the drug on the human body with special emphasis on the drug's capacity to alter or modify behavior; and third, an evaluation of the impact of marihuana use on society. This chapter deals with the first and second phases, and Chapter Three deals with the third.

### **The Marihuana User**

Cannabis has been used widely for many centuries in nonindustrialized countries of Asia and Africa. Today, as in earlier years, use of the drug is concentrated primarily among lower socioeconomic groups. In these countries, the practice is estimated to be confined to a tenth of the lower socioeconomic, male population. Although such use of the



drug is well-established, it offers little direct comparison with the American experience.

Although the commercial, industrial and therapeutic value of the hemp plant was widely recognized and exploited in the United States from the earliest days of its history, knowledge and use of its intoxicating and psychoactive properties remained largely unknown until about 1900.

At that time, the custom of smoking marihuana was generally limited to groups of Mexican itinerant workers in the border states of the Southwest. By 1910, marihuana use began to emerge in other southern states and cities, particularly New Orleans, and in the port cities along the Mississippi River. In time, these cities became distribution centers for enterprising sailors. From there, marihuana use spread cross-country to other urban centers, mining camps, railroad construction sites, farm labor camps, "bohemian" communities of artists and jazz musicians, and various other groups outside the mainstream of American society.

Recently, of course, use of the drug has spread to young, white, middle class groups and especially to high school and college populations.

### DEMOGRAPHIC CHARACTERISTICS

On the basis of the Commission-sponsored National Survey, we have concluded that contemporary marihuana use is pervasive, involving all segments of the U.S. population. The Survey estimated that about 24 million Americans over the age of 11 years (15% of the adults 18 and over, and 14% of the 12-17 year olds) have used marihuana at least once, referred to in this Report as ever-users. Until recently twice as many males as females had used it; the most up-to-date studies of high school students, college-age individuals, and young adults carried out by the Commission indicate that this sex differential appears to be diminishing. In many youthful populations use is almost equally distributed between males and females.

Marihuana use does not appear to vary significantly by race. With respect to the religious affiliation of the users, Jews and Catholics appear to be slightly overrepresented as compared to Protestants.

Usage is highest in cities, towns, and suburbs but not uncommon in rural areas. States in the Northeast and West have considerably higher rates of use than have the North Central states, which in turn have significantly higher rates than those in the South.

Use is found in all socioeconomic groups and occupations, though slightly more predominant among persons with above-average incomes. A New York survey of the state's general population indicated that ever-use as well as regular use is almost equally prevalent among

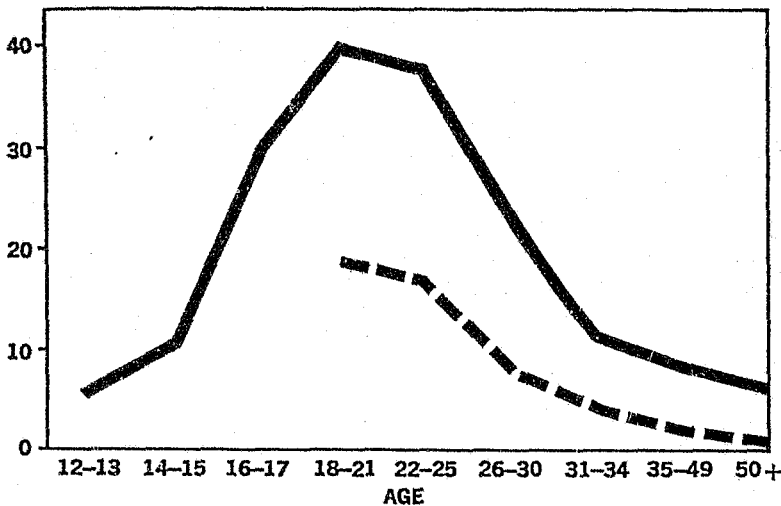
sales workers, clerical workers, skilled, semiskilled and unskilled workers, managers, owners, professionals and technical workers.

At the same time, the incidence of use seems to vary according to educational attainment. Among all adults not now in school, 5% of those with an eighth grade education or less have used the drug, contrasted with 11% of those who completed some high school, 14% of those who graduated from high school, 25% of those who completed some college and 21% of those who graduated from college.

Age is presently one of the most significant correlates of marihuana use. Among the total population, those who have tried or used marihuana at least once, termed ever-users, are heavily concentrated in the 16-25 age bracket. Of *all* the ever-users, about half are in this group. At the same time, however, we should emphasize that use is by no means confined to teenagers and young adults.

The proportion of individuals in different age groups who have used marihuana is indicated in Figure 1.

Figure 1. MARIHUANA EXPERIENCE BY AGE  
Percent who have ever used marihuana (solid line)  
and of adults who use it now (dotted line)



The incidence of use is greatest among young people: 27% of the 16-17 year olds, 40% of the 18-21 year olds, and 38% of the 22-25 year olds have tried marihuana; at the low extremes, 6% of the 12-13 year olds and 6% of the over-50 generation have used the drug.

Among those now in school, incidence also seems to rise with increasing school level: Ever-users represent 44% of those persons now in college or graduate school; 30% of high school juniors and seniors; 17% of freshmen and sophomores; and 8% of students in junior high school.

At the same time, the use of the drug among adults is by no means confined to college students. Even among the 18-25 year olds, 75% of the ever-users are not now in school.

The initial patterns of contemporary marihuana use appear to be shifting; there is a trend toward increased use among college students as well as non-college students. Non-student users now span social class, income level and occupational classification. In addition, the proportion of users increases during the teens, peaks during the young adult years and then falls off rapidly (Figure 1).

Having described the incidence of *any use* of marihuana *ever*, and demographic characteristics of the 24 million Americans who have tried the drug, we recognize the need to place this information into perspective. The policymaker must also be concerned with the patterns of use: frequency, amount consumed at each smoking, and duration of use.

### PATTERNS OF USE

The most striking of the use patterns revealed in the National Survey is that 41% of the adults and 45% of the youth who have ever used marihuana reported that they no longer use the drug. Twenty-nine percent of the adults and 43% of the youth reported that they are still using marihuana (see Table 1). When asked why they had terminated use, the overwhelming majority of adults (61%) specified, among other reasons, that they had simply lost interest in the drug.

Table 1.—EXPERIENCE WITH MARIHUANA

Frequency	Percent of ever-users		Designation
	Adults (18 and over)	Youth (12-17)	
Have used marihuana but no longer use.	41	45	} Experimenters.
Once a month or less.....	9	15	
2-3 times per month .....	8	10	} Intermittent users.
Once per week.....	4	9	
Several times per week.....	5	4	} Moderate users.
Once daily.....	1	1	
More than once daily.....	2	4	} Heavy users.
No answer.....	30	12	

These data indicate that at least 41% of the adults and 45% of the youth have used marihuana but have discontinued use; 9% of the adults and 15% of the youth use the drug sporadically, once a month

or less. These persons can be characterized as experimental marihuana users.\*

To ensure an understanding of this section of the Report, some definitions are required at this juncture. In this Report, the Commission employs the following designations:

#### *Frequency of Use*

Experimental—At least one trial to once a month or less.

Intermittent—Two to 10 times monthly.

Moderate—11 times monthly to once daily.

Heavy—Several times daily.

Very Heavy—Almost constant intoxication with potent preparations; brain rarely drug free.

#### *Duration of Use*

Short Term—Less than two years.

Long Term—Two to 10 years.

Very Long Term—Over 10 years.

Twelve percent of the adults and 19% of the youth who have ever used marihuana can be designated *intermittent* users; they continue to use the drug more than once a month, but less than several times a week, probably on weekends. Six percent of the adults and five per-

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\*All respondents for the National Survey were asked to complete a self-administered questionnaire. This instrument covered many sensitive areas, including a series of items on personal experience with marihuana and other drugs. Given the nature of the questions, the contractor took every precaution to insure that the interviewee responded honestly and that his responses were kept strictly confidential. Even the interviewer who orally administered the rest of the Survey was not permitted to view the written instrument.

One of the inevitable costs of such confidentiality is the risk that a certain percentage of respondents would not complete one or more of the questions. Where a significant number of questions remained unanswered, the questionnaire was not tabulated at all. However, in 30% of the otherwise complete questionnaires, the adult respondents who had ever used the drug did not answer the question, "On the average, about how often do you use marihuana at the present time?"

Concerned about the meaning of this non-response rate, the Commission directed the contractor to conduct a detailed analysis comparing the non-respondents with all respondents and with those individuals who had never used marihuana at all. On the basis of this analysis, we are confident that the overwhelming majority, if not all, of the non-respondents are experimenters.

In the first place, the demographic characteristics of the non-respondents coincide closely with those of the non-users and less frequent users. Very few of the young adults, where more frequent use is concentrated, failed to respond.

Secondly, the non-respondents are disproportionately located in the geographic regions where use was least prevalent and least frequent. For example, 50% of the ever-users in the North Central region failed to respond, compared to 7% in the West. Yet only 5% of the ever-users in the North Central region continue to use the drug more than once a week, compared to 21% in the West; and less than .5% of the ever-users in the North Central region use the drug more than once a day, as compared to 4% in the West.

cent of the youth are moderate users who continue to use marihuana several times a week to once daily.

Finally, 2% of the adults and 4% of the youth who have ever used marihuana are *heavy* users: they use the drug several times daily. A very small fraction of these heavy users may be *very heavy* users, who are intoxicated most of their waking hours and probably use very potent preparations of the drug.

In addition to frequency, duration of use is an important variable in discussing use patterns and especially when considering drug effects. Most users in this country have smoked the drug over a *short term*, that is, less than two years. Others have used the drug over a *long term*, two to 10 years. Very few Americans can be considered *very long term users*, that is, over 10 years.

Another important element of use is the amount of marihuana used on each occasion. Most intermittent and moderate users average about one-half to one cigarette per occasion, usually at night. Most heavy users smoke at least one to two cigarettes an occasion, with a few using as many as five consecutively.

As this brief description of use patterns suggests, marihuana use and the marihuana user do not fall into simple, distinct classifications. Although it is possible to sketch profiles of various marihuana-using populations, no valid stereotype of a marihuana user or non-user can be drawn. The spectrum of individuals who use or have used marihuana varies according to frequency, intensity and duration of use. It is meaningless to talk of "the marihuana user" or "marihuana use" without first clarifying descriptive data.

## PROFILES OF USERS

Several studies by the Commission and many other recent college and high school surveys have elucidated a variety of personality types or categories of marihuana users. These profiles relate primarily to the patterns depicted above and to the meaning of marihuana use for various individuals. Essentially we will describe a continuum with much overlapping among the categories. The reader should understand that group identification is at best a hazardous occupation; the traits described are not exclusive to marihuana users. A much larger number of individuals who have not used the drug can be similarly described.

### Experimental Users

The first and by far the largest group has been designated as "experimenters" because of their extremely infrequent or non-persistent marihuana usage. Experimentation with the drug is motivated primarily by curiosity and a desire to share a social experience. These experi-

menters are characteristically quite conventional and practically indistinguishable from the non-user in terms of life style, activities, social integration, and vocations<sup>1</sup> or academic performance.

Disciplined, optimistic, and self-confident, experimenters appear to be as conventional, responsible, goal-oriented and orderly as non-users.

### **Intermittent Users**

The intermittent users are motivated to use marihuana for reasons similar to those of the experimenters. They use the drug irregularly and infrequently but generally continue to do so because of its socializing and recreational aspects. For the intermittent user, marihuana often contributes to the establishment and solidification of close social relations among users similarly inclined. The individual has a sense of belonging to an intimate group.

Investigations of behavioral aspects of marihuana smoking clearly demonstrate that marihuana smoking is a social activity, believed by intermittent users to enhance the enjoyment of shared activities, especially music, art, films and food.

In a Commission-sponsored study to determine the effects of repeat doses of marihuana, under free access conditions, the subjects smoked almost exclusively in groups. A certain number of these individuals tended to share much of their leisure time in common activities, and marihuana smoking was the focal activity around which other types of social interactions revolved, such as conversation, watching TV, listening to music and playing games. The intermittent users studied exhibited an increased sense of well-being, relaxation, and friendliness during these activities. They were more inclined to seek and emphasize the social rather than personal effects of the drug.

Intermittent marihuana users, like the experimenters, are generally conventional in most respects. They are more liberal politically and socially and they tend to stress education for personal improvement rather than for recognition or high grades. Like many non-users, these individuals are likely to be self-expressive, intellectually and culturally oriented, creative, and flexible. Placing a high value on experimentation and responsible, independent decision-making, they often manifest a desire to search for new experiences, resulting in some behaviors which depart from the norms of the larger society. Often accompanying their search is a sense of uncertainty about the future.

### **Moderate and Heavy Users**

The final groups of marihuana users are the moderate and heavy users. This range is wide and includes individuals who use marihuana more than 10 times a month to several times a day. Practically all of the American research effort to date has focused on the large majority

of individuals who use less often, that is, the experimental and intermittent users. Consequently, not enough is known about characteristics and behavior of the moderate and the heavy users, so it is difficult to distinguish accurately between the two groups. We suspect however that the moderate users share traits with both the intermittent and the heavy users. Having already discussed the intermittent group, we will now turn to the characteristics of the heavy group.

Heavy users seem to need the drug experience more often. Their initial and continued marihuana use is motivated not only by curiosity and an urge to share a social experience but also by a desire for "kicks," "expansion of awareness and understanding," and relief of anxiety or boredom.

Generally, the heavy marihuana user's life style, activities, values and attitudes are unconventional and at variance with those of the larger society. These individuals are more pessimistic, insecure, irresponsible, and non-conforming. They find routine especially distasteful. Their behavior and mood are restless and uneven.

Heavy users place particularly strong emphasis on impulsive response in the interest of pleasure-seeking, immediate gratification, and individual expression. They tend to evidence social and emotional immaturity, are especially indifferent to rules and conventions, and are often resistant to authority. However, several surveys have also revealed that they tend to be curious, socially perceptive, skillful and sensitive to the needs of others, and possess broadly based, although unconventional, interests.

The Boston free-access study permitted the Commission to observe a group of individuals whose life styles, activities, values and attitudes are representative of a segment of the unconventional youthful subculture. The month-long period of controlled study during the fall prevented the participation of individuals who were married, steadily employed, or enrolled in school.

Individuals who smoked marihuana once a week or less were sought by the researchers but were exceedingly unusual among the population available for the study. Consequently, the group studies contrasted with the student and full-time working populations in which weekly marihuana use is more common. For this reason, the intermittent users studied appeared to be similar to, rather than different from, the moderate and heavy users studied. Both groups had used marihuana for an average of five years.

Under the study's confined conditions, participants tended to smoke more marihuana than they did "on the outside." The intermittent users, who by our definition averaged eight times a month under outside conditions, averaged three cigarettes a day during the study. The range was from one-half to six cigarettes daily.

The moderate and heavy users, who "on the outside" averaged 33

times a month, now averaged six-and-a-half cigarettes a day. The range was three-and-a-half to eight cigarettes. In discussing the Boston study, we will call this group "daily" users.

Smoking usually occurred at night, sometimes during the afternoon and only occasionally upon awakening. The intermittent and heavy users usually smoked one cigarette a session. The daily users were more likely to smoke more than one a session. A few individuals in the daily group could have been considered constantly intoxicated on a few occasions during the 21-day period.

The mean age of the subjects studied was 23. Based on IQ testing, they were superior intellectually, although they had completed, on the average, only two-and-a-half years of college. Their job histories were rather erratic, characteristic of a pattern of itinerant living. The intermittent users were from a middle or upper class background, while the daily users generally shared a lower socioeconomic status. Broken homes and instances of alcohol or drug abuse were more common in the family backgrounds of the daily users.

Alcohol was rarely used by the subjects. Use of hallucinogens and amphetamines was significantly more widespread and had begun earlier in the daily user group. In contrast to the intermittent group, the daily users almost uniformly reported that marihuana smoking produced relaxation, noting also increased alteration in perception or psychedelic-like effects. Similarly, they reported an increased sense of well-being, friendliness, carefreeness and decreased hostility. Additionally, the daily users appeared to demonstrate a moderate psychological dependence on the marihuana experience while the intermittent users demonstrated little or no psychological dependence.

Analysis of social-behavioral aspects of daily users' marihuana smoking clearly demonstrated that it is a pivotal social activity around which conversation, other personal interactions, and much of the users' lives revolve. Smoking almost exclusively occurred in groups and was the focal activity around which these groups formed. The daily users exhibited a readiness to take part in but not to initiate a smoking session.

In contrast to the intermittent users, all the daily users in a group smoked when marihuana was made available. Marihuana smoking appeared to be a primary means of reinforcing group solidarity. Yet these users were more inclined to seek the personal effects of the drug rather than the socializing effects sought by the intermittent users.

The social adjustment of the daily users, when judged from a traditional psychiatric standpoint, was impaired. Individuals tended to be more withdrawn and to interact less with each other than the intermittent users, regardless of the type of activity or state of intoxication. However, the daily users did appear to accommodate themselves better than the intermittent users to the effects of the intoxication on social interaction.



Despite a relatively high level of scholastic attainment and superior intelligence, many of the subjects were performing well below their intellectual capability, usually working at menial, mechanical or artisan tasks. They were not oriented toward achieving the traditional goals of the larger society.

Nonetheless, during the period of the Boston study, the subjects could not be characterized as displaying a general lassitude and indifference, carelessness in personal hygiene or lack of productive activity, all supposed to be characteristic of very heavy use. Even during the periods of heaviest marihuana smoking, they maintained a high level of interest and participation in a variety of personal activities, such as writing, reading, keeping up on current world events, and participating in athletic and aesthetic endeavors.

Additionally, all of the subjects maintained a desire to complete all aspects of the research study. Although they could be labeled "underachievers" in terms of the traditional standards of the larger society, these individuals were motivated to pursue actively the interests and activities of their own subculture.

Generally, most studies which have been undertaken indicate that individuals who are heavy marihuana users cannot find a place for themselves in conventional society. Their heavy marihuana use may reflect and perhaps perpetuate their unconventionality while providing social acceptance in one of the non-conventional subcultures.

### **Very Heavy Users**

The Commission's analysis of frequency, quantity and duration of marihuana use suggest that the United States is at the present time in a fortunate position. All of the studies available to the Commission have indicated that only a minute number of Americans can be designated as very heavy marihuana users. These studies uniformly indicate that chronic, constant intoxication with very potent cannabis preparations is exceedingly rare in this country.

The Commission believes that important distinctions must be made between the daily (moderate and heavy) American marihuana user and the very heavy hashish or charas user in other parts of the world where cannabis is widely cultivated and its use deeply ingrained. Many of the North African and Asian users do not employ the drug only as an intoxicant in the western sense. Instead, it is frequently used in "folk medical practice," in religious rites and as a work adjunct particularly in those occupations which are physically demanding, monotonous, unintellectual, and offer little possibility of advancement.

In these countries, very heavy use is typically associated with young males from a lower socioeconomic background. Nonetheless, use is

more widespread among all ages and elderly chronic users are not uncommon.

Generally, these very heavy users consume high amounts of very potent preparations continually throughout the day so that they are rarely drug-free. These individuals evidence strong psychological dependence on the drug, requiring compulsive drug-taking. Clear-cut behavioral changes occur in these extreme cases. The very heavy user tends to lose interest in all activities other than drug use. A common element of the behavioral pattern is lethargy and social deterioration. Not surprisingly, these users have been held in low esteem and very heavy use has been subject to societal disapproval in almost all countries.

### BECOMING A MARIHUANA USER

Our attempt to classify marihuana users is primarily for descriptive purposes. It does not imply that all individuals who resemble any of the categories are necessarily marihuana users. Nor is it implied that all marihuana users fit neatly or precisely into these slots. There is no "typical" marihuana user, just as there is no typical American. The most notable statement that can be made about the vast majority of marihuana users—experimenters and intermittent users—is that they are essentially indistinguishable from their non-marihuana using peers by any fundamental criterion other than their marihuana use.

But if most users and non-users of marihuana essentially are indistinguishable, why have some people chosen to use the drug and others not, and why have some people continued to use it and others not? An important part of the explanation is that use of marihuana, like all human behavior, occurs within specific social and cultural settings. The individual's biological characteristics and personality probably play an important role in determining the pattern his use will take. However, the cultural and social setting play a larger role in determining whether he will use it at all.

Numerous studies have demonstrated that the young person who chooses to use marihuana differs in some important sociological respects from his peer who does not choose to do so. These differences relate to his willingness to experiment with a drug, especially a forbidden one. In short, the process of becoming a marihuana user is not a "seduction of the innocent" as is often portrayed. Based on inter-related familial, social and cultural factors, persons, especially young persons, who may choose to use marihuana can be predicted statistically.

#### Parental Influence

The decision to use marihuana is related to parental life style. Parents provide the most important example of acceptable drug-taking

behavior for their children. That marihuana users frequently have medicine-taking, cigarette-smoking, or liquor-drinking parents has been demonstrated. In a series of Canadian studies, grade and high school students who said their mothers took tranquilizers daily were three times more likely to try marihuana than the students who did not so report.

Beyond the influence of a drug-taking example, parents have the primary influence on their children's acquisition of skills, values and attitudes necessary to be mature and responsible adults. Many parents have oriented their children toward becoming independent, competent, educated, and adaptive adults.

Simultaneously, many young people observe in their parents' lives the trend toward shorter work periods, earlier retirement and increased emphasis on leisure time activities. It appears that the incidence of adolescent marihuana use is strongly correlated with this trend toward increased leisure time.

### **Situational Factors and Behavioral Correlates**

All studies of the ever user, including the Commission-sponsored National Survey, have established that marihuana smoking is significantly correlated with a number of demographic variables. Males, college students, and residents of metropolitan areas, especially in the Northeast and West, are generally over-represented in proportion to their percentage of the total population.

Among the behaviors statistically correlated with marihuana use are radical politics, visits to psychiatrists, sexual freedom, and separate residences from parents. The most significant behavior seems to be use of legal drugs, especially alcohol and tobacco. Young people who choose to experiment with marihuana are fundamentally the same people, socially and psychologically, as those who use alcohol and tobacco. For example, in a study of high school youngsters, only 3% of all the non-smokers in the sample had ever tried marihuana, compared with 50% of all the current cigarette smokers. Similarly, for alcohol drinking outside the family setting, only 2% of all the non-drinkers had tried marihuana, as compared to 27% of the drinkers. The National Survey tends to confirm the close association between marihuana use and cigarette smoking and alcohol use. Among all the adults sampled in the Survey, 71% had smoked cigarettes and 39% are current smokers. Similarly, of adult non-marihuana users, 70% have smoked cigarettes and 38% are current smokers. These percentages increase somewhat for marihuana users: 87% have smoked cigarettes and 54% are current cigarette smokers.

In regard to alcohol consumption, 40% of all the adults sampled indicated that they had not consumed beer or hard liquor in the 30

days prior to the survey. Marihuana users tended to have consumed alcohol more often than non-marihuana users (Table 2).

Table 2.—LIQUOR CONSUMPTION DURING 30-DAY PERIOD

	0 days	1-4 days	5-10 days	11 or more days	No answer
Percent of nonmarihuana users...	45	19	6	7	21
Percent of marihuana users.....	26	30	12	8	24

### Social Group Factors

One of the most influential factors in determining behavior in contemporary America among adolescents and young adults is peer group influence. Knowing other people who use marihuana predisposes the individual to use marihuana, and having marihuana-using friends provides the social opportunity for the curious. The individual who is already part of a social group which uses marihuana indicates by this choice that his attitudes and values are already to some degree compatible with illicit drug use.

Social peer groups are especially influential upon individuals who have not yet become "successful" adults, such as adolescents, college students and young adults, who spend a great deal of time and effort competing for status in situations where status opportunities are minimal. The social peer group provides an opportunity for achieving status among equals by demonstrating competence and autonomy. Outstanding performance in athletics, organizations or academics demonstrates competence but not autonomy because these activities are adult-oriented and controlled. Additionally, only a relative few are able to excel.

Opportunity to prove oneself is more readily available in the peer group. Often, adolescents participate in forms of delinquent behavior, termed symbolic infractions, in order to demonstrate autonomy and competence to their peers. These include joy-riding, vandalism, sexual promiscuity, underage drinking, violation of rules of decorum and dress, and purposeless confrontation with authority.

Marihuana use has recently been added to the list of infractions and offers several advantages for adolescents and young adults. Most important, it provides a shared group experience which offers the shy, lonely, socially awkward neophyte a means of entrance to the group, complete with its own ceremonial initiation. Repetition of the behavior serves to increase closeness and commitment to the group. Usually the experience is pleasurable and the individual is able to control his level of intoxication. This delinquency is viewed as relatively harmless to

oneself and others, although its symbolic impact on parents and authority is often greater than that of other common infractions.

Therefore, a subtle process of acquiring attitudes favorable to drug use, of having friends and acquaintances who define the marihuana experience in acceptable and pleasurable terms, and of having a social belief system which prepares one to accept the conversion process to begin with, are all powerful complementary factors which direct a young person toward marihuana use. At this point, the use of marihuana provides further opportunities for acquiring new marihuana-using friends and entering the social milieu of marihuana users.

### The Dynamics of Persistent Use

The cultural and social factors sketched above, in combination with the individual's somatic and psychic characteristics, determine the pattern of his drug behavior once he has chosen to experiment with it. The majority of individuals who reach this point progress no further and often discontinue marihuana use. The most common explanation for discontinuing use is loss of interest; the effect lost its novelty and became boring. Other less common reasons are fear of legal hazards, social pressure, and concerns over physical and mental drug effects. Among the infrequently noted reasons are: interference with other activities; replacement by alcohol; unavailability; cost; unpleasant experiences; fear of moral transgression; or progression to other forms of non-drug interests such as yoga, transcendental meditation, agrarian communes, esoteric religion and restrictive diets.

For those who continue use, psychosocial factors are important determinants of the use patterns. Many marihuana users are strongly committed to traditional society in which they desire to rise socially. They have chosen to participate fully in the traditional adult-oriented activities and the formal achievement-reward system. Their peer groups consist primarily of similarly oriented individuals. The infrequent use of marihuana by these persons is a social activity for fun and satisfies curiosity.

Those individuals who continue to use marihuana more frequently appear to be different types of people and oriented toward a different part of the social system. Most of them maintain stable career orientations and continue to function within the broader society. But they feel more burdened by the traditional system of social controls and more removed from contemporary society's institutions. These individuals tend to turn away from more traditional adult-oriented reward systems and intensify their peer-group orientation. Their interests and activities emphasize an informal "in-crowd," out-of-school or work orientation. The meaning of marihuana use by this peer group emphasizes the ideological character of usage. In contrast to the infre-

quent type of user, these individuals seem to build their self-identity around the marihuana-using peer group.

### BECOMING A MULTIDRUG USER

The more one smokes marihuana, the more involved his interpersonal relationships are likely to become with his peers who share the experience with him. As he spends more time with this group, he begins to sever his contacts with conventional individuals and conventional routines. He may eventually view himself as a drug user and be willing to experiment with other drugs which are approved by his peer group. Only a small portion of the marihuana users who reach this stage are likely to become persistent, frequent users of these other drugs. The majority appear to experiment only.

### Epidemiologic Studies

The Commission's studies have confirmed the association between marihuana usage and the consumption of other drugs for curiosity and pleasure. This association holds for all drugs, including over-the-counter and prescription pain relievers, tension relievers, sleeping pills, and stimulants as well as hashish, methamphetamines, cocaine, LSD and mescaline, and heroin. The National Survey showed that current marihuana users are about twice as likely to have used any illicit drugs than are those who have ceased using marihuana (Table 3).

Table 3.—ILLICIT DRUG USE BY ADULTS

Substance	Never used marihuana	Have used but no longer use marihuana (percent)	Currently using marihuana (percent)
Hashish .....	Less than 0.5 percent....	28	63
LSD or mescaline.....	Less than 0.5 percent....	11	28
Methamphetamine.....	Less than 0.5 percent....	10	23
Cocaine.....	Less than 0.5 percent....	4	10
Heroin.....	Less than 0.5 percent....	1	4

The Commission additionally has contracted a study of 105 selected, middle class, young, working adults from California who are marihuana smokers. Of this sample, 11% were daily marihuana users and 47% used it several times a week; 33% used it several times a month; 6% used it once to several times a year; and 3% had used it but were not currently using marihuana. The study indicates that while most of the subjects were frequent marihuana users, the incidence of other drug use was relatively low (Table 4).

Table 4.—FREQUENCY OF OTHER DRUG USE BY MARIHUANA USERS

Substance	Percent who never used marihuana	Percent who use marihuana			
		Once to several times a year	Several times a month	Several times a week	Daily
Hashish.....	42	31	21	5	
LSD.....	96	4	0	0	
Mescaline.....	79	19	0	0	
Psilocybin.....	96	4	0	0	
STP, DMT.....	100	0	0	0	
Heroin.....	98	2	0	0	
Codeine.....	87	11	0	0	
Amphetamines.....	89	7	0	4	
Barbiturates.....	86	10	4	0	
Cocaine.....	75	19	2	4	
Glue.....	100	0	0	0	

With the exception of marihuana and hashish, no drug was used by more than 25% of this population and this use was almost exclusively experimental. Interestingly, the more exotic drugs, mescaline and cocaine were more frequently used (21% and 25% of this sample respectively) than the common dangerous drugs: LSD (4%), heroin (2%), codeine (11%), barbiturates (14%), and amphetamines (11%).

Among high school students, marihuana is normally the first illicit drug used, although several recent studies have suggested that a significant number of students initiate illicit use with other drugs. Of the marihuana users, a majority have used no other illicit drug, and they tend to be experimental or intermittent users of marihuana.

The more frequently the adolescent uses marihuana, the more likely he is to experiment with other drugs. For example, in one recent study of San Diego high school students of predominantly white middle socioeconomic background, 80% of the students who used marihuana weekly or more often had used other drugs, and 50% of this group had used LSD. In contrast, 33% of the less than weekly users had used other drugs.

### Profiles and Dynamics

The personality profile of the heavy marihuana user discussed earlier includes elements propelling him toward heavy involvement in the multiple-drug-using-subculture. Heavy drug use by these individuals may reflect and aggravate a total alienation and disaffiliation from American society and its institutions. This group hopes to find in drug use more than simple fun or relief from boredom. The heavy

use of drugs represents a shift into the drug subculture and an adoption of a totally new life style. Some observers feel that this shift provides a new identity which allows the individual to counteract his apathy and search for meaning in a society he views as unloving, lonely, and meaningless. He seeks to become involved with what he describes as the exciting, relevant, "real" experience of life. Additionally, he believes drug use provides new feelings and awareness needed to overcome barriers between himself, others, and the natural world.

The drug culture as a community also helps to meet the needs of the individual. It provides a ready supply of drugs, unites common experiences and secrets that enhance the drug experience, and protects the individual against undesired experiences and against "the outside world." Most important, the culture instills self-confidence by reassuring the individual that he has been wise in choosing this new identity.

Frequently, these are individuals who express feelings of loneliness, isolation and over-protection from their home and family. One frequent pattern involves an intimate, dominating mother and a distant, unemotional father. In some cases, the drug-use ritual and the sense of community closeness offered by the drug subculture appear to satisfy certain personal needs. Additionally, joining the subculture provides a release from sheltered life, a test of competence, an opportunity to participate, and a chance to express anger. When the anger is turned inward instead of directed at society and family, drug use becomes a form of passive self-destructiveness.

### Sociocultural Factors

After the individual views himself as a drug user and has become immersed in the drug-using subculture, the drugs he chooses to experiment with and his pattern of use are determined primarily by non-drug factors well beyond the simple properties of the psychoactive chemical. These factors are predominantly socioeconomic and sociocultural, although psychic and somatic factors also play a role in determining who will continue and how intensively.

The availability of a distribution system which stocks the other drugs is essential. Most often, contact with this distribution system is increased by having friends or acquaintances who use or sell other drugs. However, much of the marihuana selling takes place at the customer level between friends, and involves little profit and relatively small quantities of the drug. The marihuana user who *only buys* has little contact with the professional multidrug dealing system. However, the *user-buyer-seller* of marihuana is more involved with the multidrug system, uses more himself and has more friends who use and sell other drugs. This factor of being a seller rather than only a buyer-user



is influential in determining the degree of an individual's involvement with and commitment to the use of other drugs.

Marihuana use does not itself determine which drugs the heavily involved user will choose to use. Generally, the selection of other drugs is influenced by the social group. For example, blacks and whites have roughly equal rates of trying and using marihuana, but their choice of other drugs and the styles of drug use are quite different and distinctive due to their frequently different sociocultural backgrounds. Additionally, one recent study of white high school and college students revealed different patterns of further drug use among males and females. Men and women used marihuana in equal numbers, but the men who used other drugs tended to use hallucinogens while the women tended to use amphetamines.

An extensive survey of drug use among 3,500 liberal arts undergraduates attending 14 campuses in the New York area demonstrated the racial character of drug use among this population (Table 5).

Table 5.—RACIAL CHARACTER OF DRUG USE

Percentage tried drugs	Heroin	Cocaine	Meth- amphet- amine	Amphet- amine	Hallu- cinogens
Blacks.....	9	16	5	9	13
Whites.....	4	7	11	19	21

According to recent studies, heroin usage is not common among white marihuana users. Heroin is most strongly linked to marihuana use in black and Spanish-speaking ghettos where many feel they have little chance of personal advancement and self-fulfillment. In such communities, a segment of the population constructs new illegitimate but accessible avenues for social coping. For some this involves the hustle (non-violent stealing) and the excitement of obtaining and using heroin and cocaine. They regard marihuana as a "cool" drug and use it for its social and calming effects.

In contrast, studies have demonstrated that the psychedelics are more often used by the white, middle to upper middle class, college-educated populations. The typical use of these drugs in high school college and working populations is episodic and experimental, and is usually discontinued rather rapidly in contrast with marihuana use, which for many persons is of long duration. In many instances, psychedelic drug use begins almost simultaneously with marihuana.

For a few, drug use becomes an ideologic focus, reflecting disillusionment with society and rejection of the "establishment." These and other motives, including mere pleasure-seeking, lead to continued use of LSD and other hallucinogens. Marihuana is viewed as a dilute LSD

and is often used to enhance or prolong the effects of that drug. Sometimes it is encountered after first LSD use.

Methamphetamine, or "speed," use is more characteristic of those lower socioeconomic white youth who are not school or work oriented. Living for the moment is the characteristic attitude of the speed scene. The speed user views marihuana as he does alcohol and uses it for fun or for its calming effects.

For these three groups of illicit drug users, marihuana use has different meanings and is secondary in importance to the use of the other drugs. Whether or not marihuana leads to other drug use depends on the individual, on the social and cultural setting in which the drug use takes place, and on the nature of the drug market. Its use, however, is neither inevitable nor necessary.

## The Effects of Marihuana on the User

The previous section has attempted to paint a broad picture of the marihuana user. This section will deal with the drug and its effects on these individuals.

The meaning of *drug* often varies with the context in which it is used. The physician would define a drug as any substance used as a medicine in the treatment of physical or mental disease. Today, due to the influence of many factors, the layman may focus on the negative connotations of drugs, such as the stupefying, poisoning, habit-forming misuse of the opiate drugs. The considerably wider and more scientific definition of a drug which will be used in this section is: any chemical substance which has an action on living tissues.

*A psychoactive drug is any substance capable of modifying mental performance and individual behavior by inducing functional or pathological changes in the central nervous system.*

As defined, psychoactive drugs exert their major effect on the state of the mind including emotions, feelings, sensibility, consciousness and thinking. The definition implies neither positive nor negative meanings. Chemical substances are not inherently good or bad. All substances, including medicines and foods, which man has chosen to consume have certain desired effects (whether therapeutically beneficial or pleasurable) and undesired effects (whether detrimental or unpleasant). For example, eating food is certainly a necessary and pleasurable activity. However, obesity plays an important role in many diseases, including diabetes, high blood pressure and heart attacks, and tends to limit physical activities.

The classification of any drug effect as either beneficial or harmful often greatly depends on the values the classifier places on the ex-

pected effects. This is especially relevant with respect to the psychoactive drugs such as tranquilizers, stimulants, coffee, cigarettes, alcohol, marihuana and other licit or illicit drugs. For all of these drugs, the weights of benefit and harm are difficult to determine when viewed merely in terms of their stated effects.

## BOTANY AND CHEMISTRY

Marihuana refers to a preparation derived from a plant, *cannabis sativa* L. The preparation contains varying quantities of the flowers and their resinous secretions, leaves, small stems and seeds. These plant parts contain many chemical substances. The chemical substance which produces the major drug effects is tetrahydrocannabinol (THC). According to current information, the amount of THC present determines the potency of the preparation. Hereinafter, any reference to drug content or drug effect of marihuana will, for all practical purposes, mean that of tetrahydrocannabinol.

The drug content of the plant parts is variable, generally decreasing in the following sequence: resin, flowers, leaves. Practically no drug is found in the stems, roots or seeds. The potency and resulting drug effect of marihuana fluctuates, depending on the relative proportions of these plant parts in the marihuana mixture.

Most marihuana available in this country comes from Mexico and has a THC content of less than 1%. Marihuana of American origin often contains less than two-tenths of 1% THC. Marihuana originating in Jamaica and Southeast Asia often has a 2% to 4% THC content.

Marihuana is the least potent preparation of the plant. Jamaican ganja, containing primarily the flower tops and the small leaves or bracts, has a THC content of about 4% to 8% depending on the mixture. Indian ganja is less potent. The most potent preparation is hashish (charas) which is composed of only the drug-rich resinous secretions of the flowers. Generally, the THC content of hashish is 5% to 12%.

## FACTORS INFLUENCING DRUG EFFECT

A number of variable factors exert an important influence on the psychopharmacologic effects of marihuana in man, as is true for all drugs. Failure to take these factors into consideration probably accounts for a large part of the inconsistency and controversy surrounding the description of the drug effect.

### Dosage

The dosage or quantity of the drug (tetrahydrocannabinol) consumed is the most important variable. As with most drugs, the larger the dose taken, the greater the physical and mental effect will be and

the longer the effect will last. The effect of a high dose of marihuana on an individual would be quite different from the effect of a low, usual "social" dose.

### Method of Use

The method of use has a bearing upon the drug effect. The method is directly related to both dosage and time lapse before the drug effect is felt. Injection directly into a vein delivers the total dose immediately, producing a rapid, maximal response of minimal duration. Smoking and inhalation cause rapid but less efficient delivery of the dose; variable quantity of the drug is destroyed during burning or escapes into the air and does not reach the lungs. Oral ingestion produces different effects, according to the system in which the drug is dispersed. Generally, oral ingestion diminishes the drug effect, but prolongs it.

### Metabolism

Another factor which influences the effect of the drug is metabolism. During the metabolic process, the body cells, principally in the liver and lungs, chemically alter drug substances, changing their activity and providing for their elimination from the body. Increasing evidence indicates that marihuana is first changed by the body in a way that activates or enhances the drug effect and is subsequently altered in a way that inactivates the drug prior to its removal from the body.

The rate and direction of these metabolic steps can significantly influence the effect of marihuana. For instance, individuals with extensive exposure to marihuana or other drugs metabolize more rapidly, and perhaps differently, from those individuals with no drug exposure.

### Set and Setting

An important variable in discussing the effect of marihuana on the user is the social and emotional environment, that is, the individual's "set" and "setting."

"Set" refers to a combination of factors that create the "internal environment" of the individual, including personality, life style, and philosophy, past drug experiences, personal expectations of drug effect, and mood at the time of the drug experience.

"Setting" refers to the external environment and social context in which the individual takes the drug. These factors are most influential when drugs are taken at low dosages and, like marihuana, produce minimal physical and subtle subjective mental effects. The effect of marihuana generally will be quite different for an intermittent social adult smoker from that of a youth deeply involved in the youthful drug subculture. These factors partially account for the belief of a marihuana user that he is experiencing a "high" in certain en-

periments even when he is given a non-marihuana substance (placebo) but is told it is marihuana.

## **Tolerance**

Another important factor that determines the immediate effect of any drug is tolerance. Tolerance has two different connotations. The first, initial tolerance, is a measure of the amount of a drug which a subject must receive on first exposure to produce a designated degree of effect. A variety of innate and environmental factors contribute to initial tolerance among individuals. Different individuals require varying amounts of the drug to attain the same physical and mental effect.

The second connotation, which shall be referred to when we use the word tolerance, is that of an acquired change in tolerance. That is, within the same individual, as a result of repeated exposure to the drug, the same dose of the drug may produce a diminishing effect so that an increased amount of the drug is required to produce the same specified degree of effect.

Tolerance develops at differential rates to given effects of the same drug. If tolerance has developed to one specific effect, it has not necessarily developed to other specific effects.

By definition, the development of tolerance is neither beneficial nor detrimental. If tolerance develops rapidly to the desired mental effect of a "high" but slowly to the behavioral or physical effects, rapid increase in dose would be necessary in order to have the desired effect, and progressive behavioral and physical disruption would be seen. This is the pattern for amphetamines.

However, if tolerance develops slowly or not at all to the desired mental effects but more rapidly to the behaviorally or physically disruptive effects, no dosage increase or only a slight one would be necessary and the unpleasant and undesired effects would progressively diminish.

With regard to marihuana, present indications are that tolerance does develop to the behaviorally and physically disruptive effects, in both animals and man, especially at high frequent doses for prolonged time periods. Studies in foreign countries indicate that very heavy prolonged use of very large quantities of hashish leads to the development of tolerance to the mental effects, requiring an increase in intake to reach the original level of satisfaction. However, for the intermittent use pattern and even the moderate use pattern, little evidence exists to indicate the development of tolerance to the desired "high," although the high may persist for a shorter time period. During the Boston free-access study, no change was apparent in the level of the high produced by a relatively large dose of the drug over a 21-day period of moderate to heavy smoking.

The fact that some individuals smoke more of the drug than others may merely reflect a desire for a different level of "high." There is a tendency to develop a tolerance to the physical effects and behaviorally disruptive effects, especially the depressant effects, in heavy daily users. The development of such behavioral tolerance of this nature may explain the fact that experienced marihuana smokers describe a lower occurrence rate of undesirable drug effects. The development of tolerance may also explain why these smokers exhibit normal behavior and competent performance of ordinary tasks, while not appearing intoxicated to others even though they are at their usual level of intoxication.

### Reverse Tolerance

Repeated exposure to marihuana has been said to cause an individual to need lesser amounts of the drug to achieve the same degree of intoxication. This "reverse tolerance" may be related to one's learning to get high or to the recognition of the subtle intoxication at low doses. Or perhaps, such tolerance reflects an increase in the body's ability to change the drug to an active chemical. To date, the existence of "reverse tolerance" has not been substantiated in an experimental setting.

### Duration of Use

Tolerance development is only one of a variety of occurrences which possibly are related to repetitive use of marihuana. Any discussion of drug effect must also take into account the time period over which the drug use occurs. Immediate effects of a single drug experience must be contrasted with effects of short-term use and the effects of long-term use in order to detect any cumulative effects or more subtle, gradually occurring changes.

This issue of an individual's change over a period of years is quite complex; a multitude of factors other than marihuana use may affect his life. As previously defined, *short-term* refers to periods of less than two years, *long-term* to periods of two to 10 years, and *very long-term* to periods greater than 10 years. Most of the American experience involves short-term and long-term use, with low doses of weak preparations of the drug.

### Patterns of Use

The drug effect of marihuana can be realistically discussed only within the context of who the user is, how long he has used marihuana, how much and how frequently he uses it, and the social setting of his use.

In general, for virtually any drug, the heavier the pattern of use the greater the risk of either direct or indirect damage. For purposes of this discussion, the patterns of use developed in the first section of this chapter will be utilized. Because frequency of use is presently the primary determinant of use patterns in this country, we employ similar designations:

- (1) The *experimenter* who uses marihuana at most a few times over a short term and then generally ceases to use it, or uses once a month or less;
- (2) The *intermittent user* who uses marihuana infrequently, that is more than once monthly but less than several times a week;
- (3) The *moderate user* who uses it from several times a week to once daily, generally over a long term;
- (4) The *heavy user* who uses it several times a day over a long term and;
- (5) The *very heavy user* who is constantly intoxicated with high tetrahydrocannabinol content preparations, usually hashish, over a very long term.

Again, these classifications are not intended to be rigid but are designed to facilitate a discussion of the many usage patterns.

### Definition of Dependence

Before describing the effect of marihuana on the user, two additional definitions are required. They concern the concept of *dependence* which has so clouded public and professional consideration of psychoactive drugs. Throughout the remainder of this report, we refer separately to psychological and physical dependence, defined as follows:

*Psychological dependence* is the repeated use of psychoactive drugs leading to a conditioned pattern of drug-seeking behavior. The intensity of dependence varies with the nature of the drug, the method, frequency, and duration of administration, the mental and physical attributes of the individual, and the characteristics of the physical and social environment. Its intensity is at its peak when drug-seeking becomes a compulsive and undeviating pattern of behavior.

*Physical dependence* is the state of latent hyper-excitability which develops in the central nervous system of higher mammals following frequent and prolonged administration of the morphine-like analgesics, alcohol, barbiturates, and other depressants. Such dependence is not manifest subjectively or objectively during drug administration. Specific symptoms and signs, the abstinence syndrome, occur upon abrupt termination of drug administration; or with morphine-like agonists by administering the specific antagonists.

## EFFECTS RELATED TO PATTERN USE

Set out below is a brief summary of effects of marihuana related to frequency and duration of use. The remainder of the Chapter discusses the effects of immediate, short-term, long-term and very long-term use of the drug.

Experimenters and intermittent users-----	<p>Little or no psychological dependence.</p> <p>Influence on behavior related largely to conditioning to drug use and its social value to the user.</p> <p>No organ injury demonstrable.</p>
Moderate users-----	<p>Moderate psychological dependence increasing with duration of use.</p> <p>Behavioral effects minimal in stable personalities, greater in those with emotional instability.</p> <p>Probably little if any organ injury.</p> <p>Duration of use increases probability of escalation of all effects including shift from moderate to heavy use.</p>
Heavy users-----	<p>American "pot head."</p> <p>Strong psychological dependence.</p> <p>Detectable behavior changes.</p> <p>Possible organ injury (chronic diminution of pulmonary function).</p> <p>Effects more easily demonstrable with long-term use.</p>
Very heavy users-----	<p>Users in countries where the use of cannabis has been indigenous for centuries.</p> <p>Very strong psychological dependence to point of compulsive drug seeking and use.</p> <p>Clear-cut behavioral changes.</p> <p>Greater incidence of associated organ injury.</p>

## IMMEDIATE DRUG EFFECTS

The immediate effects are those which occur during the drug intoxication or shortly following it. The user is aware of some of these effects, for they often cause him to use the drug. At the same time, many changes may occur in his body which can be measured by others but are not obvious to him.



## Subjective Effects

A description of an individual's feelings and state of consciousness as affected by low doses of marihuana is difficult; the condition is not similar to usual waking states and is the result of a highly individual experience. Perhaps the closest analogies are the experience of day dreaming or the moments just prior to falling asleep. The effect is not constant and a cyclical waxing and waning of the intensity of the intoxication occurs periodically.

At low, usual "social" doses, the intoxicated individual may experience an increased sense of well-being; initial restlessness and hilarity followed by a dreamy, carefree state of relaxation; alteration of sensory perceptions including expansion of space and time; and a more vivid sense of touch, sight, smell, taste, and sound; a feeling of hunger, especially a craving for sweets; and subtle changes in thought formation and expression. To an unknowing observer, an individual in this state of consciousness would not appear noticeably different from his normal state.

At higher, moderate doses, these same reactions are intensified but the changes in the individual would still be scarcely noticeable to an observer. The individual may experience rapidly changing emotions, changing sensory imagery, dulling of attention, more altered thought formation and expression such as fragmented thought, flight of ideas, impaired immediate memory, disturbed associations, altered sense of self-identity and, to some, a perceived feeling of enhanced insight.

At very high doses, psychotomimetic phenomena may be experienced. These include distortions of body image, loss of personal identity, sensory and mental illusions, fantasies and hallucinations.

Nearly all persons who continue to use marihuana describe these usual effects in largely pleasurable terms. However, others might call some of these same effects unpleasant or undesirable.

As discussed earlier, a wide range of extra-drug factors also influences marihuana's effects. The more the individual uses marihuana and the longer he has been using it, the more likely the experiences will be predominantly pleasurable, and the less likely the effects will be unpleasant. An increasing sensitization to those effects viewed as pleasant occurs as the user has more experience with the drug.

Persons subject to unpleasant reactions may eliminate themselves from the using group although the occasional experience of an unpleasant effect does not always discourage use.

## Body Function

A large amount of research has been performed in man and animals regarding the immediate effect of marihuana on bodily processes. No conclusive evidence exists of any physical damage, disturb-

ances of bodily processes or proven human fatalities attributable solely to even very high doses of marihuana. Recently, animal studies demonstrated a relatively large margin of safety between the psychoactive dose and the physical and behavioral toxic and lethal dose. Such studies seemed to indicate that safe human study could be undertaken over a wide dose range.

Low to moderate doses of the drug produce minimal measurable transient changes in body functions. Generally, pulse rate increases, recumbent blood pressure increases slightly, and upright blood pressure decreases. The eyes redden, tear secretion is decreased, the pupils become slightly smaller, the fluid pressure within the eye lessens and one study reports that the eyeball rapidly oscillates (nystagmus).

A minimal decrement in maximum muscle strength, the presence of a fine hand tremor, and a decrease in hand and body steadiness have also been noted. Decreased sensitivity to pain and overestimation of elapsed time may occur.

The effects of marihuana on brain waves are still unclear and inconsistent. Generally, the intoxication produces minimal, transient changes of rapid onset and short duration. Sleep time appears to increase as does dreaming.

Investigation of the effects of marihuana on a wide variety of other bodily function indices has revealed few consistently observed changes.

These few consistently observed transient effects on bodily function seem to suggest that marihuana is a rather unexciting compound of negligible immediate toxicity at the doses usually consumed in this country. The substance is predominantly a psychoactive drug. The feelings and state of consciousness described by the intoxicated seem to be far more interesting than the objective state noted by an observer.

## Mental Function

Marihuana, like other psychoactive substances, predominantly affects mental processes and responses (cognitive tasks) and thus the motor responses directed by mental processes (psychomotor tasks). Generally, the degree of impairment of cognitive and psychomotor performance is dose-related, with minimal effect at low doses. The impairment varies during the period of intoxication, with the maximal effect at the peak intoxication. Performance of simple or familiar tasks is at most minimally impaired, while poor performance is demonstrated on complex, unfamiliar tasks. Experienced marihuana users commonly demonstrate significantly less decrement in performance than drug-naïve individuals.

The greater his past marihuana experience, the better the intoxicated individual is able to compensate for drug effect on ordinary performance at usual doses. Furthermore, marked individual variation in

performance is noted when all else is held constant. The effect of marihuana on cognitive and psychomotor performance is therefore highly individualized and not easily predictable. Effects on emotional reactions and on volition are equally variable and are difficult to measure under laboratory conditions, but can be significant.

### **The Intoxicated State**

Studies of intoxicated persons have suggested possible explanations for the subtle effects on mental processes produced by marihuana. Generally, a temporary episodic impairment of short-term memory occurs. These memory voids may be filled with thoughts and perceptions extraneous to organized mental processes. Past and future may become obscured as the individual focuses on filling the present momentary memory lapse. His sense of self-identity may seem altered if he cannot place himself in his usual time frame.

This altered state of mind may be regarded by the individual as pleasant or unpleasant. The important factors of dosage and set and setting play a most important role in this determination. When the nature of the drug-taking situation and the characteristics of the individual are optimal, the user is apt to describe his experience as one of relaxation, sensitivity, friendliness, carefreeness, thoughtfulness, happiness, peacefulness, and fun. For most marihuana users who continue to use the drug, the experience is overwhelmingly pleasurable.

### **Unpleasant Reactions**

However, when these circumstances are not optimal, the experience may be unpleasant and an undesirable reaction to the marihuana intoxication occurs. In these instances, anxiety, depression, fatigue or cognitive loss are experienced as a generalized feeling of ill-being and discomfort. A heavy sluggish feeling, mentally and physically, is common in inexperienced marihuana smokers who overshoot the desired high or in persons who might orally ingest too large a dose. Dizziness, nausea, incoordination, and palpitations often accompany the "too stoned" feeling.

### **Anxiety States**

"Novice anxiety reactions" or feelings of panic account for a majority of unpleasant reactions to marihuana. When the distortion of self-image and time is recognized by the individual as drug-induced and temporary, the experience is viewed as pleasurable. Anxiety and panic result when these changes cause the individual to fear that the loss of his identity and self-control may not end, and that he is dying or

"losing his mind." These anxiety and panic reactions are transient and usually disappear over a few hours as the drug's effects wear off, or more quickly with gentle friendly reassurance.

The large majority of these anxiety reactions occur in individuals who are experimenting with marihuana. Most often these individuals have an intense underlying anxiety surrounding marihuana use, such as fears of arrest, disruption of family and occupational relations, and possible bodily or mental harm. Often they are older and have relatively rigid personalities with less desire for new and different experiences.

The incidence of these anxiety reactions may have decreased as marihuana use has become acceptable to wider populations, as the fears of its effects have lessened and as users have developed experience in management of these reactions.

### Psychosis

Rare cases of full-blown psychotic episodes have been precipitated by marihuana. Generally, the individuals had previous mental disorders or had poorly developed personalities and were marginally adjusted to their life situation. Often the episode occurred at times of excessive stress. These episodes are characteristically temporary. Psychotherapy and sometimes medications are useful in prompt control and treatment of this psychological reaction. In addition, rare nonspecific toxic psychoses have occurred after extremely high doses. This state of nonspecific drug intoxication or acute brain syndrome is self-limited and clears spontaneously as the drug is eliminated from the body.

### Conclusions

In summary, the immediate effect of marihuana on normal mental processes is a subtle alteration in state of consciousness probably related to a change in short-term memory, mood, emotion and volition. This effect on the mind produces a varying influence on cognitive and psychomotor task performance which is highly individualized, as well as related to dosage, time, complexity of the task and experience of the user. The effect on personal, social and vocational functions is difficult to predict. In most instances, the marihuana intoxication is pleasurable. In rare cases, the experience may lead to unpleasant anxiety and panic, and in a predisposed few, to psychosis.

### SHORT-TERM EFFECTS

The effect of an enormous daily oral dose of the drug (up to about one hundred thousand times the minimal behaviorally effective human dose) was recently studied in rats and monkeys for three months. A

severe, generalized nervous system depression was evident the first few days. Evidence of cumulative toxicity was observed at these doses. Severe central nervous system depression produced fatalities in some rats in the first few days until tolerance developed. Later, extreme hyperactivity developed.

The monkeys experienced severe central nervous system depression and one group showed mild hyperactivity, but all rapidly returned to normal behavior after the development of tolerance to these effects. Minimal dose-related toxic effects on bodily organs were noted at autopsy at the conclusion of the experiment. These non-specific findings of unknown meaning included hypocellularity of the bone marrow and spleen and hypertrophy of the adrenal cortex.

A 28-day study employing intravenous administration of from one to ten thousand times the minimal effective human dose to monkeys produced similar findings clinically. In the high dose groups delayed deaths from acute hemorrhagic pneumonia were possibly caused by accumulation of clumps of THC in the lung producing irritation similar to that seen at the injection sites. No other organ pathology was noted. These animal studies illustrated that the margin of safety between active dose and toxic dose was enormous.

A few studies have recently been carried out to observe the effect of a few weeks of daily marihuana smoking in man. The amount smoked was a relatively large American dose. Frequency of use was once to several times daily.

During the 21-day Boston free-access study, no harmful effects were observed on general bodily functions, motor functions, mental functions, personal or social behavior or work performance. Total sleep time and periods of sleep were increased. Weight gain was uniformly noted.

No evidence of physical dependence or signs of withdrawal were noted. In the heaviest smokers, moderate psychological dependence was suggested by an increased negative mood after cessation of smoking.

Tolerance appeared to develop to the immediate effects of the drug on general bodily functions (pulse rate) and psychomotor-cognitive performance (time estimation, short-term memory, and shooting-gallery skill) but not to the "high." Marihuana intoxication did not significantly inhibit the ability of the subjects to improve with practice through time on these psychological-motor tasks.

Neither immediate nor short-term (21 day) high-dose marihuana intoxication decreased motivation to engage in a variety of social and goal-directed behaviors. No consistent alteration that could be related to marihuana smoking over this period of time was observed in work performance of a simple task, participation in aspects of the research study, or interest and participation in a variety of personal activities,

such as writing, reading, interest and knowledge of current world events, or participation in athletic or aesthetic activities.

Marihuana smoking appeared to affect patterns of social interactions. Although use of the drug was found to be a group social activity around which conversation and other types of social behavior were centered, it was not uncommon for some or all of the smokers to withdraw from the social interaction and concentrate on the subjective drug experience.

During the first part of the smoking period, both intermittent and daily users demonstrated a marked decrement in total interaction. Total interaction continued to diminish among intermittent users but increased above presmoking levels among the daily users during the later parts of the smoking period. The quality of the interaction was more convivial and less task-oriented when marihuana was available to the group.

Additionally, an assessment of the effect of marihuana on risk-taking behavior revealed that daily users tended to become more conservative when engaging in decision-making under conditions of risk.

### LONG-TERM EFFECTS

Our knowledge about marihuana is incomplete, but certain behavior characteristics appear to be emerging in regard to long-term American marihuana use which, for the most part, is significantly less than 10 years. These impressions were confirmed in the Boston free-access study. The group of American young adults studied averaged five years (range 2-17 years) of intermittent or daily use of marihuana.

No significant physical, biochemical, or mental abnormalities could be attributed solely to their marihuana smoking. Some abnormality of pulmonary function was demonstrated in many of the subjects which could not be correlated with quantity, frequency or duration of smoking marihuana and/or tobacco cigarettes. (One other investigation recently completed uncovered no abnormalities in lung or heart functioning of a group of non-cigarette smoking heavy marihuana users). Many of the subjects were in fair to poor physical condition, as judged by exercise tolerance.

The performance of one-fifth of the subjects on a battery of tests sensitive to brain function was poorer on at least one index than would have been predicted on the basis of their IQ scores and education. But a definite relationship between the poor test scores and prior marihuana or hallucinogen use could not be proven.

In the past few years, observers have noted various social, psychological and behavioral changes among young high school and college-age Americans including many who have used marihuana heavily for

a number of years. These changes are reflected by a loss of volitional goal direction. These individuals drop out and relinquish traditional adult roles and values. They become present rather than future oriented, appear alienated from broadly accepted social and occupational activity, and experience reduced concern for personal hygiene and nutrition.

Several psychiatrists believe they have detected clinically that some heavy marihuana-using individuals appear to undergo subtle changes in personality and modes of thinking, with a resulting change in life style. In adopting this new life style, a troubled youth may turn toward a subculture where drug use and untraditional behavior are acceptable.

This youthful population resembles in many respects the marihuana smoker described in the Boston study. No evidence exists to date to demonstrate that marihuana use alone caused these behavioral changes either directly or indirectly. Many individuals reach the same point without prior marihuana use or only intermittent or moderate use; and many more individuals use marihuana as heavily but do not evidence these changes. For some of these young people, the drop out state is only a temporary phase, preceding a personal reorganization and return to a more conventional life style.

If heavy, long-term marihuana use is linked to the formation of this complex of social, psychological and behavioral changes in young people, then it is only one of many contributing factors.

### **VERY LONG-TERM EFFECTS OF HEAVY AND VERY HEAVY USE**

Knowledge of the effects of very heavy, very long-term use of marihuana by man is still incomplete. The Commission has extensively reviewed the world literature as well as ongoing studies in Jamaica and Greece, and carefully observed very heavy, very long-term using populations in countries in other parts of the world, such as Afghanistan and India. These populations smoke and often drink much stronger drug preparations, hashish and ganja, than are commonly used in America. From these investigations, some observable consequences are becoming much clearer.

#### **Tolerance and Dependence**

Some tolerance does occur with prolonged heavy usage; large drug doses are necessary for the desired effects. Abrupt withdrawal does not lead to a specific or reproducible abstinence syndrome and physical dependence has not been demonstrated in man or in animals. The very heavy users studied did evidence strong psychological dependence, but were able to cease use for short periods of time. In these users,





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**3 OF 7**

withdrawal does induce symptoms characteristic of psychological dependence. The anxiety, restlessness, insomnia, and other non-specific symptoms of withdrawal are very similar in kind and intensity to those experienced by compulsive cigarette smokers.

Although the distress of withdrawal exerts a very strong psychogenic drive to continue use, fear of withdrawal is, in most cases, not adequate to inspire immediate criminal acts to obtain the drug.

### **General Body Function**

In the Jamaican study, no significant physical or mental abnormalities could be attributed to marijuana use, according to an evaluation of medical history, complete physical examination, chest x-ray, electrocardiogram, blood cell and chemistry tests, lung, liver or kidney function tests, selected hormone evaluation, brain waves, psychiatric evaluation, and psychological testing. There was no evidence to indicate that the drug as commonly used was responsible for producing birth defects in offspring of users. This aspect is also being studied further.

Heavy smoking, no matter if the substance was tobacco or ganja, was shown to contribute to pulmonary functions lower than those found among persons who smoked neither substance. All the ganja smokers studied also smoked tobacco. In Jamaica, ganja is always smoked in a mixture with tobacco; and many of the subjects were heavy cigarette smokers, as well.

In a study of a Greek hashish-using population preliminary findings revealed poor dentition, enlarged livers, and chronic bronchitis. Further study is required to clarify the relationship of these to hashish use, alcohol or tobacco use, or general life style of this user population.

### **Social Functioning**

Similarly, the Jamaican and Greek subjects did not evidence any deterioration of mental or social functioning which could be attributed solely to heavy very long-term cannabis use.

These individuals appear to have used the drug without noticeable behavioral or mental deviation from their lower socioeconomic group norms, as detected by observation in their communities and by extensive sociological interviews, psychological tests and psychiatric examination.

Overall life style was not different from non-users in their lower socioeconomic community. They were alert and realistic, with average intelligence based on their education. Most functioned normally in their communities with stable families, homes, jobs, and friends. These individuals seem to have survived heavy long-term cannabis use without major physical or behavioral defects.

## Mental Functioning

The incidence of psychiatric hospitalizations for acute psychoses and of use of drugs other than alcohol is not significantly higher than among the non-using population. The existence of a specific long-lasting, cannabis-related psychosis is poorly defined. If heavy cannabis use produces a specific psychosis, it must be quite rare or else exceedingly difficult to distinguish from other acute or chronic psychoses.

Recent studies suggest that the occurrence of any form of psychosis in heavy cannabis users is no higher than in the general population. Although such use is often quite prevalent in hospitalized mental patients, the drug could only be considered a causal factor in a few cases. Most of these were short-term reactions or toxic overdoses. In addition, a concurrent use of alcohol often played a role in the episode causing hospitalization.

These findings are somewhat surprising in view of the widespread belief that cannabis attracts the mentally unstable, vulnerable individual. Experience in the United States has not involved a level of heavy marihuana use comparable to these foreign countries. Consequently, such long-lasting psychic disturbances possibly caused by heavy cannabis use have not been observed in this country.

## Motivation and Behavioral Change

Another controversial form of social-mental deterioration allegedly related to very long-term very heavy cannabis use is the "amotivational syndrome." It supposedly affects the very heavy using population and is described world-wide as a loss of interest in virtually all activities other than cannabis use, with resultant lethargy, amorality, instability and social and personal deterioration. The reasons for the occurrence of this syndrome are varied and hypothetical; drug use is only one of many components in the socioeconomic and psychocultural backgrounds of the individuals.

Intensive studies of the Greek and Jamaican populations of heavy long-term cannabis users appear to dispute the sole causality of cannabis in this syndrome. The heavy ganja and hashish using individuals were from lower socioeconomic groups, and possessed average intelligence but had little education and small chance of vocational advancement. Most were married and maintained families and households. They were all employed, most often as laborers or small businessmen, at a level which corresponded with their education and opportunity.

In general, their life styles were dictated by socioeconomic factors and did not appear to deteriorate as a result of cannabis use. The Jamaicans were working strenuously and regularly at generally uninteresting jobs. In their culture, cannabis serves as a work adjunct. The users believe the drug provides energy for laborious work and helps them to endure their routine tasks.

In contrast, others have described Asian and African populations where heavy to very heavy hashish or charas smoking for a very long time is associated with clear-cut behavioral changes. In these societies, the smokers are mostly jobless, illiterate persons of the lowest socioeconomic backgrounds. They generally begin to use the drug in their early teens and continue its use up to their 60's.

The users prefer to smoke in groups of two to 20, generally in a quiet place out of the reach of non-smokers. Weakness, malnutrition and sexual difficulties, usually impotence, are common. Some of them report sleep disturbances.

Most users who have used the drug for 20 to 30 years are lazy and less practical in most of their daily acts and reluctant to make decisions. However, their ability to perform non-complicated tasks is as good as non-smokers.

Although the smokers think they become faster in their daily work, a general slowness in all their activities is noticed by others. This user population is typically uncreative. They make little if any significant contribution to the social, medical or economic improvement of their community.

### SUMMARY

Once existing marihuana policy was cast into the realm of public debate, partisans on both sides of the issue over-simplified the question of the effects of use of the drug on the individual. Proponents of the prohibitory legal system contended that marihuana was a dangerous drug, while opponents insisted that it was a harmless drug or was less harmful than alcohol or tobacco.

Any psychoactive drug is potentially harmful to the individual, depending on the intensity, frequency and duration of use. Marihuana is no exception. Because the particular hazards of use differ for different drugs, it makes no sense to compare the harmfulness of different drugs. One may compare, insofar as the individual is concerned, only the harmfulness of specific *effects*. Is heroin less harmful than alcohol because, unlike alcohol, it directly causes no physical injury? Or is heroin more harmful than alcohol because at normal doses its use is more incapacitating in a behavioral sense?

Assessment of the relative dangers of particular drugs is meaningful only in a wider context which weighs the possible benefits of the drugs, the comparative scope of their use, and their relative impact on society at large. We consider these questions in the next Chapter, particularly in connection with the impact on public health.

Looking only at the effects on the individual, there is little proven danger of physical or psychological harm from the experimental or intermittent use of the natural preparations of cannabis, including the resinous mixtures commonly used in this country. The risk of harm

lies instead in the heavy, long-term use of the drug, particularly of the most potent preparations.

The experimenter and the intermittent users develop little or no psychological dependence on the drug. No organ injury is demonstrable.

Some moderate users evidence a degree of psychological dependence which increases in intensity with prolonged duration of use. Behavioral effects are lesser in stable personalities but greater in those with emotional instability. Prolonged duration of use does increase the probability of some behavioral and organic consequences including the possible shift to a heavy use pattern.

The heavy user shows strong psychological dependence on marijuana and often hashish. Organ injury, especially diminuation of pulmonary function, is possible. Specific behavioral changes are detectable. All of these effects are more apparent with long-term and very long-term heavy use than with short-term heavy use.

The very heavy users, found in countries where the use of cannabis has been indigenous for centuries, have a compulsive psychological dependence on the drug, most commonly used in the form of hashish. Clear-cut behavioral changes and a greater incidence of associated biological injury occur as duration of use increases. At present, the Commission is unaware of any similar pattern in this country.

Senator JAVITS. I thank my colleague.

And may I say, too, that like all of us, I am spirited as my colleagues are spirited. I could not think of a finer assistance to the country than this debate. Even if there is no law, this itself, on the policy of States, on the policy of courts, will have had a very profound effect, and I really am very grateful for the hearing which has been afforded to us.

Now, if I may, I would like to stay just another 5 minutes.

Mr. RANGEL. Mr. English.

Mr. ENGLISH. Thank you, Mr. Chairman.

There has been, of course, a great deal of discussion and the facts and figures thrown around and arguments in support of and in opposition to. I still can't understand, if it is all right to possess 1 ounce, why it is wrong to possess 2 ounces?

Senator JAVITS. I would like to answer that.

We started in our 1972 bill with 3 ounces. What we're trying to get out is an inconsequential quantity that would not lend itself to sale and traffic but can, by the sheer quantity itself, be considered a quantity which is reasonable respecting private use, so it bears out the finding of fact.

And I might point out that even in the felony statutes respecting hard drugs, there are quantity limitations which make it a different kind of a crime if it's a certain quantity than if it is another quantity. So we simply adopted a standard which exists in law anyhow in order to try factually to meet the definition that it really is a small enough quantity so that it is obviously for private use and not traffic.

And we cut it down to 1 ounce, which I think is the contents of one pack of cigarettes, just because we were trying to get to the very, very minimum.

Mr. ENGLISH. I am very delighted, Mr. Chairman, to make the observation that given the input we had from the audience, that we do not have any pot smokers here, because they don't know whether it is a pack or a cigarette.

Senator JAVITS. One ounce is, in round figures, something of the order of magnitude.

Mr. ENGLISH. Also, along those lines, it appears to me that some of the arguments—and I think Congresswoman Burke alluded to this with regard to what has taken place in California, that supposedly we've actually had a reduction in the number of people who are using marihuana since the law has changed in the State of California.

I know that in my own State of Oklahoma we were one of the latest States—in fact, in 1959, as far as prohibition was concerned, and whenever we changed our laws in the State of Oklahoma, one of the arguments that was used was that through the bootlegging days in the State of Oklahoma there was a much larger consumption of alcohol than there was after it became legalized, in the State of Oklahoma. And I'm not sure—it seems that after that came into being—that law came into being, I did not see any statistics come out to either counteract that argument or support that argument.

I wonder if we aren't pretty much in the same position with this particular statement. And if we are not, then what you're saying—

isn't it a logical step to say if we're going to be able to reduce the number of people using marihuana by decriminalizing it, couldn't we also reduce it even further by legalizing it, and aren't you obligated to go ahead and say that you totally support the legalization of marihuana?

I'm asking a lot of questions, I realize, but my 5 minutes goes fast. Mrs. BURKE. First of all, let me put into the record this report. The question was asked earlier how many people were polled, and I think I have to distinguish two things. One is the attitude poll which was conducted on 1,033 people in November 1976. The second thing is the actual poll of criminal statistics, and when I say the 47 percent reduction in arrests, this was the poll of actual criminal statistics. The attitude poll only establishes that there were not increased numbers of people who indicated they tried marihuana as a result of the fact that it was decriminalized.

Now, I think you also have to recognize that people don't run out trying to pay a \$100 fine. You're not talking about it being legal, and a \$100 fine still discourages, I think, most people—the possibility of having this fine placed on you any time you are in possession of this amount of marihuana. So we aren't saying that you are making it legal, and I think that is the distinction.

It may very well be that, especially under particular age groups and people who cannot drink alcohol, I think that there might be people who would argue that if it was totally legal, if there was no chance of any fine, there are probably some people, especially older people, over 30, who might indulge in marihuana smoking under those conditions who might be deterred under the present situation.

But we are talking about a fine of \$100, and that tends to be, I think, a deterrent to many people.

Let me say one other thing. At the same time the arrests were down for marihuana, arrests were up for serious drug offenses by 18 percent in that same test area. And I think this is significant. What we are saying is that probably the law enforcement, the courts and everything else, were able to concentrate more in those serious offenses.

Mr. WOLFF. Will the gentleman yield?

Mr. ENGLISH. If I could follow up here—

Mr. RANGEL. Well, the gentleman's time has expired.

Senator JAVITS. May I be excused, Mr. Chairman?

Mr. RANGEL. Thank you, Senator, for being with us.

Mr. Frey will be recognized for 5 minutes.

Mr. FREY. Senator, we appreciate your coming and we certainly appreciate your remarks and what you have added to it.

My experience is, frankly, much more in the heroin area. I spent a great deal of time—I have been out in California facilities and I have talked with a lot of the people, and I tell you what bothers me in this whole area. We are not talking about statistics; we are talking about kids and we're talking about people and we're trying to figure out what is right to do. And that is where we start.

And I read all the stuff and I know all the reports say it is not addictive, and I'm not arguing that in terms of a physical thing. What I don't understand, and I am trying to bear in my own mind, is the fact that most all of the heroin addicts I have talked to and

all the kids really in trouble in drugs—and I guess I have talked to 3,000 of them—I have been up to New York—and they all say, when we talk about marihuana and that, they all say, look, (a) certainly don't legalize it, and (b) try to keep kids out of the drug culture anyway, because while most kids can handle it and can use it and come back to it, some of them can't. Some of them get involved in it and they can't handle it. They make a decision—drug or no drug. It doesn't make any difference whether it's marihuana, whether it's speed, whatever it is, and from there they are gone.

And I guess the questions I have really in this whole thing is: What impact does that have?

Ed, it doesn't have a one-to-one thing, obviously, but it does have some impact. And while I'm concerned about the question of injustice with those kids, what happens to them, I am concerned about this other group who can't handle drugs and who are going to end up not only hurting themselves but hurting society.

Mr. KOCH. May I just respond to that?

Mr. FREY. Yes, please.

Mr. KOCH. My recollection is—and I hope the committee would be able to establish the validity of it—is that there is more alcoholism today among juveniles than there is the use of marihuana. And I'm talking about beer drinking as well as hard liquor. It is very prevalent among juveniles.

Now, the answer to that is to go after the people who sell liquor to juveniles, because that is illegal under the law. The fact of the matter is, in most States it is illegal to sell cigarettes to juveniles. It's right on the machine. It's illegal. But they don't evidently carry out that law.

But with respect to alcohol, why don't they?

And if you are worried as I am that juveniles are engaging in marihuana—I think it is wrong that they are, and I am not encouraging adults to do it—that is why our bill specifically provides for the continuation of criminal penalties against the sellers.

Mr. FREY. That wasn't my question. I didn't mean to imply that at all.

Mr. KOCH. What you are saying is you are encouraging by decriminalization the use by juveniles of marihuana; that's what I thought the implicit aspect of your question was.

Mr. FREY. Yes, I think it is.

Mr. KOCH. And what I am saying is: We are not encouraging that simply by maintaining the criminal sanctions against sellers. Let's go after the sellers of marihuana, particularly those that sell them to juveniles.

Mr. FREY. I would like to make two comments.

First, I think the whole problem of drugs, obviously, is not going to be answered legislatively. If I get up in the morning and take a pill to wake up and a pill to get going and a pill to get to sleep, and I tell my kids drugs are wrong, they are going to laugh at me. The same way if I made two or three martinis to get through the day, they are going to laugh. So a lot of it comes from the individual responsibility. And we're not going to legislate that here. I certainly wish we could. But I have really never seen any of these studies go



to the subject I am talking about in the terms of the drug culture itself and what impact decriminalization would have on it. I guess we just are not going to. The only thing I know is from the kids who are really in it that I have talked to, were just turned off by it.

Mr. RANGEL. The gentleman's time has expired.

Mr. STARK?

Mr. STARK. Thank you, Mr. Chairman.

I wanted to welcome my two distinguished colleagues here and apologize for not being here to hear their prepared testimony. But I know that they have been long concerned with this issue, and I wanted to commend them for their work in it.

I particularly wanted to ask Congresswoman Burke, because I know that the objection has often been made that marihuana as well as other drugs impacts more on people who live in poor communities, whether reducing the penalties on marihuana has further compounded the problems of the disadvantaged for whom the effects of any drug which deter people from what little opportunity they may have, could be counterproductive.

Has there been any evidence of this? I know that in my own district even though unemployment has risen, this has not been a problem.

I wonder if you have any comments about the experience in California, and the feelings of people who represent these districts where marihuana could be considered more of a problem.

Do you have any comment on this?

Mrs. BURKE. There was a time, I think, that marihuana was identified as ghetto crime, but this is no longer the case. Marihuana has been integrated into our society. There is no question, though, that there is a serious impact on the future of inner city youngsters, and the reason is—again, it goes back to selective enforcement and also to the attitudes of law enforcement officers regarding an individual crime. The approach has been, if you had a group of young people in some communities who were smoking marihuana, the parents were called in and they were kind of slapped on the wrist. In other communities it was an arrest, a charge, a permanent criminal record, and the approach is most often to take that into the courts.

So that the impact today is not where it used to be, when marihuana was more prevalent in the ghettos. That is just no longer true.

May I just remark—however, I don't see Congressman Frey here, so I will answer that later.

Mr. STARK. I wanted to make one more comment on how the two witnesses feel about it. I am concerned about "legalization," because just recently a bill was introduced to take away the tax deduction for advertising alcohol, a legalized drug, and the lobbyists leaped on us like a herd of locusts. I would suspect that without a lobby who has a financial interest in supporting marihuana, that those supporting the legalization of marihuana are without the financial muster to do this. But I don't ever want to see ads directed at my kids saying, "It's going to make your complexion better, your sex life better, you're going to be a better athlete, if you smoke Thai sticks." By preventing the legalization of marihuana, we can keep

that from happening, and, therefore, I would prefer to see it listed as contraband. But that is my fear. I wonder if you two share it for the same reason.

Mrs. BURKE. My concern is yours. The reason I want to answer his question is I also am concerned about this idea of a contact with an illicit seller of drugs. And often the original person who brings marihuana into a State is also a person who brings other drugs, and that concerns me.

Of course, I suppose the argument there has to be: If it was legal then you would not put this young person in contact with that illegal seller.

But the reason I have so much objection to legalization is that the history that we have been is that if anything is legal, it becomes a commercial item, and I would certainly not want to see it become commercialized and stands selling it in the drugstore or machines and promotion and all of the radio and TV, because I feel the same way about cigarette smoking.

So, I would not want to see this fall into commercialization. There is also the serious health question, where it remains part of an illegal market, that you see mercury and other chemicals injected. And in my district "angel dust" is probably the most serious drug and often misrepresented as marihuana.

Mr. RANGEL. The gentleman's time has expired.

Mr. STARK. Could I ask unanimous consent for one other question that Congresswoman Burke is interested in answering. It was stated by Chief Davis yesterday that he was seriously concerned that if marihuana were allowed to grow, children as young as 2—and I believe the Congresswoman has a child about that age—would be apt to go into the garden and nibble on the leaves and become addicted. I wondered if you share Chief Davis' concern.

Mrs. BURKE. Now, I don't encourage my daughter to nibble on any leaves in the garden because she might nibble the wrong leaf, and I would hope that most parents do the same thing.

I happen to feel very strongly that, as you say, if we take pills or if we are smoking, a child tends to smoke. If they see us drinking, they tend to take this as part of their culture, so that—but I'm not really concerned that—I didn't know many people ate marihuana in a green form. So, I can't reply, really, to that.

Mr. RANGEL. Mr. Scheuer.

Mr. SCHEUER. Thank you, Mr. Chairman.

We heard testimony yesterday that I was impressed with from Dr. Jerome Jaffe, the former head of SAODAP, that even the kind of decriminalization that you're talking about would increase drug use and would increase marihuana usage, and the increase would not likely be just moderate usage by smart, middle-class college kids, but what would happen would be the entire bell curve would go up. In other words, you would get some additional moderate usage and you would get some additional usage by people who should not be smoking marihuana.

Therefore, Dr. Jaffe recommended eliminating the penal sanctions but keeping a very high fine as a message that society would send out as best it could that while we are dropping the penal sanc-

tions because we don't want to stigmatize people for life, this doesn't mean we approve, encourage, or condone the use of marihuana. We think life itself is a high and we don't want them to use drugs.

But he also added that to the extent this was a revenue-producer it would help pay for part of the cost of the drug programs for these new users who could not cope.

Would you agree that while you advocate decriminalization and the abolition of the criminal sanctions, you would advocate a high level of civil fines so that we to the best of our ability as legislators and as a society send out a signal that we don't like it, we're not encouraging it, we're not condoning it?

Mrs. BURKE. I'm not sure what he indicated was a high fine.

Mr. SCHUEER. I think \$100 would be a high fine.

Mrs. BURKE. I think you have to have the benefit of much more research to tell exactly what the cutoff point is. But the California law using a \$100 fine has shown this decrease in arrests and has not shown a ballooning effect in the attitude of people that, "just because the fine is a maximum of \$100 masses of people are going out and trying marihuana for the first time or increasing their usage." And that is what this study shows. Obviously, there has been nothing so far that has indicated anything to the contrary.

Mr. KOCH. If I may respond to that—our bill and the legislation of the eight States that have laws adopt the policy of a \$100 fine. What is interesting to me about the whole discussion here is, that this is not a radical approach. I'm looking now at the States that have adopted the decriminalization approach. These are not the States that could be considered way out. I mean, the State of Maine is a conservative. The States of Ohio, South Dakota, these are not normally the "radical States," in my judgment.

Now, the people in those States seem to have not only accepted it, but think it is the appropriate approach. It's been my experience that legislators on the subject of marihuana have been less than leaders in the area. The public has been far ahead of the legislators in most of these areas.

It is as a result of public outcry that the legislators were pulled screaming and yelling to the point where they would vote for it and found that when they did vote for it they did not suffer politically. In fact they were carrying out the wishes of their constituents.

Mr. SCHUEER. Could I just ask one more question to both of you. The Los Angeles Police Chief, who addressed us yesterday, said that the California legislation—and this I quote him: " \* \* \* had been passed as the result of the actions of an elite group composed of the legislators, the State legislators, and the Governor."

And I asked him what the vote was, and he said it was a party line vote. The Democrats voted for it, and the Republicans voted against it.

Now, in your opinion, are Democrats more elitist than Republicans?

Mr. KOCH. In my opinion, if you broke down the 35 million people who use marihuana, you will find that 18 percent of them are Republicans. [Laughter.]

Mr. RANGEL. Mr. Mann.

Mr. MANN. Mr. Koch, just an illustrative question. How is the civil fine enforced?

Mr. KOCH. Well, with respect to the Federal bill, it would be enforced through the U.S. district courts.

Mr. MANN. Well, of course, there is no way to enforce it except contempt, I presume.

Mr. KOCH. Why is that, Mr. Mann? I mean, why can't you impose a civil fine as we do in a whole host of cases and enforce it through execution against property?

Mr. MANN. Well, can't you imagine the amount of administrative money we're going to invest in the fine by going through the process of executing on property to collect \$100?

Mr. KOCH. Don't we have that on every occasion with small fines like \$10 for a traffic fine?

Mr. MANN. Fine. Let's get to that point. You know, we talked about relating this decriminalization to traffic offenses. And the example was made, in filling out employment forms, they seldom ask anymore whether or not you've been convicted of a traffic offense, or if they do, they qualify it a traffic offense punishable by more than so many dollars or a traffic offense of a moving nature or something of that sort.

Nevertheless, all of those traffic offenses retain a criminal character.

Mr. KOCH. I would disagree with you completely, because a traffic offense is not, as you know—

Mr. MANN [interrupting]. You can disagree with me. I'm only quoting the assistant attorney general, the head of the criminal division yesterday.

Mr. KOCH. Well, he's not always right. If I can make this point, there are three levels of punishment or areas of the law. One is the offense, one is the misdemeanor, and the third is the felony. And the offense is not a crime, and one need not respond when asked the question, have you ever been convicted of a crime? And if it is an offense for which you have been convicted, you need not respond in the affirmative, and certainly with respect to traffic offenses. Anyone who responds, "Yes, I've been convicted of a crime," is making a terrible mistake and a gross admission against interests that is not warranted.

Mr. MANN. Nevertheless, a traffic offense is punishable by fine and/or imprisonment. It is still a criminal offense. In the civil fine arrangement you propose, there is no punishment that can come to a person who refuses to pay the fine, other than the cumbersome process of trying to collect money from him as you would any civil debt. And we don't need to talk much about how cumbersome that process is.

Mrs. BURKE. If the gentleman would yield, may I just make one distinction, there are varying statutes that provide decriminalization, that approach it in different ways.

It is true, Oregon, Alaska, Maine, South Dakota, and Minnesota do have civil penalties. However, in Colorado, Ohio, and California, they are noncivil; it is a misdemeanor punishable by maximum fine.

Now, the difference is, there is no criminal record. It is like a traffic offense in that sense. A traffic offense, unless it is a certain kind of a traffic offense, does not carry a long-term criminal record. But there are different statutes, some of which are civil, some of which are low-level misdemeanors, so that this is one of those things that is considered. The civil approach that is being used versus the other approach, which is one that reduces the criminal record.

Mr. MANN. Fine. That sets the framework for a point I would like to make. You know, we talk about—or at least the Carter administration position is that we want to maintain strict societal disapproval, no compromise on that. If we had societal approval, we would go to legalization. We want to maintain strict societal disapproval. And then we relate it to traffic offenses, which have achieved their minimal societal disapproval through the reaction of the private sector—the employment sector, which does not require that you report it, or other sectors which don't require that it be called a crime. But it is nevertheless a criminal-type offense that is enforceable and punishable.

Now, that is a big distinction. If we're talking about the fact that society is no longer willing to devote the resources—that is actually the case here—to the proper administration of the marihuana laws through handling them in such a manner as not to bring about the stigma, and you know the many ways that can be done, through preindictment, diversion, or many other ways—since it is not willing to devote the resources to that, cannot society at the same time through its own mechanisms without the stamp of Government say that this shall no longer be considered a disqualifying crime as far as employment is concerned with my company or as far as imprisonment is concerned with reference to a record?

But what we're doing here is coming dangerously close to societal approval. Now, you made reference earlier, let's get the sellers. You know what you're saying—that we will never get the sellers as long as we approve the buyers. We will never get the sellers as long as that market is there which can buy with relative impunity and as long as we are not discouraging that market by governmental action but are in fact even though minimally encouraging it.

Mr. RANGEL. The gentleman's time has expired.

Mr. Skubitz, would you care to inquire?

Mr. SKUBITZ. I have no questions. I just want to observe, Mr. Chairman, that certainly our colleagues have the right to come here and express their opinions on this sort of legislation just as we have. But I don't think either of them—or any of the three that were here today—would set themselves out as experts in this field to give this committee information in the field of expert advice. And, therefore, I have no questions.

Mr. BURKE. I have one question, if I may ask it.

Mr. RANGEL. Yes, Mr. Burke.

Mr. BURKE. I would like to ask Congressman Koch this question. You have said that one of the real purposes of your bill was because in some areas the penalty is much more stringent than in other areas, and you wanted to have a unified penalty under the Federal law.

Mr. KOCH. No. That's not a correct statement of my position. My position is that it is wrong to give a criminal record to someone with

respect to personal use and possession and that the Federal Government, while it would not under my legislation preempt the field, should lead the way because there are 42 States that still provide for criminal records.

So, it is not simply a question of uniformity, although that is one of the matters thwarted by the current law, where you have people who are diverted from the criminal court system and others who may serve years in jail.

Mr. BURKE. Well, isn't that so with almost any State? The laws are different with regard to punishment, with regard to misdemeanors and felonies?

Mr. KOCH. Oh, yes; but there is a wide diversity in sentencing in every State, there's no question about it. And, therefore, that is not the major reason that I give for decriminalization, although it is a reason.

Mr. BURKE. Let's take the matter of a simple bookie that's picked up once.

Mr. KOCH. I've never heard of a simple bookie.

Mr. BURKE. Well, I've never heard really, frankly—you know, it's easy for you to jump, but I want to make an example, if I might.

If you want to be serious, then let's all be serious, if you don't mind.

Mr. KOCH. Of course.

Mr. BURKE. Let's take a bookie that has never been picked up before, just happened to be a runner in New York City or wherever you want, and he is picked up and maybe he is 18 years old, first offense for anything. He is given a criminal charge and a criminal record. Now, why is he any different than somebody else?

Mr. KOCH. Well, I will tell you the difference, if I might. It becomes a question of whether or not an existing law is being obeyed by a substantial number of people or disobeyed by a substantial number of people.

It happens that laws against gambling are such that most people do not violate them in the area that you are talking about.

Mr. BURKE. You wouldn't want to bet a little on that, would you?

Mr. KOCH. Well, it may be. But I don't think the numbers of bookies—

Mr. BURKE [interrupting]. You know, gambling is a big business in the United States.

Mr. KOCH. There's no question that illegal gambling involves a lot of money. I don't think it involves 35 million people. If it does, we are in big trouble.

But I do know that we have people who today are subject to criminal sanctions because they have used marihuana—and the number is 35 million.

If there were 35 million bookies in this country, then I think we would have to look at the law. That doesn't happen to be the case, and therefore I think we are talking about apples and oranges.

Mrs. BURKE. Mr. Chairman, may I just add to this?

Mr. BURKE. You use figures rather loosely. You use 35 million. There are only 210 million people in this country. Do you mean to tell me that one out of every six or less smokes marihuana? And this in a sense, by the way, shows—includes all the children and all the babies. Are you trying to tell me—where do you get 35 million, by the way?

Mr. KOCH. I'm going to tell you, Mr. Burke. It's not research on my part. It's the Shafer Commission, the Presidential commission on marihuana, which issued its report after a 2-year study in 1972.

Mr. SCHEUER. Was that President Nixon's commission?

Mr. KOCH. It was President Nixon's commission.

Mr. BURKE. If we're going to go through the nonsense of saying this is bipartisan, I think it would be kind of nice if some of you on the other side would act bipartisan in this type of thing instead of talking about Republicans and Democrats. There are no gods in either party.

Mr. KOCH. I agree with you. But let me just give you the concluding statistic. The two statistics that really bear upon your question were issued, not by Ed Koch, but by the Shafer Commission, a duly constituted commission which spent about \$1 million authorized by the U.S. Government, and it came up with a report which is universally recognized as the definitive report.

It was they who said that there were 35 million users of marihuana and that 12 million of the 35 million used it regularly—regularly meaning at least three times a week.

Mr. RANGEL. Mr. Burke, there is going to be a quorum. I know Mr. English has a question.

Mrs. BURKE. Mr. Chairman, could I just make one fast statement in response to Mr. Burke? I think he has finally hit upon a similar situation. I think if we look at the difference between the bookie and the person that places the bet, we get a better comparison. And it is true, the question gets to be: Do you want every person who has ever placed a football bet in a football pool, who has ever placed a horserace bet with a bookie, to become a long-term criminal on that record, and do you want to go through these halls and get every person who has ever placed that bet and subject them to the total criminal system and do you want the police going through and monitoring every place?

I think if you can think of that, you can get a better understanding of the relationships between the two offenses that we are talking about.

Mr. RANGEL. Mr. English. And then counsel has some questions, too.

Mr. SCHEUER. Mr. Chairman, a matter of privilege.

Mr. ENGLISH. Could I get my question in?

Mr. SCHEUER. This is a matter of privilege.

The gentleman from Florida chastised me for being partisan. I was trying to indicate that this Commission was not a way out, kookie commission, but was a conservative commission appointed by what we would all agree was a rather prudent and rather conservative administration and that therefore the figures and the conclusions in that Commission should be given some credibility.

And I would like to now go off the record.

[Discussion off the record.]

Mr. RANGEL. Mr. English, in the interest of time, because all of us have to answer the quorum, counsel does have some questions prepared. Mr. English, would you inquire?

Mr. ENGLISH. I would like to ask a nonpartisan question. Basically, I've got a lot of the concern that has been expressed here with re-

gard to so many of the young people who have gotten a criminal record because of the use of marihuana that they were caught using.

I've got an individual that I know—and know quite well—who was involved in a traffic accident when he was a very young person, 17 years old. And as a young person, he was charged with manslaughter, due to the fact that it was an accident, but it was put down as carelessness on his part. Now, he has been carrying that burden with him ever since that accident has taken place.

Now, what justification is there in a situation such as that, where there is an accident, a young person who's carrying that kind of a liability, how can you come in and say that people who are deliberately going out and breaking the law, not by accident but deliberately choose to do so, that they should bear less of a penalty than a young person such as this individual I'm speaking of?

Mrs. BURKE. Well, this gets into the whole area of victimless crimes. There is a victim. There is a person who is dead today because of that person's judgment and what was determined to be faulty judgment. But when we get over to the point of whether or not you put a ticket in a football pool and purchase that ticket, or whether or not this young person over there does not sell to someone else but smoke or has in his possession a marihuana cigarette, we start talking about the victimless crime. And the whole issue in society today that we have to direct our attention to is the victimless crime and whether we want to use our resources and our penalties emphasizing those, or if there are more important things that we believe we should pursue.

Mr. RANGEL. The problem we have, Mr. English, is we won't even have any witnesses in a short period.

And counsel, would you ask your questions so we can recess?

Mr. NELLIS. Thank you, Mr. Chairman.

I have one question related to what Congresswoman Burke was saying. We have a situation in which all of us are interested—good law enforcement. There are numerous victimless crimes: gambling, prostitution, smoking marihuana; are we coming to the point where, when sufficient numbers of American citizens ignore these laws, our response is either to decriminalize the act or to legalize it? What is your impression?

Mrs. BURKE. My impression is, we look at the overall social consequences. If the social consequences are such that they are detrimental to our society and they are destroying our society, I believe that the responsibility of us, as people who are involved in legislation, is to ignore the public attitude and to maintain those as crimes.

But, what happens is, I guess that usually, the social mores change, and then finally we come along and make those social mores into laws.

But I believe we also have an overriding responsibility not to allow those social mores to destroy our society.

Mr. KOCH. Just one additional point—there were States that prohibited the sale of contraceptives. Society said that they wanted and bought contraceptives illegally. Ultimately, those States and the Supreme Court recognized that it was a foolish law.

Mr. RANGEL. With many thanks to our distinguished colleagues, we stand in recess until 12:30.



[Brief recess.]

Mr. RANGEL. The committee will come to order, to resume our hearings. The Chair would like to call Jerome Hornblass, director of the Addict Services Agency of New York City; Brooksley Landau of the American Bar Association; and Jay Miller of the ACLU. We would like to swear you in.

[Witnesses sworn.]

Mr. RANGEL. At this time, I hope you might find it convenient to have your full, written statements entered into the record, without objection and with the unanimous consent of the committee, and then you can proceed and attempt to summarize it, so that when the other members rejoin us, that we might be in a better position to spend most of the time with the questioning that some of the members of the committee would have.

So, Ms. Landau, suppose you lead us off, and then we will hear from you Mr. Hornblass, and then you Mr. Miller. And we have copies of your testimony.

#### TESTIMONY OF BROOKSLEY ELIZABETH LANDAU, ON BEHALF OF THE AMERICAN BAR ASSOCIATION

Ms. LANDAU. Thank you very much, Mr. Chairman. I am here on behalf of the American Bar Association. The association has taken a clear and unequivocal position in favor of decriminalization of simple possession of marihuana by users and in favor of decriminalization of sale of small amounts of marihuana on a not-for-profit basis.

The association's house of delegates—which is its policymaking body—adopted the following resolution in 1973:

*Be it resolved*, That, because of the tendency to punish those who merely experiment with use of small quantities of marihuana and to apply too serious penalties to them, rather than to concentrate on detecting and punishing sellers of the drug, there should be no criminal laws punishing the simple possession of marihuana by users; and be it further

*Resolved*, That casual distribution of small amounts not for profit be treated as simple possession \* \* \*.

The association is by no means in favor of the use of marihuana. Indeed, simultaneously with adopting the resolutions I just spoke of, the association took a position deploring the use of marihuana.

But the issue that this committee is considering today is not whether or not marihuana use is right or wrong. The issue is, rather, whether or not it is an appropriate situation in which the criminal sanctions should be applied.

In the view of the association, it is not an appropriate kind of activity to apply criminal law to. The reasons for the association's position can be summarized in an excerpt from an earlier association resolution on marihuana use and possession. The resolution said:

[T]he individual and social costs resulting from some existing laws punishing personal use or simple possession of marihuana substantially outweigh any benefits derived \* \* \*.

The costly impact of the current marihuana laws on the lives and careers of marihuana users, and—equally importantly—on law enforcement and the administration of criminal justice in our society, supports the ABA's position.

According to a 1976 survey of the National Institute on Drug Abuse, 35 million persons in the United States have used marihuana at some time. This represents over 20 percent of the adult population of our country.

These persons have used marihuana, despite the existence of sometimes quite severe criminal penalties applied to such use. Thus, the existing criminal laws have not had the deterrent effect which is usually the primary justification for use of the criminal sanction.

The large number of persons who have used marihuana is also indicative of an increasing social tolerance of such use. When the law defines as criminal an activity that one-fifth of the adult population has engaged in at some time, the society's respect for law may be undermined in an even broader way; that particularly concerns the association.

Moreover, the impact on the lives and careers of the hundreds of thousands of marihuana users who are arrested or convicted or investigated each year because of their use of marihuana is extremely harmful.

As an organization of lawyers, the association is especially concerned with these impairments of individual liberties and these individual liberties and these invasions of privacy.

It is also particularly concerned with the impact of the laws on law enforcement and the administration of justice in our courts. Fair and impartial law enforcement in this area is virtually impossible in light of the extremely large number of users involved.

It is also extremely expensive. Congressman Koch stated today that \$600 million are spent each year in law enforcement of criminal laws against marihuana offenses. This represents a large amount of time and resources which could better be diverted to high priority issues in our society—for example, to law enforcement with respect to serious crimes.

Similarly, the congestion of our courts is a major problem today. The need to process those arrested for marihuana use through our courts unnecessarily adds to the courts' burdens.

The current laws are designed to discourage marihuana use. The ABA clearly opposes such use. Nevertheless, it believes that a more appropriate means of discouraging the use is through education.

The American Bar Association, in 1973, adopted a fourth resolution:

\* \* \* that educational programs should be established as widely as possible to discourage the use of marihuana and other drugs which may be harmful.

In the view of the association, the true facts concerning marihuana should be broadly distributed so that users and potential users may make an intelligent, informed decision with knowledge of the potential harm of marihuana use.

In conclusion, the ABA supports the abolition of Federal criminal laws which punish possession of marihuana by users or the distribution of small amounts of marihuana on a not-for-profit basis.

Thank you.

Mr. RANGEL. With the committee's consent, we will withhold questions until the entire panel makes their presentation.

At this point, by unanimous consent, we will place Ms. Landau's complete statement into the record.

[Ms. Landau's prepared statement follows:]

PREPARED STATEMENT OF BROOKSLEY ELIZABETH LANDAU, ON BEHALF OF THE AMERICAN BAR ASSOCIATION

Mr. Chairman and Members of the Committee: My name is Brooksley Elizabeth Landau. I am a practicing lawyer in Washington, D.C., and currently am Chairperson-Elect of the Section of Individual Rights and Responsibilities of the American Bar Association. Justin Stanley, the President of the American Bar Association, has designated me to appear before you on behalf of the Association on the question of decriminalization of possession and use of marijuana under federal law.

The American Bar Association, through its House of Delegates, has adopted a clear and unequivocal position in support of decriminalization of simple possession of marijuana by users and distribution of small amounts not for profit. The House of Delegates adopted the following resolutions in August 1973:

*"Be it resolved, That, because of the tendency to punish those who merely experiment with use of small quantities of marijuana and to apply too serious penalties to them, rather than to concentrate on detecting and punishing sellers of the drug, there should be no criminal laws punishing the simple possession of marijuana by users; and*

*"Be it further resolved, That casual distribution of small amounts not for profit be treated as simple possession \* \* \*"*

The American Bar Association is by no means in favor of the use of marijuana. Indeed, simultaneously with adopting the resolution I just referred to, the American Bar Association stated that it "deplores the use of marijuana."

But the issue considered here today is not whether the use of marijuana is right or wrong. The issue is rather whether the use of the criminal sanction to punish marijuana users is appropriate. It is the view of the American Bar Association that it is not appropriate.

The reasons for the American Bar Association's position on decriminalization may be summarized in an excerpt from an earlier American Bar Association resolution dealing with marijuana use and possession. The resolution noted:

*"[T]he individual and social costs resulting from some existing laws punishing personal use or simple possession of marijuana substantially outweigh any benefits derived \* \* \*"*

The costly impact of the current criminal laws on the lives and careers of marijuana users and their families and on law enforcement and the administration of criminal justice in our society supports the American Bar Association's position favoring decriminalization.

According to a 1976 survey of the National Institute on Drug Abuse, thirty-five million persons in the United States have used marijuana at some time. This represents over twenty percent of the adult population of our country.

These persons have used marijuana despite the existence of criminal laws penalizing such use. Thus, the existing criminal laws have not had the deterrent effect which is usually the justification for the use of the criminal sanction. In fact, a study in Oregon after decriminalization of marijuana use there seems to indicate that there was no appreciable increase in use after decriminalization.

The large number of persons who have used marijuana also is indicative of an increasing social tolerance of such use. When the law defines as criminal an activity in which one-fifth of the adult population has engaged, the society's respect for law may be significantly undermined.

The impact of the current laws on the lives and careers of marijuana users who are arrested or convicted for their use of marijuana is, of course, extremely harmful. During 1975—the most recent year for which statistics are available—more than 400,000 persons were arrested for marijuana offenses, most of them young persons and most of them for simple possession. The Federal Bureau of Investigation has reported that two million persons have been arrested for such offenses since 1970.

Those arrested for marijuana use and their families are not the only persons who have been affected by the current criminal statutes. Law enforcement

techniques in investigating illegal use or possession of marijuana often involve searches of persons and residences. These invasions of privacy would be diminished by elimination of the criminal sanction for marijuana use.

Law enforcement in this area is somewhat haphazard and may be inequitable. Fair and impartial law enforcement is virtually impossible in light of the extremely large number of users involved. Arrests in a given year represent a small percentage of the regular users of marijuana and an even smaller percentage of those who have ever used marijuana.

As an organization of lawyers, the American Bar Association is particularly concerned with the impact of these laws on our system of law enforcement and criminal justice. Congressman Koch stated on the floor of the House last month that \$600 million are spent each year in enforcement of criminal laws against marijuana offenses. This represents a large amount of the time and resources of our law enforcement agencies—time and resources which could better be used in law enforcement with respect to serious crimes. Similarly, most of our court systems are currently extremely over-burdened. The need to process those arrested for marijuana use through the court system unnecessarily expends the courts' time and resources.

The current laws are designed to discourage marijuana use. While the American Bar Association deplores such use, it believes that a more appropriate method of discouraging such use is through education. The American Bar Association, through its House of Delegates, in 1973 adopted the following resolution:

*"Be it further resolved, That educational programs should be established as widely as possible to discourage the use of marijuana and other drugs which may be harmful."*

In the view of the Association, the facts concerning marijuana should be broadly distributed so that users and potential users may make an intelligent, informed decision with knowledge of the potential harm of marijuana use.

In conclusion, the American Bar Association supports the abolition of federal criminal laws which punish possession of marijuana by users or the distribution of small amounts of marijuana not for profit.

Mr. RANGEL. Mr. Hornblass.

### TESTIMONY OF JEROME HORNBLASS, COMMISSIONER, ADDICTION SERVICES AGENCY, CITY OF NEW YORK

Mr. HORNBLASS. Thank you, Mr. Chairman, for inviting me to testify before you today. I come here in my personal capacity in representing the Addiction Services Agency, which is the largest drug-prevention and treatment agency—local agency—in the United States.

I am here today to urge that the Federal Government lead the Nation, not only in exciting debate—which we have witnessed this morning—but in enacting fundamental changes. And let us begin by decriminalizing the Federal marijuana statutes.

I think that, in light of the discussion which we participated in this morning, that it is important to put the whole issue of drug abuse into larger perspectives of the hopes and aspirations of our society.

New Yorkers, and all Americans, want to be strong in spirit and in mind. Most of us face frustrations, anxieties, failures, and tragedies, and we want to be able to cope with these additional difficulties by using our own inner reservoirs of strength and courage.

We should be strong enough to meet these challenges without resort to artificial coping devices of marijuana, of alcohol, or narcotics. Similarly, we ought to be able to get satisfaction and contentment from our lives, without the necessity of getting intoxicated by use of chemical substances.

Unfortunately, and sadly, we have become a drug-oriented society; and we influence our youngsters by media glamorization of drugs, which implore us to relieve pain, reduce tension, and feel better all over.

Moreover, adolescents are convicted of the validity of drug usage because of the drinking patterns of family and friends. My hope is that our society will reject the glorification of drugs, and substitute the glorification of the human capability to encounter challenge, adventure, and joy without resorting to artificial means.

Thus, the fundamental effort and thrust of this Nation's legislators, and our people, must be directed to reducing the demand for marihuana—and indeed all drugs.

In no way do I sanction the use of any mood-altering drug, unless prescribed by a physician for cogent medical reasons. And I believe that this country would be spiritually and morally stronger if all drugs were not abused.

My hope, too, is for a New York and an America which pursues justice and righteousness by promulgating and enforcing laws compassionately and firmly.

I submit that our current marihuana laws lead to duplicity, corruption, contempt, and falsity. We cannot continue such Draconian measures against marihuana use, as if Mr. Anslinger's thesis about its harmful effects were true.

Our children question the cogency of our teachings when we condemn them for marihuana smoking, while mom and dad get drunk on alcohol. When I converse with many of the nearly 40,000 youngsters who are serviced by our New York City drug-free network of services, I cannot respond logically, factually, or truthfully to their question—as some of the members of the committee posed this morning: Why can't I smoke the few harmful reefers a week, when my father has three highballs before dinner every night? Or why can mom smoke two packs of cigarettes a day, and I can't smoke one joint on Saturday night?

I believe that our society should curtail dramatically and drastically its use of alcohol and nicotine. This cigarette pack that I hold was the prime cause for the death of my father-in-law just 3 weeks ago. He died from lung cancer. And if this were alcohol, instead of water [indicating], that famed actress Rita Hayworth would not be in the news as she was this weekend.

And so we sanction both, and we glorify its use. Our laws cannot change the habits of millions of Americans.

Criminalization of marihuana use not only goes against the facts of life, but makes a difficult situation worse. There is a growing disenchantment in this country with the entire law enforcement approach as a tool to curb not only marihuana use, but heroin, as well. And perhaps that disenchantment is not, in small measure, due to the fact that our two Presidents' sons—of President Carter, and President Ford—have had their sons, I believe, admit to the use of marihuana.

To answer the question, Mr. Chairman, that was asked about the New York State laws, to our previous speakers: Let me say that, according to a majority of New York City judges and directors of

drug treatment programs who responded to a recent survey conducted by my agency, the stringent drug laws now in effect in New York State have not been successful in deterring drug use—according to that majority.

These responses represent over a third of a total of 300 judges and directors, who were asked to evaluate the effects of the present set of laws which were enacted in 1973. By a better than 2-to-1 margin, those responding felt that the 1973 so-called Rockefeller laws, which mandated prison sentences for possession of small amounts of heroin and small amounts of marihuana, up to 15 years, have failed to have the effect of deterring illegal drug usage.

Indeed, more than half felt that the laws actually contributed to a worsening of the situation, and have for the first time introduced juveniles under the age of 16 as drug couriers, since they are not subject to the harsh penalties of the penal law.

Significantly—and as I agree, and as most of us agree—a majority of those responding favored changes in the laws that would allow more lenient sentences for possession of small amounts of not only marihuana, but also heroin, and would encourage the use of treatment as a substitute for prison sentences for addicts.

The one aspect of the laws which they, and all of us agree on, is the fact that the stiff penalties and the major efforts of law enforcement ought to be directed against those major distributors—those people who live off the backs and off the tragedy of our families and our own children.

And I've seen it in New York. Congressman Rangel has been with me to parts of the city, and I have been to other parts of the city, where young children—12 to 14, and 15—lead lives of degradation because of their involvement with drugs—truants, delinquents, disrespectful of authority, and of their own mother and father.

We have seen it. So we have to go against those who pervade and who make profit out of the frustration and the depression and the sadness of oh so many of our people in New York City, and indeed all the other cities and rural areas of our country.

Drug abuse is a consensual crime; and drug abuse laws are extremely difficult to enforce. The absence of a complainant requires enforcement through informants, surveillance, wiretaps, and other expensive and sometimes questionable enforcement techniques.

And, as with gambling, another victimless crime subject to extreme enforcement problems, narcotics crime enforcement offers tremendous opportunities for police corruption. Most of you perhaps remember the Knapp Commission. In their report, in 1969, they found that in the New York City office of the Federal Bureau of Narcotics, 50 of its 300 agents were forced to resign; and they found widespread corruption in police departments, and in law enforcement officials, because of the tremendous attraction that is involved in the whole area of narcotics enforcement.

And perhaps the most pervasive effect of the marihuana laws is that the cloud on the criminal justice system which it engenders, with the widespread illegal use of some drugs throughout the population, an enormous part of the population finds itself violating the law.

For these people, the law—rather than the behavior—is called into question. And, by extension, the entire American legal system, among a population witnessing attendant corruption intertwined with the enforcement of these laws, the legal system is subject to contempt.

Now the purpose of the marihuana laws has been to protect the individual from himself by outlawing the use of marihuana. The laws have not deterred marihuana use.

In 1937, when marihuana was first made illegal, it was estimated that there were approximately 50,000 smokers in the United States. And today, while the figures may range, some said here today 30 million—I will use the figure 26 million Americans who have tried it at least once, including 13 million regular users. I'm doing that to be bipartisan.

Americans consume 7,600 tons of marihuana—\$6 billion annually. To those who assert, as has been asserted here this morning, that the marihuana laws are not being enforced, let me point out some pertinent facts:

Point No. one: The FBI Uniform Crime Statistics report that 500,000 persons were arrested by State and local police for marihuana possession in 1975. This is twice the number of arrests that were made in 1971.

Point No. two: In 1975, throughout New York State, 30,938 drug arrests were made, and 61.2 percent were marihuana arrests.

Point No. three: In 1975 there were 16,440 drug arrests in New York City, of which 6,640 were for cannabis.

Point No. four: Of all marihuana arrests nationally, 90 percent are for possession.

Point No. five: In New York City, of over 7,100 marihuana arrests, 50 percent were under the age of 20. And of course the New York City criminal justice system—it cost the New York City criminal justice system over \$17 million to arrest, arraign, and adjudicate those arrested for marihuana crime.

I can go on with some other facts; you have it in your testimony. In examining the effects of our legal sanctions as they apply to the marihuana abuser, abundance evidence now suggests five conclusions: One: That such laws do little or nothing to deter abuse, and indeed the laws may be responsible for heightened abuse; two: The cost of this ineffective enforcement are enormous; three: The laws and selective enforcement, criminalize otherwise law-abiding citizens and result in greater incidents of secondary crime; four: The difficulty in policing this crime, without victim, causes extensive police corruption; and five: The existence of such laws, and resulting enforcement and corruption patterns, tend to undermine the general integrity of the legal system.

In the light of the above conclusions, alternatives must be sought to help those who are drug abusers and need help. The difference between today and 10 years ago is that we have that alternative. There has been established throughout this country a network of services that are designed to prevent and treat drug abuse. Unfortunately, while we have expanded our efforts, we have seen in the past few years a tremendous decline.

My agency has been the pioneer in developing novel programs to enrich young people's lives so that they don't have to resort to any drugs and can stand on their own two feet and meet the vicissitudes of life on their own. But our funding has declined 80 percent by the city, some 15 percent by the State, and the Federal Government has almost virtually abandoned support for our programs in New York City.

People with social and psychological problems who use marihuana and those who feel that they have a marihuana problem would and ought to continue to present themselves to drug treatment and prevention programs. In New York City this would change only if legislation accompanying decriminalization prohibited programs funded with drug abuse service money from helping these individuals.

New York City has an estimated 40 percent of the Nation's addicts. This means 250,000 people in New York City are addicted to heroin. There are an additional 300,000 individuals on the streets of our city who use barbiturates and cocaine and psychedelic drugs and solvents, as well as marihuana. My agency, beginning with the upcoming fiscal year, will only have the capacity to treat some 15 percent of these people.

The real central issue—and with this I will try to conclude, I have been asked to be brief, the real central issue surrounding the entire discussion of marihuana in our society is not merely its use, but how can we enrich the lives of our youngsters so that they do not become truants, do not become delinquents, and do not have to resort to any kind of drugs, either to escape from life or to, as so often they tell me, I am bored and I want to get my kick out of life.

Prevention means coming to grips with a pharmaceutical industry and a distilling industry that has not been cooperative, that has glamorized and glorified and mythologized the use of alcohol and drugs; and coming to grips with it by imposing taxes upon them and taking away the tax deductions for the promotion of those drugs.

Prevention means getting our school system to be better, eliminating some of the basic causes of the use and abuse of drugs.

I appeal to you today to begin this national debate by establishing legislation that will decriminalize. It has served no purpose. If it doesn't work out, we can always come back to criminalization. It thwarts our criminal justice system. It fosters disrespect for our parents, and it has been in use by the people. We do not sanction its use, and this committee ought to address itself to how do we reorient our society away from drugs and alcohol and to our own being so that we can stand tall and straight and erect with our own bodies and our own souls and our own spirits.

Thank you very much.

Mr. RANGEL. Thank you.

[Mr. Hornblass' prepared statement follows:]

PREPARED STATEMENT OF JEROME HORNBLASS, COMMISSIONER, ADDICTION SERVICES AGENCY, NEW YORK CITY

Thank you for inviting me to appear before you today. There is a great need for this Committee to lead the nation in a nonpassionate, objective debate on issues relative to the prevention and treatment of drug use. The work of this



Committee under the Chairmanship of the Honorable Lester Wolff has convinced me that fundamental changes in American policy are necessary and that it is the federal legislative branch which must take the first essential steps. Interestingly, in the mid-1960's when New York City was a national pioneer in approaching the drug problem through humane rehabilitation modalities it took the federal government until 1970 to adapt a similar approach.

Fundamental change away from the strict law enforcement approach is essential and here also the initiatives have come from certain States rather than the federal government. I am here today to urge that the federal government lead the nation not only in debate but in enacting fundamental changes. Let us begin by decriminalizing the federal marijuana statutes.

My name is Jerome Hornblass, Commissioner of the New York City Addiction Services Agency, and my testimony represents my own views, not necessarily those of the Mayor of the City of New York.

I think we have to put the whole issue of drug abuse into larger perspective of the hopes and aspirations of our society.

New Yorkers and all Americans want to be strong in spirit and body. Most of us face frustrations, anxieties, failures, and tragedies and we want to be able to cope with these difficulties by using our inner reservoir of strength and courage. We should be strong enough to meet these challenges without resort to artificial coping devices such as alcohol, marijuana or narcotics. Similarly, we ought to be able to get satisfaction and contentment from our lives without the necessity of getting intoxicated by use of chemical substances.

We have become a drug oriented society and we influence our youngsters by media glamorization of drugs which implore us to "relieve pain, reduce tension, and feel better all over". Moreover, adolescents are convinced of the validity of drug usage because of the drinking patterns of family and friends.

My hope is that our society will reject the glorification of drugs and substitute glorification of the human capability to encounter challenge, adventure, and joy without resorting to artificial means. Thus, the fundamental national effort must be directed to reducing the demand for marijuana and other drugs. In no way do I sanction the use of any mood altering drug unless prescribed by a physician for cogent medical reasons and I believe that this country would be spiritually and morally stronger if all drugs were not abused.

My hope is for an America which pursues justice and righteousness by promulgating and enforcing laws compassionately and firmly. I submit that our current marijuana laws lead to duplicity, corruption, contempt, and falsity. We cannot continue such draconian measures against marijuana use, as if Mr. Anslinger's thesis about its harmful effects were true. Our children question the cogency of our teachings when we imprison them for smoking marijuana while mom and dad get drunk on alcohol. When I converse with any one of the nearly 40,000 youngsters serviced by New York City drug-free programs I cannot respond logically, factually and truthfully to their question "why can't I smoke a few harmful reefers a week when my father has three high balls before dinner every night?" Or, "why can mom smoke two packs of cigarettes a day and I can't smoke one joint on Saturday night?"

I believe that our society should curtail dramatically and drastically its use of alcohol and nicotine. To those in favor of legal marijuana, who argue that two wrongs don't make a right, my response is that I condemn the excessive use of liquor and nicotine. However, in light of such prevalent use of nicotine, alcohol, and marijuana, legal stigmatization of marijuana alone breeds contempt of the law and disrespect for adults.

We continually insist on thinking that through our laws we can change the habits of millions of Americans. Criminalization of marijuana use not only goes against the facts of life but makes a difficult situation worse.

All available research indicates that regular alcohol usage is far more harmful emotionally, physiologically and psychologically than alcohol. Yet, its sale and use is generally not within the purview of the criminal justice system.

For many years I have heard reports demonstrating that marijuana use is not associated with other forms of real criminal activity. It is clear that, unlike heroin, marijuana does not create a craving for a highly expensive drug which turns a user into a thief or a pusher. Numerous students of drug problems have pointed out that looking at its purely non-political, non-legal dimensions associated with substance abuse such as brain and organic damage, addiction, violence, insanity, death, and vehicular accidents, marijuana

falls into the category of the least dangerous drugs but is among those whose possession is most severely criminalized. In 1972, the National Commission on Marijuana and Drug Abuse stated in its report, "Marijuana: A Signal of Misunderstanding" that, " \* \* \* neither the user nor the drug itself can be said to constitute a danger to public safety", and that, " \* \* \* the weight of the evidence is that marijuana does not cause violent or aggressive behavior."

If these laws had any original purpose at all, it was to protect the user not from society but from himself. And the outcome of this thinking, unfortunately has been no demonstrable deterrence. Therefore, the assumption upon which the existing laws were built have not proven true. The request for decriminalization therefore seeks to adjust what has proven to be an inappropriate aspect of our legal system to a recognition of reality.

The use of marijuana in this country is at least as old as the republic itself, but it didn't become illegal until Congress passed the first marihuana control law 30 years ago. Twenty years, later, mandatory minimum sentences were added for dealers and simple possession was deemed a felony, punishable by two to 10 years in prison on the first offense.

That harsh attitude prevailed on both federal and state levels until 1973. When Oregon became the first state to "decriminalize" possession and use of marijuana by classifying it as an offense not much different from running a stop light. But that same year the New York State Legislature made possession of even a tiny amount of marijuana a crime punishable by a year in jail; an ounce could get you 15 years, and so could passing a joint to a friend.

There is a growing disenchantment in this country with the entire law enforcement approach as a tool to curb not only marijuana use but heroin as well.

According to a majority of New York City judges and directors of drug treatment programs who responded to a recent survey conducted by the Addiction Services Agency, the stringent drug laws now in effect in New York State have not been successful in deterring drug use. These responses represent over a third of the total of 300 judges and directors who were asked to evaluate the effects of the present set of laws which were enacted in 1973.

By a better than two to one margin, those responding feel that the 1973 Rockefeller Laws which mandated prison sentences for possession of small amounts of heroin have failed to have the effect of deterring illegal drug usage.

More than half feel that the laws actually have contributed to a worsening of the situation and have for the first time introduced juveniles under the age of 16 as drug couriers, since they are not subject to the harsh penalties.

Significantly, a majority of those responding favor changes in the laws that would allow more lenient sentences for possession of small amounts of heroin and would encourage the use of treatment as a substitute for prison sentences for addicts.

To the best of my knowledge, this marks the first major survey in the United States that finds judges and drug treatment specialists expressing a common desire to de-emphasize the use of courts and law enforcement agencies to deal with the drug problem and to begin treating addiction as an emotional and physical problem, rather than as a crime.

The Rockefeller Laws in New York State were enacted in a period of hysteria over the rising heroin epidemic and were part of a get-tough policy toward addicts, which held that the most effective deterrent against drug use was severe and swift penalties. Accordingly, the new laws reclassified possession of 1-5 tmg. of illicit drugs from an A misdemeanor to a class C felony and called for prison sentences ranging from a minimum of one year to a maximum of 15 years, doing away with the previous system in which many addicts were sent for treatment instead of prison. The new laws also severely restrict the use of plea bargaining for second offenders, unlike the unrestricted use allowed under the old system. This emphasis on prison sentences for possessors of small amounts of heroin for addicts and non-addicts alike is felt by an overwhelming majority of respondents to be completely counterproductive. Judges and directors agree that sentencing addicts to prison brings them into contact with hard-core criminals and further alienates them from society.

The one aspect of the laws which most respondents agree with is the imposition of stiff penalties for those convicted of selling narcotics. Yet, here too, they feel the emphasis should be on the importer and large-scale dealer rather

than the small time user-pusher, who sells to support his habit. Many of those responding feel that with modifying the drug laws, the police manpower will be freed to deal with stopping the supply of illicit drugs rather than their present preoccupation with the user and addict. Clearly, the results of our study regarding the strict legal approach to heroin persuade me that the current marijuana statutes are unacceptable.

These findings come at a time of growing concern over the prohibitive costs of maintaining personnel to enforce the stringent heroin and marijuana laws nationwide. This concern was expressed at a recent convention of the nation's mayors in Denver where some called for the legalization of heroin, in order to free police for more urgent duties.

At the National League of Cities' annual Congress of Cities held in December 1976, more than two-thirds of the delegates approved an action policy that said: "With safeguards for community security, alcohol and drug users should be diverted from the criminal justice system to treatment."

The history of drug abuse in America reveals that only after the criminalization of narcotics use did the criminal class of addicts emerge. In "Drug in America Society", Erich Goode states that "probably the most important contribution that law enforcement has made to the problem of addiction is the creation of an addict subculture. It was the criminalizing of addiction that created addicts as a special and distinctive group, and it is the subculture aspects of addicts that gives them their recruiting power."

Because drug use is a consensual crime, drug abuse laws are extremely difficult to enforce. The absence of a complainant requires enforcement through informants, surveillance, wiretaps, and other expensive and sometimes questionable enforcement techniques. As with gambling, another victimless crime subject to extreme enforcement problems, narcotic crime enforcement offers tremendous opportunities for police corruption. Evidence of corruption is overwhelming. In the summer of 1969, for example, the New York Office of the Federal Bureau of Narcotics forced the resignation of 50 of its 300 agents. This was caused by a scandal exposing widespread drug peddling among law enforcement agents. Moreover, the Knapp Commission Report is replete with documentation of corruption in narcotics enforcement.

Perhaps the most pervasive effect of the marijuana laws is the cloud on the criminal justice system they engender. With widespread illegal use of some drugs throughout the population (including marijuana, amphetamines, barbiturates, and cocaine), an enormous part of the population finds itself violating the law. For these people the law rather than the behavior is called into question, and by extension, the American legal system. Among populations who witness the attendant corruption intertwined with enforcement of these laws, the legal system is the subject of contempt. As the Knapp Commission Report states, "many ghetto people who have grown up watching police performance in relation to gambling and narcotics are absolutely convinced that all policemen are getting rich on their share of the profits of these two illegal activities." The report calls for "increased study and attention \* \* \* to ways other than criminal sanctions for dealing with the addict."

The purpose of the marijuana laws have been to protect the individual from himself by outlawing the use of marijuana. The laws have not deterred marijuana use. In 1937, when marijuana was first made illegal, it was estimated that there were approximately 50,000 smokers in the United States. Today, there are 26 million Americans who have tried it at least once, including 13 million "regular users." Americans consume 7,600 tons worth \$6 billion annually. A study entitled "Monitoring the Future: A Continuing Study of the Lifestyles and Values of Youth", conducted by the Institute for Social Research at the University of Michigan showed that the percentage of high school seniors using marijuana has risen steadily from 1969, the first year for which extensive data is available, to 1976 when use is reported for more than 50%. This is clearly a refutation of the 1972 Marijuana Commission which predicted a decrease of marijuana use in the mid seventies, and thus saw no need for a change in marijuana laws. This data suggests that we have laws which brand as criminal half of all our high school graduates of 1976.

Moreover, the proportion of users who use marijuana daily has continued to increase and is somewhere between 10 and 20% of the regular users.

In New York City a sampling of our drug counselors indicates that nearly 40% of high school students are occasional marijuana users.

To those who assert that the marijuana laws are not being enforced let me point out some facts:

1. The FBI Uniform Crime Statistics report that 500,000 persons were arrested by State and local police for marijuana possession in 1975. This is twice the number of arrests made in 1971.

2. In 1975, throughout New York State 30,938 drug arrests were made—18,930 or 61.2% were marijuana arrests.

3. In 1975, there were 16,440 drug arrests in New York City of which 6,640 were for cannabis.

4. Of all marijuana arrests nationally 90% are for possession.

5. In New York City of 7,154 marijuana arrests 50% were under the age of 20.

6. It costs the New York City Criminal Justice System over \$17 million to arrest, arraign and adjudicate those arrested for marijuana crimes.

7. The Bureau of Customs budget for detecting and seizing imports of illicit drugs in 1972 was more than \$40 million dollars. In 1975 the Bureau of Customs budget was \$299 million. While current expenditures specifically allocated to importation control are unavailable, it has been noted by the Bureau that in 1975 it seized 248 tons of marijuana and that "marijuana smuggling involves an estimated \$5 billion annually." Simple arithmetic tells us that at \$25 per ounce (a relatively low retail price), the Bureau of Customs is only stopping about 4% of the marijuana imports.

In examining the effects of legal sanctions as they apply to the marijuana abuser, abundant evidence now suggests:

1. That such laws do little or nothing to deter abuse and, indeed, the laws may be responsible for heightened abuse.

2. The costs of this ineffective enforcement are enormous.

3. The laws and selective enforcement criminalize otherwise law-abiding citizens and result in a greater incidence of secondary crime.

4. The difficulty in policing this "crime without victims" causes extensive police corruption.

5. The existence of such laws and resulting enforcement and corruption patterns tends to undermine the general integrity of the legal system.

In light of the above conclusions, alternatives must be sought to help those who are drug abusers and need help.

When the costs and effectiveness of the enforcement approach is compared to treatment, the latter is unquestionably more preferable.

In many ways detention facilities serve to intensify the drug abusers involvement with drugs. The drug abuser prisoner tends to associate with other addicts in prison and conversation often centers about drugs and the drug subculture. Narcotics users not totally committed to addict behavior, through association with the addict subculture in prison gradually acquire the attitudes and values of this subculture. Punishment appears to have no effect in deterring the addict from using drugs after his release.

Somehow, public correction departments are rarely called to account for these dismal failures, and yet there has been far greater success at reducing recidivism by non-prison treatment programs.

A 1972 ASA study of patients in 5 major therapeutic communities indicated that 80% were not arrested after treatment regardless of total time in treatment. For those arrested posttreatment, the study found an 83% decline in felonious drug charges, 59.3% decline in other felonies, 74% decline in drug misdemeanors; 74% decline in prostitution.

In 1973, ASA expanded its investigation of arrest recidivism with a study of 55 persons enrolled in 3 major modalities. This confirmed the positive impact of drug treatment upon client arrest rates. Indeed, for clients enrolled in therapeutic communities the findings indicated that arrest rates decline more than 90%.

Clearly, arrest recidivism among drug independent persons allowed to enter treatment is much lower than among those who are sent to jails and prisons.

In addition to recidivism as evidence that treatment is far more productive than prosecution and incarceration, the cost of the treatment alternative is lower.

For example, the City Department of Corrections cost per inmate (annualized) amounts to \$15,000 without inclusion of capital expenditures. Annualized treatment costs for various modes of treatment in ASA supported programs are as follows:

Residential therapeutic community, \$5475; ambulatory, \$3285; methadone maintenance, \$1825.

The average prison stay is 52 days while the average stay in a New York City residential treatment facilities is 140 days. Even with the longer treatment time and intensive services the cost for the average stay in a treatment community remains lower than the cost of 52 days in prison.

What would be the effects of decriminalization of marijuana possession? Based on past experience it is not expected to result in a dramatic increase of marijuana users.

Recent reports on the effects of decriminalization statutes in six states show no real increase in usage in those states. I would predict that New York City would demonstrate a similar lack of change.

A positive result of eliminating criminal sanctions for marijuana possession would be the removal of a "criminal label" from so many of our youth. By treating marijuana completely different from harder substances we may help establish a realistic cut-off point in experimentation and use of drugs. Indeed, marijuana may be one of the cheapest and harmless means of dealing with difficult problems. For example, it has been shown that prior to the outbreak of the heroin epidemic in England in the mid sixties the police cracked down heavily on marijuana use, virtually drying up the market. As a result many turned to heroin and, as later turned out, with tragic consequences.

If, as I have suggested, marijuana use is most serious as part of a tangle of social and personal problems, then we must recognize that decriminalization will not significantly change the number of young people who are troubled by family problems, alienation, truancy, delinquency, and poverty. A recent study at the University of California indicated that among those factors which distinguished marijuana users from non-users are the lack of a close relationship with parent, a sense of isolation, lack of clarity about vocational goals, and academic underachievement. New York City's drug programs serving adolescents report similar problems among the regular marijuana users served. Significantly, the California study found that when the effects of family and cultural background, and academic motivation were statistically controlled, there was no appreciable difference between marijuana users and non-users in likelihood of dropping-out of school.

People with social and psychological problems who use marijuana, and those who feel that they have a marijuana problem would and ought to continue to present themselves to drug treatment and prevention programs. In New York City, this would change only if legislation accompanying decriminalization prohibited programs funded with drug abuse service money from helping these individuals. This would be a serious mistake. If we are willing to recognize alcohol abuse as a problem worthy of government funds for treatment and prevention, then the decriminalization of marijuana should result in similar government commitment to serve those who seek help and whose major substance of abuse is marijuana. New York's drug programs successfully serve individuals with a variety of substance abuse problems. The drug use patterns presented to us include heroin addiction, poly drug abuse, mixed alcohol and drug use, and drug experimentation. It would be unnecessary, appalling, and ironically cruel if one result of marijuana decriminalization would be the cutting off of much needed services from individuals whose major substance of abuse now became legal.

The real alternative to law enforcement is through cost effective prevention and treatment programming. While our New York City network desires to help all in need regardless of the substance of abuse, the fact is that government has declined to support it wholeheartedly.

During the first five years of my agency's existence our budget increased from \$3 million to \$68 million, but during the past four years has decreased to a prospective \$24 million for fiscal 1978.

New York City has an estimated 40% of the nation's heroin addicts. This means 250,000 New York City residents are in fact addicted to heroin. There are an estimated 300,000 individuals who abuse psychedelic drugs, cocaine and solvents as well as amphetamines, barbiturates, tranquilizers and marijuana. My agency, beginning with the upcoming fiscal year, will have the capacity to treat only 15% of these people. The capacity of our duty-free community-based network went from a high of some 16,000 slots four years ago, to an estimated 5,000 slots for next year. Added to some 11,000 methadone maintenance slots administered by the Department of Health, the level of

treatment we will be able to provide will, under all considerations, be inadequate to meet the real needs. The waiting lists for drug-free and methadone maintenance programs are testimony to this sad reality. In 1974, my agency provided a wide range of drug prevention services in all of the New York City Public Schools. We funded over 150 community-based drug-free treatment programs. We developed innovative ancillary client services, such as client referral and placement into treatment from storefronts and courts. We operated client employment, education, and training programs in an effort to ease the client's re-entry into society. The City has cut our funding by almost 80% in four years. The State of New York has, for the same period, reduced us by some 50% and the Federal Government has virtually eliminated all support to the Addiction Services Agency during this period. Thus most of our services have been either drastically reduced or eliminated as a result. Indeed, the full range of drug free treatment and prevention services is being strangled while government expenses for upholding the marijuana laws continue. Funds spent on dubious activities such as prosecution of marijuana laws must be reallocated to efforts such as my agency undertakes. While my agency has led human services in New York State in demanding cost effective programming, the reward for such accountability has been virtual abandonment by the federal government of our plight.

The real, central issue surrounding the entire discussion of marijuana in our society is not merely its use, but rather the underlying psychological difficulties driving people to take refuge in a marijuana escape. New York City's approach to treatment to drug abuse is not a punitive one. It is rather a sensitive, understanding attempt to help these youngsters develop positive, reinforcing coping skills and a strong sense of self-respect. This was our approach when my agency began ten years ago, and it is still successful for the thousands of clients currently in our programs.

What is the best governmental approach towards marijuana use? I believe that this issue should be taken out of the criminal justice system. It is in fact not a legal matter. For a first step decriminalization of possession is most appropriate. Limiting the possession of marijuana to the status of a fine will continue to affirm the generally recognized public stance to discourage its use. If history proves us wrong in our assumptions and decriminalization precipitates widespread use which endangers the health and safety of our society, decriminalization can be reversed.

As a next step, public policy should direct as many resources as possible to education and prevention efforts. A concerted, national policy to prevent the unhealthy use of alcohol, marijuana, barbiturates, amphetamines, and heroin would have the greatest and most effective payoff.

Prevention means not only limiting, through some type of regulation, the promotion of extravagant use of drugs; it also means educating the public as to the dangers of drug use. On a more significant level, prevention also means helping our youngsters to become emotionally stable, productive and self-respecting. We in New York have embarked upon a novel enriching program for young people. In eight neighborhoods youngsters many of whom, are former truants, delinquents and drug users are engaged in a variety of activities with seniors including an escort service.

We must continue to support and encourage the development of comprehensive humane approaches aimed at the amelioration of drug and alcohol abuse.

I appeal to you to respond to our social difficulties not out of fear through legislation, but rather out of compassion for human problems through life-enriching experiences and respect for the individual. Resources of time, people and money must be diverted from futile enforcement of statutes to infinitely more effective and sensitive approaches that resolve the emotional difficulties of our youth. Decriminalization of marijuana is undoubtedly the correct action for government to take, in approaching our real goal of a healthy and productive society for all.

Mr. RANGEL. Mr. Miller, you understand that your full statement will be entered into the record, and if you would like, you may summarize it.

TESTIMONY OF JAY A. MILLER, ASSOCIATE DIRECTOR, WASHINGTON OFFICE, AMERICAN CIVIL LIBERTIES UNION

Mr. MILLER. We appreciate this opportunity to appear before the committee to share with you our recommendations for the decriminalization of possession and use of marihuana under Federal laws.

As you are aware, the goal of the American Civil Liberties Union is to insure that the Bill of Rights is an effective bulwark against erosion of governmental rights and liberties.

Let me touch on a few areas that the previous speakers, for the most part, haven't, because of our special interest, though I would adopt almost everything both of them have said.

Reform of the marihuana laws is overdue, incredibly so. Even as a political issue—and I know Congress has to consider that. The people are ready for it. All polls have indicated that the majority of people in the country do not favor harsh penalties and especially criminal penalties for the use of marihuana, in spite of all the misinformation they have been given describing marihuana as the "killer weed." They have seen through it and have learned the truth if from no other place than from their children. Clearly we are ready for a change.

When I was ACLU director in northern California I spoke to many Kiwanis Clubs and Rotaries about going much further, about decriminalization of heroin. Because of the problems that those businessmen had with real crime they were interested in redirecting resources away from drug law enforcement to deal with real crime. They were aware that real crime was often created by the problems we are having with drugs, especially heroin.

I don't think it's any longer a dangerous political question for Congress. The tragedy of drug criminality has struck so many families, so many people have been destroyed by what seems such ridiculous policies. We tried the same policies with Prohibition, and it not only succeeded in teaching disrespect for the law to many people, but as further consequence built an organized crime system in this country that we had never before had. We are developing that disrespect in a new generation and strengthening organized crime in the same way under our current drug laws.

I was glad to see that Congresswoman Burke raised the whole issue of victimless crime, because I would hope this committee quickly handles the marihuana problem and moves on to that. In the last session Congressman Heinz put in a bill to set up a commission on decriminalization of victimless crimes that he plans to introduce again soon, this time in the Senate. I hope there will be House sponsors for his bill.

The cost of our present laws is incredible, not only in crime created but also in the use of criminal justice resources—California has now saved something like \$25 million in their first year of marihuana decriminalization—and in its effect on the victims of real crime. You know, when the police respond to a report of prowler 40 minutes after a call has been made and too late to prevent a robbery

or a rape, it may be because another officer who could have responded sooner was arresting a long-haired youth on marihuana charges, and that victim will find little comfort in knowing that another dangerous pot smoker has been isolated from society and will be dealt with sternly by the courts.

We know that our courts are clogged. We are dealing with this problem in an ACLU project called "Access to Justice." The Supreme Court has issued a whole series of decisions telling the Federal courts that they have to cut down on the kinds of cases that come before them—class actions dealing with civil rights and liberties, environment, and consumer law.

The *Rizzo* decision, which was an incredible decision, that said you cannot sue city officials for violation of civil rights, was apparently a result of the pressure on the courts to reduce their caseloads. We can't afford to have those important problems ignored while we deal with something like marihuana that we can't even control and by comparison is far less important.

Finally, the pressure on the Bill of Rights is a direct result of this impossible situation. The Safe Streets Act was passed in 1968 with preventive detention, wiretap and no-knock laws because the public was upset about a growing real crime rate, crime against persons and property. Our laws against victimless crimes and especially drugs have exacerbated the crime problem instead of alleviating it. And so we turn in desperation to such repressive kinds of laws.

Those laws haven't worked—nor will they—and the problem of real crime does not abate. Certainly we must find other ways to do it. One of the ways is by decriminalizing marihuana, but also going on beyond that and decriminalizing all of the victimless crimes, dealing with them as the social problems that they are, unamenable to solution in the criminal justice system.

Certainly, laws against marihuana use are not a deterrent. Both California and Oregon, which have decriminalized, have found that they have not had great increases in the use of marihuana, proving that these laws were not a deterrent.

Whether the Congress supports cultivation for private use or legalization—though I certainly don't believe it will want to go the way it did with the liquor industry, have it glamorized and sold that way—is a political question.

Certainly the private transactions not for profit cannot continue to be criminal.

Only 1 percent of the marihuana arrests are involved with the Federal law; it is more a matter of example. I represented my organization over the past 2 years in its negotiations on Senate bill 1, the Federal criminal code—we got requests from many of the State legislators, as did Senators and House members for a copy of the bill. They wanted to see what was going on. Often they would draft for the States very similar laws to those proposed in the new criminal code which has not yet been passed. The Federal Government sets an example. And that is why it is important for you to deal with this problem.

It is clear the time has come. In the negotiations last year over Senate bill 1, both Senators McClellan and Hruska agreed to a com-



promise with the late Senator Hart and Senator Kennedy to decriminalize small amounts of marihuana. Now, if we can get that group of Senators together and agree to do it, certainly, I think, the Congress of the United States is ready to move on this issue.

This has become a serious problem the solution for which is long overdue. It is time to act and then to move on to consider decriminalizing narcotics so that much more can be done about the serious real crime problem which is causing such great problems in our country.

Thank you.

[Mr. Miller's prepared statement follows:]

#### PREPARED STATEMENT OF JAY A. MILLER, ACLU

My name is Jay Miller. I am the Associate Director of the Washington office of the American Civil Liberties Union. We appreciate this opportunity to appear before your subcommittee to share with you our recommendations for the decriminalization of possession and use of marijuana under federal laws. As you are aware, the main goal of the ACLU is to ensure that the Bill of Rights is an effective bulwark against governmental erosion of individual rights and liberties.

Clearly decriminalization of marijuana is an idea whose time has come. In fact, a change in this area at the federal level is long overdue. According to nationwide surveys conducted in 1976 on behalf of the National Institute on Drug Abuse, 36 million Americans, representing over 21% of the adult population, have used marijuana at least once; 15 million American citizens, 8% of the adult population, currently smoke marijuana on a regular basis. One out of every five persons has tried it at least once, and one out of every 12 persons is a current regular consumer. Further, over half of all Americans between 18 and 25 years of age has tried marijuana and one out of every four is a current regular user.

Not surprisingly then, the 1976 survey of the National Institute on Drug Abuse found that 86% of the American public is opposed to the imposition of any jail penalty for possession of marijuana and 55% favor only a fine and/or probation. During the year following the implementation of California's marijuana decriminalization legislation, the state office of Narcotics and Drug Abuse survey found that three out of every five adults either approve of the new law or would favor complete legalization of possession of a small amount of marijuana. These more lenient measures are favored by the majority of adults in all areas of California and in all age groups except those over 60 years. Even those who have never tried marijuana at all prefer the new law or full legalization over the former more stringent penalties.

In spite of all the misinformation that has been given to the public about the addictive qualities of marijuana a very sizable minority of the population rate alcohol and tobacco as more addictive than marijuana.

The American public is well on its way to acknowledging that marijuana is not a "killer weed" and that marijuana consumers are not criminals and should not be labelled as such by antiquated criminal law. The time for Congress to respond by revising the federal criminal law to decriminalize marijuana use and possession on a federal level is now.

The real tragedy of marijuana is that it has taken us so long to discover the truth. The criminal laws governing marijuana have virtually destroyed hundreds of thousands of lives because those laws impose arbitrary, often harsh, and cruel penalties for private conduct for which no criminal penalty at all is appropriate. Those laws impose all the hardships of an arrest, an arrest record, and often a prison term on otherwise law abiding people. The laws are selectively enforced and their enforcement relies often on entrapment, illegal searches, and other means which violate civil liberties.

Marijuana has been called by many the younger generation's martini. Frankly, from what I know of both drugs I would prefer that my children would smoke grass rather than drink martinis, a far more lethal drug.

We tried to prohibit the use of alcohol too with the 18th Amendment and we not only failed miserably, but helped to develop a powerful organized

crime system in this country and a contempt for the law among large numbers of our population for which we are still suffering. Young persons who today get caught up in the criminal justice system because of their use of marijuana are developing a similar contempt for the law as are many of their friends and even families.

We cannot ignore the immense social and economic costs of criminalizing the marijuana consumer. These laws have provided police with a weapon for harassing and intimidating persons outside the mainstream of American society. Hundreds of thousands of young Americans have been made "criminals" by these unjust laws; of those persons arrested for marijuana law violations, 81% have never been previously convicted of any crime, according to the National Commission on Marijuana and Drug Abuse.

The Federal Bureau of Investigation Uniform Crime Reports show that 7 out of every 10 drug arrests made each year are for marijuana-related offenses, close to half a million persons annually. Of the state arrests, 93% were for possession, not for sale, and two-thirds of these involved a quantity of an ounce or less. The impact on young people is enormous: 52% of those arrested were under the age of 21 and 88% were under the age of 26. In short, over 400,000 mostly young people are arrested every year, in most cases for possessing small quantities of a substance authoritatively found to be less harmful than tobacco or alcohol.

And these "criminals" are not just labeled as users of marijuana; it is standard practice for law enforcement agencies to report such offenses to prospective employers, licensing agencies, and other authorities as "narcotic drug arrests", with no distinction whatsoever between a dangerous addictive drug and a virtually harmless social smoke.

Perhaps most important is the fact that all of us, whether marijuana users or not, are potential victims of these laws for they divert law enforcement money and manpower from the enforcement of laws against real crimes. When the public clamors about the soaring crime rate, and justly so, it is clear that what is truly upsetting all of us is violent crime against persons and property—crime with a victim. The consumer of marijuana inflicts no harm upon any other person by his smoking or possession of this innocuous weed yet vast amounts of tax dollars are being expended in the senseless imposition of arrest and criminal procedures on marijuana consumers.

The California experience provides a concrete example. When the state legislature enacted the change from an arrest to a citation system for marijuana possession, effective January 1, 1976, it directed the State Office on Narcotics and Drug Abuse to conduct a study to determine the impact of the revisions. In the first six months of 1975, the Office found that the cost for police arrests and pretrial jailing of marijuana consumers was \$7.6 million. In the same period of 1976, after the change, the cost was just \$2.3 million, a cost reduction of almost 70 percent. Judicial costs experienced a similar decline. In the same six-month period of 1975, court processing of marijuana arrestees cost \$9.4 million; in the comparable 1976 period, the cost was a mere \$2.0 million, a reduction of close to 80 percent.

The California State report concludes that "as a result of reduced arrests and citations, and a substantial reduction in handling [citation] cases, it is conservatively estimated that local criminal justice agencies will save at least \$25 million in workload costs in 1976. There have also been some savings in the State Department of Justice as well as an increase in state and local revenues from fines collected by the courts." [Press Release, California State Office on Narcotics and Drug Abuse, January 21, 1977.] It has been estimated that \$600 million is presently being spent across the nation on the enforcement of marijuana laws. [Senator Jacob Javits, 94 Cong. Rec. S22029, Dec. 12, 1975.]

Violent crime against persons, increasingly bold assaults upon property in homes and businesses, not only in the cities, but in rural and suburban areas as well, are constantly impacting upon the people of this nation, yet hundreds of thousands of Americans are arrested and subjected to the indignity of the criminal process for consuming marijuana. Not only the American public, but the vast majority of the law enforcement establishment should heartily welcome the redirection of government priorities in combatting real crime, the kind of crime that causes real harm to real victims. When the police respond to a report of a prowler forty minutes after a call has been made and too late to prevent a robbery or rape, it may be because another officer who

could have responded sooner was busy arresting a long-haired youth on marijuana charges. The innocent victim will find little comfort in knowing that another dangerous pot smoker has been isolated from society to be dealt with sternly by the courts.

The extent and pervasiveness of the waste in police resources is further illustrated by the cost and misuse of crime laboratories where seized marijuana is analyzed. Police scientist Jay Cameron Hall, former director of the Pasadena Crime Laboratory has said, "One of the principal causes of the failure of crime labs to provide adequate service in other major crime cases can be charged to the epidemic of cases involving illegal drugs and the abuse of legal drugs \* \* \* If the police were freed from the frenetic and often stupid pursuit of the modern marijuana user, the crime labs would automatically feel relief in the case load.

Nor are law enforcement agencies alone in this problem. The courts too waste their time with marijuana prosecutions. How many times have all of us heard of the stories in which justice was ill served because cases involving serious felonies were not brought to trial for many months; and as a result charges had to be dropped because witnesses and even victims moved away or disappeared and evidence was lost. As the saying goes, justice delayed is justice denied.

How can we continue to clog our courts prosecuting social behavior, which is impossible to control and which harms no one beyond the users if even them. We are in a period now when greatly increased caseloads at all levels of the federal court system have burdened federal judges and made it difficult for litigants to obtain a full and prompt hearing of their claims, so much so that the United States Supreme Court in a series of decisions has instructed federal judges to turn away many cases in such areas as civil rights, civil liberties, environmental and consumer law, welfare reform and other areas of the public interest.

The very principles of our Bill of Rights has become a victim in part to our incredible marijuana laws. In the past 15 years the real crime rate against persons and property climbed upward. The Congress and many state legislatures have responded to this crisis by passing repressive laws legalizing wiretapping, "no-knock," preventive detention, and reinstituting the death penalty, while the courts have begun a process of weakening the landmark decisions of the Warren court contained in *Escobedo*, *Miranda* and *Wade*. Certainly a democratic society, even a desperate one, should try every other alternative before it weakens our precious constitutional guarantees. Wouldn't a better alternative be the decriminalization of victimless crimes such as marijuana?

If we were discussing today the decriminalization of heroin, many of these same arguments about the crime problem would apply with far greater force. I would hope the Select Committee on Narcotics and Drug Abuse will get Congress to act quickly to solve the problem of our marijuana laws and that it will then move on to the even more critical problem of heroin. I realize that heroin is both narcotic and addictive which marijuana is not, and that the problems of decriminalization are far more complex. However, the social payoff would be immense for not only are vast law enforcement and court resources used to enforce the laws against heroin but the heroin used because of his need to raise tremendous amounts of cash to purchase it, is likely to be a pusher, a prostitute, a shoplifter, a burglar and even an armed robber, thereby increasing real crime as well as exacerbating the accompanying social problem. Then, too, there is the criminal delivery system, much like that which developed during Prohibition, which makes millions of dollars in profit and corrupts our institutions in order to deliver heroin to the user.

However, heroin represents a far more complex problem than what we are dealing with today. While not purporting to be expert on the medical or health aspects of marijuana smoking, we can safely assert that exhaustive scientific research conducted by private and public agencies demonstrates conclusively that marijuana is not addictive, is not a narcotic, does not produce physical dependence no matter how frequently it is used, does not generate tolerance or the need for increasingly greater dosage, does not lead to crime, does not cause eventual heroin addiction, and the vast majority of studies indicates that it does not cause psychological or physiological damage to the user. However, even if marijuana did cause psychological or physiological damage to the user, the policy of the ACLU is to oppose defining persons as criminals

for behavior which, when engaged in alone or with consenting adults, does not harm another person, or directly force another person to act unwillingly in any way. Included in behavior that should thereby exempt from criminal sanctions is the introduction of substances into a person's own body. Nothing in the ACLU opposes reasonable regulatory restraints, such as presently exist with respect to the production and sale of food, liquor, cigarettes, penicillin, insulin, methadone, aspirin, etc.

A number of civil liberties questions are posed by defining the multitude of marijuana consumers as criminals. Statutes making the consumer of marijuana a criminal are an abuse of the government's legitimate police power by depriving the consumer of the liberty to conduct his life as he desires so long as he causes no harm or unreasonable interference to the rights of others, by abridging the right of privacy, and by inflicting cruel and unusual punishment. If there are any adverse medical effects from using marijuana, they affect only the consumer and no one else. Criminal punishment for its use, therefore, is a denial of substantive due process; the possession or use of marijuana does not threaten the social fabric or the public health or the welfare of society. Both vagrancy and attempted suicide which, like marijuana use, directly affect only the individual actor, have recently ceased to be subject to criminal sanctions; marijuana use should be accorded the same treatment.

Statutes which classify the consumer of marijuana as a criminal while not similarly classifying the users of alcohol and tobacco as such are constitutionally defective denials of the equal protection of the law by being "under-inclusive"—imposing a prohibition upon the conduct of a particular class of persons while, at the same time, failing to impose a similar prohibition upon the conduct of another class of persons whose conduct is indistinguishable. The law cannot lay "an unequal hand on those who have committed intrinsically the same quality of offense \* \* \* *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942). It is clearly established by the overwhelming weight of scientific authority, including that which has been presented and will be presented in these hearings, that marijuana is less harmful and certainly not more harmful than alcohol.

The director of the National Institute on Drug Abuse, Robert L. DuPont, M.D., in a February 12, 1976, press briefing, concluded that " \* \* \* there is no question that alcohol and tobacco are causing us far more health problems than marijuana does." He also noted that while alcohol and tobacco have clearly documented potentially lethal effects, marijuana " \* \* \* is not a drug that is susceptible to causing death even in extreme situations. One of the most striking characteristics of marijuana is its freedom from this kind of lethal toxicity." Yet it presently has a very real legal toxicity; possession and use of marijuana is subject to criminal penalties, while possession and use of alcohol and tobacco is subject to only minimal regulation.

Drinking alcohol and smoking another weed—tobacco—do pose significant risks to the health of the individual user. Where tobacco smoking may adversely affect others, we correctly place restrictions upon its use, as in a public building, elevator, or in areas with combustible materials; we prohibit or restrict distribution of these substances to minors. Adults we inform of the possible risks involved and attempt to discourage their use of alcohol and tobacco; insofar as their activity directly affects no one but themselves, however we do not jail those who drink alcohol or smoke cigarettes. Our federal governmental policy might very legitimately be to discourage marijuana use, but it ought not to make the consumer a criminal.

Punishing any act or status is cruel and unusual unless some valid purpose of the society is rationally being served which cannot be served equally well by some regulation or punishment which is less harsh. The ACLU opposes all criminal and civil penalties for the private possession of marijuana for personal use for the many reasons already mentioned; however, laws adopted by eight states,<sup>1</sup> and pending in many more, which treat the possession of a small quantity of marijuana as a minor offense or civil violation subject to citations and small fines, rather than arrest and jail sentences, deserve our attention as significant attempts to find rational more lenient alternatives to the archaic felon statutes presently in force on the federal level and in most states.

<sup>1</sup>The eight states are Alaska, California, Colorado, Maine, Minnesota, Ohio, Oregon, and South Dakota.

In 1937, when the federal law was first passed prohibiting the possession of marijuana, there were an estimated maximum of 50,000 marijuana smokers in the country. In this latter half of the 1970s there are 13 million current regular consumers and 85 million who have tried it. Forty years of criminal prohibition has failed glaringly as a deterrent to the use of marijuana.

The New Mexico Department of Hospitals and Institutions, at the request of the state legislature, prepared a report on "Decriminalization of Marijuana in New Mexico: An Evaluation of the Proposal and Related Issues" (Technical Report 77-1). After careful consideration of various studies conducted in California, Oregon and New Mexico, the department concluded that there would be no "encouraging effects on marijuana use under current conditions by switching from a criminal to a civil legal sanction for marijuana possession. \* \* \*"

The California State Office on Narcotics and Drug Abuse study of that state's decriminalization experience found that in 1975, before the new law went into effect, only 8 percent of respondents mentioned the possibility of legal prosecution as their reason for not using marijuana. That percentage fell to 2 percent following the revision, but the percentage of those who said they would not use marijuana because they were not interested or didn't need it rose from 50 percent to 73 percent. Based on all the data developed in the study, California Secretary of Health and Welfare, Mario Obledo, concluded that " \* \* \* although there has been some reported increase in current users, frequency of use has declined, and people do not attribute their decision to use marijuana to the reduction in penalties \* \* \* The reduction in penalties was not a major factor in people's decision to use or not to use [marijuana]." He further noted that less than half of them indicated that they were willing to do so because the legal penalties had been reduced.

The experience in Oregon has been similar. One year after the decriminalization law went into effect, the Legislative Research Office of the Oregon legislature reported that " \* \* \* the laws have not caused the major problems for the state which some had predicted, and \* \* \* the laws have for the most part been accepted or approved by those officials responsible for enforcing and administering them." Mr. Pat Horton, District Attorney for Lane County, Oregon, concurs, saying "Decriminalization has, in fact, prioritized police work into areas of violent crime and crime against property. \* \* \* Currently law enforcement officers spend more time in the area of violent crimes and, thus, better serve their community. \* \* \* The relationship between the youth in the community and the police has improved substantially. \* \* \* It has removed from the docket approximately one-third of the total number of cases awaiting trial."

#### CULTIVATION FOR PRIVATE USE

No decriminalization legislation is logically consistent, however, unless it also decriminalizes the small-scale cultivation, non-profit or gift transfer, and transportation of marijuana for personal use or legalizes it for commercial production and distribution. Legislation to remove the criminal sanctions on cultivating marijuana has just recently been introduced in the California legislature; cultivation is probably legal in Alaska under the 1975 State Supreme Court holding that adults have a constitutionally-protected right of privacy to possess or use marijuana in their homes.

Dr. Robert L. DuPont, National Institute on Drug Abuse director, commented on February 4th of this year that personal cultivation in the privacy of one's home " \* \* \* can be considered the functional equivalent of private use." Certainly decriminalization is not intended to eliminate the use of marijuana, but rather to acknowledge that it is a factor of our society that is here to stay for which persons should not be labeled criminal.

#### WHY CHANGE THE FEDERAL LAW?

Even though less than 1 percent of the more than 400,000 marijuana possession arrests in 1975 were made under federal law there are substantial reasons for decriminalization on the federal level. The states have traditionally followed the federal lead in enacting criminal statutes dealing with marijuana and drug abuse, modeling those statutes—and the penalties—after the federal model. This was true with the Harrison Act of 1914, the Marijuana Tax Act of 1937, the Boggs Act of 1951, the Narcotics Control Act of 1956,

the Drug Abuse Amendments of 1965, and most recently, with the Controlled Substances Act of 1970. This last is of crucial importance. The 1970 Act lowered the federal penalties for possession of marijuana and all drugs from a felony to a misdemeanor. Following the federal example, the states began to modify their own statutes over the subsequent four years. Where previously all states labeled possession of small amounts of marijuana as a felony, by 1974 all states but Nevada had lowered simple possession to a misdemeanor, with Arizona retaining an optional felony designation at the discretion of the prosecutor.

Last year in the Senate Subcommittee on Criminal Laws and Procedures, Senators McClelland and Kennedy, along with the late Senator Philip Hart and former Senator Hruska agreed that the proposed new Federal Criminal Code should decriminalize possession of small amounts of marijuana. On purely humanitarian, as well as practical grounds, the federal law ought to be changed to reflect the reality that consumers of marijuana are not and should not be treated as criminals. By removing criminal sanctions for possession of marijuana for personal use on the federal level, the states will no longer have a constant reminder that the United States Congress officially classifies the millions of marijuana consumers as criminals and will have a more realistic example for modeling their own enlightened marijuana possession laws.

#### IN CONCLUSION—THE ACLU POSITION REITERATED

We wish to emphasize that it is the policy of the American Civil Liberties Union to oppose defining persons as criminals for the introduction of substances into one's own body, particularly when doing so causes no direct harm to another person. While we would not object to reasonable regulatory restraints, we do support complete legalization of the use, cultivation, possession, transportation, nonprofit gift transfer and sale of marijuana by and among adults.

Decriminalization, while falling significantly short of legalization, is an important development, cognizant of political practicality, which would more accurately reflect the social reality of marijuana consumption and be a worthwhile step in removing the criminal stigma now suffered by millions of Americans for the simple fact of being consumers of a substance authoritatively demonstrated to be less harmful than tobacco or alcohol.

Finally, the decriminalization of marijuana will ultimately permit significant shifts in law enforcement and court priorities thereby allowing the criminal justice system to spend more of its resources on real crime and hopefully reduce the pressure on constitutional protections.

Thank you.

Mr. RANGEL. Our chief counsel, Mr. Nellis, do you want to develop a line of questioning?

Mr. NELLIS. Yes.

I want to welcome these distinguished lawyers. I feel more at home now.

Mr. MILLER. Mr. Nellis, I'm not an attorney, although a representative of the American Civil Liberties Union.

Mr. NELLIS. The chairman and I have a running discussion on this issue, in any event, and two out of three isn't bad.

I want to ask you all about a very serious matter, one that has occupied my attention for the past couple of weeks. All of you remember that about 10 or 15 days ago there was a devastating elevated train wreck in the city of Chicago in which 11 people were killed and approximately 36 people very seriously injured.

The police, in recovering the broken body of the motorman, discovered four handrolled cigarettes in the motorman's shoulder pouch which were marihuana cigarettes. It seems to me that is a dramatic and important consideration to the extent that personal possession is allowed. Are we not adding immeasurably to our already enormous

highway burden, and can you think of a situation in which bus drivers, airplane pilots, elevated motormen can become intoxicated and kill some people?

Ms. LANDAU, would you address yourself to that?

Ms. LANDAU. Certainly.

First of all, decriminalizing possession doesn't necessarily mean that you excuse negligent or intentional misbehavior that results in accidents. It seems to me that it would be perfectly permissible to decriminalize possession and yet regulate by criminal penalties or by other means use in situations where there was proven harm and where victims would result, just as we have laws against drunk driving and negligent driving.

The primary concern, I think, is decriminalizing simple possession and usual use that does not have any clearcut adverse impact.

Mr. NELLIS. You are assuming the answer when you say it clearly doesn't have any adverse impact. I am asking about situations in which we must assume for the purposes of this discussion that there will be adverse impact, taking it out of the area of victimless crime and producing some very serious victims for you.

Ms. LANDAU. A criminal law can be drawn, and we have a lot of them, directed toward that kind of serious behavior.

Mr. NELLIS. Suppose nothing were found in the motorman's pouch and he had this horrible accident anyway—no alcohol, no marihuana. What would be the legal consequence of that situation? Would it be any worse?

Ms. LANDAU. It would depend on whether or not he was at fault.

Mr. NELLIS. Obviously, prima facie, if he runs into another train and it kills 11 people and 36 people are critically injured, somebody must be at fault.

Mr. MILLER. By the way, I understand that the Federal report indicated that the motorman was not under the influence of marihuana. They did both blood and urine tests on him, however, that doesn't deal with the problem.

Mr. NELLIS. My information is that they found the marihuana in his pouch, but that's neither here nor there.

Mr. MILLER. It might have been in his pouch but he might not have used it.

Mr. NELLIS. The issue is whether or not we are going to have decreased highway safety, decreased air safety.

The issue also is whether or not we are going to have decreased productivity industrially, decreased efficiency, with the decriminalization of marihuana. That's what I want to get at.

Mr. HORNBLASS. There are many people who commit crimes, and before they commit that crime, in order to muster up the courage or to ameliorate their fear of committing that crime, they will try to get intoxicated. Most notably, people do it with alcohol. Now, clearly, 67 percent of your vehicular accidents in New York State are attributable to alcohol; 50 percent of the homicides in New York City, either the victim or the perpetrator, was under the influence of alcohol when that act was committed.

Now, that doesn't mean to say that we get rid of alcohol. As I said in the preamble of my remarks, I think we should get rid of

the abuse of all chemical substances, including alcohol. But as Ms. Landau points out, that should not be an excuse to say that, well, because someone abuses a privilege or a right, that we get rid of that right. There are many people who abuse the privilege of free speech and freedom of assembly. We have courts and we have statutes that see to it that those rights that are abused are taken care of.

Mr. NELLIS. The only trouble with that argument, is that you are now adding a new right, a right that heretofore has resulted in criminal penalties. Now, you are adding a new right; namely, possession of a harmful drug which conceivably could create more problems than now already are there.

Mr. HORNBLASS. I think, Mr. Nellis, the point is that we as a society deplore the use of marihuana, and we can develop sanctions that demonstrate our disapproval and our condemnation of it, but those sanctions need not be part of the criminal justice system.

When I visited last week, as I did, our detention facility in New York, and I see people waiting 2 or 3 days to be arraigned, then something is wrong with our system. And what we want to do is disapprove of it, create sanctions that demonstrate our disapproval, but take many of those people out of the system, and as the statistics that I pointed out to you during my testimony indicate, they are in the system in great, great numbers.

So in terms of your railroad operator, we will develop sanctions that will say that if it was his intoxication that was the prime cause for his manslaughter, then we take the appropriate action.

Mr. RANGEL. Mr. Mann, you may inquire.

Mr. MILLER. I would just like to make two quick points on that.

First: I don't think that because of the statistics you are going to increase it. I think that driving while under the influence probably is dangerous. I think we have to do some education on it that we have not done because we have just dealt with the legality or illegality of this drug rather than the kind of education we have tried to carry on about drunken driving, for which we have not yet done a very effective job of.

That's one point. But I don't think you change it. People are using it anyhow.

The second problem is: If we could be assured that we could stop drunken driving, I think we would all be willing to go back to Prohibition to save all those lives. But the point is we won't stop that, either. Our problem is trying to educate people to be responsible, but they are apparently going to continue to use those kinds of drugs as long as our society remains the way it is.

Mr. RANGEL. Mr. Mann.

Mr. MANN. Is there such a thing as right and wrong anymore?

Mr. MILLER. Sure.

Mr. MANN. We seem to be going to what's convenient or what's enforceable or what is the cost to society in punishing wrongdoing.

Mr. MILLER. Well, Mr. Mann, if you're going to say that, then you can't make a discriminatory right and wrong. It can't be that some people can do one thing like smoke marihuana, and that's illegal, and other people can drink alcohol and that's OK. I mean, it has got to work consistently if you're going to have that kind of law. We



found that it did not work in our experiment in the 1920's. And we've got to first identify what's right and wrong, and then devote the resources, and I'm not sure we're capable of doing either one.

Mr. MANN. I'm interested in the ACLU position on the civil fine business. I know you are concerned with the right to trial by jury and that sort of thing. How do you justify this advocacy of a fine, of a civil penalty, which, if there actually is societal disapproval, will have the same stigmatizing effect as if it were a criminal penalty?

Mr. MILLER. First of all, we would prefer not to. We would like to see the thing so decriminalized that there was no fine at all. Obviously, when we are supporting bills like that, we recognize that that is what is politically feasible at this time—or possible.

We would like no penalty attached to it. But second, it is quite different to be charged with a civil fine like a traffic—infraction—and I'm not talking about felony traffic, drunken driving or manslaughter. Even the records are kept differently, where they are distributed—almost everyone of us have had one or more civil traffic fines, have gone to court, and nobody thinks very much of it.

Mr. MANN. Well, we certainly have not decriminalized those traffic offenses, because we don't don't think they're quite so serious anymore. They are still crimes.

Yet, here, we would cause what I perceive to be a societal approval. We are going to decriminalize, rather than let society itself determine as they have in traffic offenses that these matters aren't stigmatizing. And therefore it isn't quite so important that you catch them all.

I think there is a great distinction there, of putting Government approval by saying, this is a civil offense. You know, most civil fines were enforceable because of some licensing authority that stands behind them. I know very few civil fines that don't have some sort of sanctions that can be applied, but in this case, what would the American Bar Association suggest as a means of enforcing the civil fine?

Ms. LANDAU. I assume that the usual mechanisms of the courts for enforcing financial money judgments would be brought to bear and that that in fact is currently the usual means to enforce other kinds of civil penalties.

Mr. MANN. Well, the resources to collect \$100 fine would cost us thousands of dollars. The attitude of the prosecuting agencies which would have to enforce and collect those fines would permeate the law enforcement community. There would be no cases made because of the cost of collecting that money.

Now, I certainly share your concern about the respect for the laws and it takes a workable law in order to breed respect. But in this case, do you really think that the citizen is going to distinguish between whether there is a civil fine or a small criminal penalty involved in the one case? Are we going to ignore the law in the case of the civil fine? And in the other case are we going to try to do something about it? And the average citizen realizes that it is his lack of support, his lack of funding, his lack of furnishing resources that contributes to the problem, whereas otherwise it would be the other way.

Ms. LANDAU. I think there is a significant difference between the use of criminal penalties and the use of civil penalties.

First: The criminal penalty has traditionally been reserved in our society for only the most antisocial kinds of behavior, the most harmful kinds of behavior, and society in general recognizes that and responds to that.

Second: The implications for the person who has a criminal arrest or a criminal conviction are much more significant in our society today than a civil penalty would be.

Mr. MANN. Excepting offenses that society has chosen not to so consider, such as traffic offenses that we keep referring to, which are still crimes.

Thank you, Mr. Chairman.

Mr. RANGEL. We might take this opportunity to recess to give us an opportunity to vote.

And I hope the panel will be able to return in 10 minutes, so that the members would have an opportunity to continue their dialog.

With that, the committee stands in recess until 1:30.

[Brief recess is taken.]

Mr. BEARD [presiding]. Let's call the meeting to order, and we'll start off by questioning from the counsel.

Mr. NELLIS. Ms. Landau, is there an equal protection question in this issue? We are reducing the penalty for the user. We are increasing punishment for the trafficker. That is going through Congress. Surely there will be a dispute in court about this, since we are talking about a crime between two people, that is, the user and the pusher.

If the crime is in the commission of the act, one who buys and one who sells. How can you justify the disparity in legal consequences? On the one hand the seller can go to jail for the performance of a felony, but the buyer will pay a civil fine if they ever catch up with him.

Ms. LANDAU. The distinction between the two has long been recognized by the courts and upheld under the equal protection clause. The general statement is that different kinds of conduct can be regulated in different ways, particularly with respect to application of the criminal sanction. It is realistic to look first to whether the use of the criminal sanction will have benefit, that is, where is it likely to have the desired deterrent effect, and second, to what kinds of harm result from the use of the criminal sanction. I think very good arguments could be made that those two factors indicate that you decriminalize use, but it is perfectly consistent to retain and in fact even make more onerous the criminal penalties for sale.

Mr. NELLIS. All right; you're talking about a substance in whose hands the possession is now illegal, the substance itself is illegal. We had testimony yesterday to the effect that there are severe penalties for the importation of marihuana. How is the decriminalized user to get supplies of the cigarettes if the substance are illegal?

Ms. LANDAU. Well, obviously, there are a number of ways he can get it: by being given it—

Mr. NELLIS. That's illegal, isn't it?

Ms. LANDAU. Under the ABA's position, that would not be illegal. Giving it to somebody would not be.

Mr. NELLIS. But the cigarette itself is illegal.

Ms. LANDAU. Currently.

Mr. NELLIS. The material that goes into the cigarette is illegal and always will be, won't it?

Ms. LANDAU. Do you mean it is illegal because it is treated as contraband upon importation?

Mr. NELLIS. Surely. We have severe penalties against the importation of marihuana.

Ms. LANDAU. In effect what that is is a criminal penalty on importation. I'm not terribly familiar with the importation statute.

Mr. NELLIS. You can be assured that they are severe.

Ms. LANDAU. However, whether it is stated that the material itself is contraband or the act of importation is illegal, I would argue that it is really the act of importation that is illegal.

Mr. NELLIS. Except that the material itself is contraband and is not permitted to be in the United States legally under any circumstances. Would we have to change the importation laws, do you think, to permit small amounts in order to obtain decriminalization of a small amount of use?

Ms. LANDAU. As I said, I'm not an expert on the importation law. It may be that it depends upon how far the Customs Service jurisdiction goes.

Mr. NELLIS. Mr. Hornblass, do you have any notions on that?

Mr. HORNBLASS. Well, I think there's a difference between the actual situation and what ought be. The situation of the teleological approach is, we hope we don't have any marihuana smuggled into this country. We don't have to change the laws. Marihuana, as you say, is illegal, and it will remain illegal. In 1975 the Bureau of the Customs budget was \$299 million, and it seized in that year 248 tons of marihuana. And that marihuana smuggling is estimated to be at \$5 billion annually.

Now, simple arithmetic tells us that at \$25 an ounce, which is a relatively low retail price, the Bureau of Customs is only stopping about 4 percent of the marihuana import. So, I think, realistically there will be enough marihuana to take care of many, many people who want it.

Clearly, there is that dichotomy. There is that—perhaps a conflict between the person who is smoking marihuana and he doesn't have to go through the criminal justice system if he is caught possessing it and the person who is selling it.

Mr. NELLIS. Doesn't that offend you as a lawyer?

Mr. HORNBLASS. I don't get offended easily as a human being and as a lawyer. It doesn't. Because I think there is adequate precedent in the legal system for differences in treating users and sellers, and we even make demarcations based on quantity of sale, quantity of possession.

Mr. NELLIS. Of the illegal substances?

Mr. HORNBLASS. Of illegal substances, yes.

Mr. NELLIS. I have one more question, and then, Mr. Chairman, it is back to you.

We heard testimony yesterday from Dr. DuPont to the effect that the Federal Government has now expended approximately \$22

million on marihuana research in the past few years, and yet all the experts we have heard so far are unable to tell us whether or not marihuana is a harmful drug, although they all said they would not like to see its use extended.

Since we don't know much about marihuana, and apparently aren't going to know much, with the expenditure of another \$20 million perhaps, why is it that those of you who favor decriminalization of use keep saying that it is a harmless or relatively harmless drug? How can you characterize this drug as relatively harmless, since the scientists can't tell us whether it is or not?

Mr. Miller, would you want to take a crack at that?

MR. MILLER. Well, of course, our position is, whether it's harmful or not, it is up to the individual to make that decision, that he be warned to the degree we can, just as it is on my pack of cigarettes, which I continue to use like an idiot because of my addiction—incidentally I understand marihuana is not an addiction in the same way. But I am now warned. Had I been warned when I was 18 and in the Army, maybe I would not have picked up the habit.

We know that alcohol is harmful and we are now beginning to warn of its dangers. We haven't put it on the bottles yet, although I think that might be a good idea—put it on the bottles and in the ads. We do know it can harm you.

I think, as to marihuana, nobody has come up with any real proof of harm. There has been one study—a British study in which there was some claim of brain damage, but that seems to have been contradicted, and other researchers have not been able to confirm it. So, in the absence of such evidence it is very difficult on just the equal protection grounds to say that we can continue to criminalize marihuana when we have two other heavily used and demonstrably harmful drugs within our society, nicotine and alcohol, that we don't criminalize.

Mr. NELLIS. Thank you, Mr. Chairman.

Ms. LANDAU. Could I say one thing, please? The American Bar Association does not take the position that it is harmless. It takes the position that whether or not it is harmful it should be decriminalized but that there should be an educational program based on current knowledge of harmful or potentially harmful effects.

Mr. HORNBLASS. In terms of the harmfulness of it, I think I would concur that any infusion of a chemical substance has the potential of being harmful. People can become intoxicated and just as we saw last week in the news, as a chemical substance which has now been banned by the FDA which many of us have been taking for many, many years. So, the point that I tried to make before was that we ought not really rely upon any kind of chemical substance, whether we take it occasionally or regularly. And I think clearly the weight of the evidence today is that occasional use of marihuana is that there is no real serious organic physiological, psychological damage that is done.

Now, of course, there are always studies that in every scientific area where people disagree or people will agree. But I would just like to quote from the National Commission on Marihuana and Drug Abuse which stated in 1972 which I think still holds water

even after the \$20 million expenditure by NIDA, and they said: "Neither the user nor the drug itself can be said to constitute a danger to public safety and that the weight of the evidence is that marihuana does not cause violent or aggressive behavior."

Mr. RANGEL [presiding]. Mr. Beard.

Mr. BEARD. A question: For every study you show me one way, I think there's probably another study to show the other way. So I'm thoroughly confused on that particular aspect of it.

One thing I would like to ask regarding the American Bar Association. You stated it's the American Bar—that not only the individual users would be—the situation would be to decriminalize but also the abolition of Federal criminal laws which punish the distribution of small amounts of marihuana not for profit.

Ms. LANDAU. That's correct.

Mr. BEARD. What in the American Bar Association is a small amount, the ounce or less?

Ms. LANDAU. They have not specified any amount. The only official position by the ABA on this matter is the language of those resolutions.

Mr. BEARD. Well, as a matter of fact, that is going one step further than what the majority of the witnesses that have come forth before this committee, some who I kind of question as far as their real thrust. And here is the American Bar Association really going one step further, the distribution. So, they have not gone—they just deal it from a cold, hard, legal aspect, as far as they haven't gone into research about what we are talking about as far as the amount.

Ms. LANDAU. There was research done, and there was a report given to the house of delegates on which they based their vote. But this is the only official action of the ABA.

Mr. BEARD. Did they go further to state that—would there be an age limit as to who it could be distributed to? Could it be distributed to a child in grammar school—not for profit, of course. But someone distributing one-half ounce to a child in grammar school? The ABA has taken a position that that is all right?

Ms. LANDAU. The ABA has not, I think, taken a position on that issue.

Mr. BEARD. I think they have. I mean, what does this say?

Ms. LANDAU. This says that distribution of small amounts not for profit should be decriminalized. The ABA is not necessarily taking a position one way or the other, I think, on sales, distribution, or use by small children.

Mr. BEARD. Would 13 years old, then, 14, 15? A half ounce, a quarter ounce, a full ounce?

It just kind of disturbs me that the ABA is so general in their concern for the great judicial system of this country. I think they have a very narrow channel, and should be prepared to back up their thrust on the legal system with what kind of effect in what they are talking about as to who it is going to affect? Are we talking about grammar school? Are we talking about 15, 16, 18? Are we talking about an ounce or a pound for not for profit?

I think that is a very weak, very poorly written resolution. And I would hope that you all maybe could clear up some of these for the record.

Ms. LANDAU. Mr. Congressman, we were stating principles, not drafting legislation.

Mr. BEARD. Well I'd hoped that some good research had gone into this so that the American Bar Association would have a few more facts backing up this resolution, as to what the thrust in their mind is.

Ms. LANDAU. I would be happy to make available to you the report that backed up the resolution that was voted on.

Mr. BEARD. It's very easy for the American Bar to come out—I just think that's kind of a copout—but you are representing them, and you cannot answer for the entire body.

But I just want to point out that that's my concern: Where does it stop? Where is the line drawn? Who does it affect? That's all I have to say.

Mr. RANGEL. I think the chairman wanted to inquire, at this point.

Mr. SCHEUER. Mr. Chairman, just very briefly, I would ask unanimous consent that the report of the American Bar Association that would support their position, be included in the record.

And if the report is too long, perhaps some kind of brief synopsis of their position should be included in the record.

Mr. RANGEL. Ms. Landau, do you have any idea how many pages it is?

Ms. LANDAU. I think it is about 16 pages, typed double-spaced.

Mr. RANGEL. Without objection, the record will be left open for the insertion of the ABA report.

[The information referred to follows:]

AMERICAN BAR ASSOCIATION REPORT TO THE HOUSE OF DELEGATES SECTION OF  
INDIVIDUAL RIGHTS AND RESPONSIBILITIES

RECOMMENDATION

*Resolved*, That there should be no criminal laws punishing the simple possession of marijuana; be it further

*Resolved*, That casual distribution of small amounts not for profit be treated as simple possession; and be it further

*Resolved*, That regulatory schemes governing distribution of marijuana be established by the States.

REPORT

The report and the recommendations contained therein were duly adopted and approved by the Council of the Section of Individual Rights and Responsibilities at its May 12, 1973 meeting in Washington, D.C.

PREVIOUS ACTIVITY ON THE PART OF THE AMERICAN BAR ASSOCIATION AND THE  
SECTION'S COMMITTEE ON ALCOHOLISM AND DRUG REFORM WITH RESPECT TO REFORM-  
ING THE PRESENT MARIJUANA LAWS

On April 21, 1971, Hon. Raymond P. Shafer, Chairman of the Commission on Marijuana and Drug Abuse, wrote to Edward L. Wright, President of the American Bar Association, requesting an expression of the Association's views on existing marijuana laws. On May 7, 1971, Mr. Wright advised Governor Shafer that the Association "has not adopted any formal policy statement through its Board of Governors or House of Delegates." He added that several sections and committees were considering the problem and might be interested in communicating with the Commission. Chairmen of relevant sections and committees were advised of the President's response to Governor Shafer's inquiry.

On July 9, 1971, the Committee on Alcoholism and Drug Reform of the American Bar Association's Section of Individual Rights and Responsibilities sent its statement to the Commission on Marijuana and Drug Abuse. The Committee,

without any dissent from its fourteen members, recommended the adoption of a regulated system of distributing marijuana similar to that now in use for alcohol, or at the very least, that criminal penalties be retained only for selling marijuana for profit, not for mere possession.

While acknowledging that marijuana use—like the use of any drug, even aspirin—can be dangerous, the Committee noted that alcohol is by far a greater threat to health, crime control and traffic safety. The Committee pointed to several societal costs resulting from the use of the criminal law in an attempt to suppress marijuana, costs which far outweigh the potential for harm associated with marijuana use. The marijuana laws:

- Are incredibly harsh and disparate among differing jurisdictions;

- Are selectively enforced;

- Engender disrespect for all laws;

- Criminalize the 26 million Americans who have used, or are using, marijuana;

- Stigmatize tens of thousands of otherwise lawabiding citizens who are arrested and convicted for marijuana related offenses;

- Stifle the already overburdened criminal justice system with the processing of thousands of minor arrests;

- Divert law enforcement resources away from the control of serious crime;

- Impugn the credibility of the criminal law when it warns against the dangers of hard drug use; and

Enable a black market distribution system to flourish, one which involves sellers who may traffic in hard narcotics and which permits the sale of adulterated substances, marijuana of uncertain potency and transfers to minors.

Following submission of its statement to the National Commission, the Committee recognized that the Association's failure to adopt a formal position with respect to an issue of such widespread interest and impact was wholly inappropriate. Committee deliberations in the months that followed produced last year's report and the resolution, subsequently submitted by the Section of Individual Rights and Responsibilities to the House of Delegates at the 1972 Annual Meeting in San Francisco. The resolution provided:

*Resolved*, That because the individual and social costs resulting from existing laws punishing simple possession of marijuana substantially outweigh any benefits derived, federal, state, and local laws punishing simple possession of marijuana should be repealed; and be it further

*Resolved*, That consideration be given to the feasibility of licensing the distribution of marijuana as a means of regulating its use.

After a debate in which, according to the ABA Journal for October, 1972, "it was obvious that many of these [sic] present simply do not believe the various scientific studies that indicate that marijuana is not harmful and does not lead to addiction to 'hard drugs,'" the House of Delegates approved a modified resolution providing:

*Resolved*, That, because the individual and social costs resulting from some existing laws punishing personal use or simple possession of marijuana substantially outweigh any benefits derived, federal, state and local laws punishing personal use or simple possession of marijuana should be overhauled and present excessive criminal penalties should be eliminated; be it further

*Resolved*, That the American Bar Association deplores the use of marijuana.

Additional reports, new data and changing conditions indicate that the Association's policy towards marijuana deserves further consideration and revision. The Committee wishes to make clear that at no time, either with its initial statement nor with the current report, has it sponsored or promoted the use of marijuana. Nor in view of the ready availability of marijuana does the Committee believe that the repeal of existing laws would encourage the use of this commodity. Indeed, the Committee recognizes that while long term, chronic use of the drug has not been proven harmful neither has it been proven safe. The crucial question which the Association must face is not a medical one. Rather, it is whether society's severest sanction, the penal law, should be used to punish a person who at most may be placing his own health in danger, particularly when by so doing society incurs significant costs far exceeding any real or potential benefits from the laws in question.

#### EXTENT AND SCOPE OF DOMESTIC MARIJUANA USE

If one single fact stands out above all others in the debate over marijuana it is that harsh criminal laws have been a total and utter failure as a deterrent to

marijuana use. When marijuana was first prohibited at the Federal level with the passage—despite opposition at the time from the American Medical Association—of the Marijuana Tax Act of 1937, there were an estimated 50,000 cannabis users, mostly members of minority groups, especially blacks and Mexican-Americans. Within several years every state had made possession of marijuana illegal, and most states instituted lengthy prison terms for violators.

Nevertheless, the second report of the National Commission on Marijuana and Drug Abuse, released March 22, 1973, estimates that 26 million Americans have now smoked marijuana at least once in their lives (16 percent of all adults over the age 18, 14 percent of all youths between the ages of 12 and 17). Moreover, 13 million people indicated they considered themselves regular users of marijuana, a substantial increase from the 8.34 million regular users reported by the Commission in 1972. Two-thirds of all college students have tried marijuana, while a survey conducted by two Stanford University medical researchers revealed that 25 percent of all doctors have experimented with marijuana and 7 percent remain regular users.

These statistics are remarkable only because each and every one of these 26 million people knowingly committed a criminal act by merely trying marijuana. One need possess but minimal insight to realize the damage done to our system of law and government by such widespread disregard for any law, much less one which has achieved such symbolic prominence among so many concerned parties.

One can expect little decrease in marijuana usage in the future. A report prepared for the Bureau of Narcotics and Dangerous Drugs and published in 1 Contemporary Drug Problems 467, by Dr. William H. McGlothlin of the UCLA Department of Psychology places the annual domestic consumption of marijuana in 1972 at 3.3 million pounds. For 1976 he projects between 9 and 22 million regular users consuming as much as 9.4 million pounds at maximum levels. Current estimates that 4 tons of marijuana are successfully smuggled into the country daily tend to be confirmed by the size of recent seizures.

For example, according to Newsweek, March 26, 1973, a joint U.S. Mexican police raid netted 24.5 tons of marijuana about to be shipped across the border. The same article quoted a U.S. Customs agent as saying, "It would take one person every 15 feet (along the 2,013 mile U.S.-Mexican border) to control ground smuggling. In the air, it's impossible."

Moreover, marijuana grows wild in virtually every state in the union. Pilot programs initiated by the Department of Agriculture in a futile attempt to eradicate marijuana from a number of midwestern states were abandoned several years ago.

Data such as this undoubtedly had a profound impact on the Consumers Union. For its recent book *Licit and Illicit Drugs* contains the following observation:

"It is now much too late to debate the issue: marijuana versus no marijuana. Marijuana is here to stay. No conceivable law enforcement program can curb its availability."

In brief, information presently available indicates convincingly that smoking marijuana has become a permanent part of our culture. This is true regardless of whether marijuana is believed good or bad, whether it is medically harmful or not, whether smoking it is seen as socially desirable or undesirable. Given the demand for and availability of marijuana the issue then becomes one of whether we as a people can continue a hopelessly futile prohibitory policy toward marijuana in the face of increasingly severe social costs by so doing.

#### CURRENT LEGAL APPROACHES

One of the more odious aspects of the marijuana laws is the appalling disparity in the range of punishment prescribed from one jurisdiction to another, and the differences in sentences actually imposed within a given jurisdiction. Thus, a youth in Texas is subject to a sentence of life imprisonment, as a first offender, for possession of the same small quantity of marijuana possessed by a young Nebraskan whose sentence cannot exceed seven days in jail. In New York City—though not necessarily in other parts of the state—a first offender found in possession of a moderate quantity of marijuana is likely to have his case adjourned in contemplation of dismissal. On the adjourned date, the case is dismissed if the defendant has stayed out of further trouble, and his record expunged. Similar procedures may be followed at the judge's discretion in Tennessee, Oklahoma and West Virginia, among other states. Massa-



chusetts imposes mandatory probation for first offenders in marijuana possession cases, and in New Jersey that state's Supreme Court has judicially barred jail terms for persons first convicted of possession. In Texas and Rhode Island, on the other hand, conviction for even a first offense is classified as a felony.

In at least one state—Texas—the imposition of long-term or life sentences for first offenders convicted of possessing small quantities of marijuana is not merely a possibility but a reality. At least one offender is currently serving a life sentence for conviction in 1962 of possessing one penny-matchbox full of marijuana, and another first offender received a sentence in excess of fifty years in 1967 for possession of ten marijuana cigarettes.

According to a report prepared for the state Senate Interim Drug Study Committee entitled *Marijuana in Texas*, as of March 1972, 691 people were serving sentences averaging 9½ years in Texas prisons for possession of marijuana. Included among this number were thirty people serving 30 years or more and thirteen people sentenced to life terms, three of them first offenders.

Some states, of course, have recently adopted less severe penalties for marijuana possession. Hawaii and Pennsylvania both now provide for maximum sentences of 30 days and/or a \$500 fine; New Mexico, 15 days and/or a \$100 fine. On the other hand, New York, despite the adjournment provisions mentioned supra retains a maximum penalty of 1-7 years for possession of ¼ oz. to 1 oz. of marijuana, 7-15 years for over 1 oz. Additionally, even though many states have one year maximums for first offenders, those convicted a second time for marijuana possession might receive 10 or 20 year sentences in half a dozen states.

Moreover, the fact that stiff sentences are imposed in but a few cases raises another troublesome issue. If most marijuana defendants received probation, suspended sentences or short jail terms, what about the few unfortunates who receive maximum terms? In some instances, political dissidents, the poor, the young, and racial and ethnic minorities bear the heaviest burden of the law. (The Texas study found that blacks, Mexican-Americans and the poorly educated were disproportionately represented among those in prison.) A good example is the recent sentence of 10 years and 1 day given the editor of an underground newspaper in Dallas, Texas for possession of one-eighteenth of an ounce of marijuana. (Sentences of 10 years or less may be probated but any sentence over 10 years carries a mandatory term.)

Selective enforcement of marijuana laws and discriminatory and grossly uneven treatment for those convicted substantially undermines public confidence in the legal system.

In this context an additional question comes to mind: Is respect for law enhanced by retention of criminal sanctions which are flagrantly and persistently disregarded by millions of people and for which enforcement procedures are directed predominantly against young people in a totally arbitrary and capricious fashion? The Section answers this query in the negative. We believe that society and its legal institutions suffer far greater damage from the hypocrisy and unpredictability of current marijuana laws than from use of the drug itself.

At another level the National Commission on Marijuana and Drug Abuse found solid agreement among the large group of district attorneys it surveyed as to the ineffectiveness of current policy. More than half of the prosecutors agreed that present laws do not deter people under 30 from initiating marijuana use, do not deter those wishing to smoke regularly from so doing, and do not deter transfers of small amounts for little or no profit, even though most states treat such transfers as sales with accordingly harsh penalties. Judges, the Commission discovered, are equally disenchanted with the law—only 13 percent said they would imprison an adult charged with possession of marijuana, and only 4 percent would incarcerate a minor.

Despite this attitude on the part of some elements of the criminal justice system, arrests of marijuana smokers have grown to staggering proportions. Between 1965 and 1970, state marijuana arrests increased dramatically from about 19,000 in 1965 to over 188,000 by 1970, an increase of nearly 1000 percent. Estimates published in the *ABA News* indicate that the number of state arrests grew again in 1970 to 226,000, plus an additional 3,300 Federal marijuana arrests. According to the National Commission approximately 93 percent of these arrests are for simple possession and about 88 percent of those arrested are under the age 26 (58 percent under age 21). In other words, more than 600 young people are arrested every day in this country for nothing more than having in their possession some quantity, usually under one ounce, of marijuana. Included in this number are the sons and daughters of corporate presidents, elected officials,

and law enforcement personnel; in other words, every strata of society feels the adverse impact of marijuana laws. The Section can imagine no other such purely private activity which carries with it such potentially severe consequences.

A young defendant charged with possession of marijuana need not be imprisoned or even convicted to suffer long term ill effects from his experience. Often arrest alone is enough to stigmatize an otherwise law-abiding citizen. While young people may be most often arrested, the grief, shame and emotional trauma involved is shared by their parents and family. Promising careers have been and continue to be ruined because of marijuana arrests, and convictions inevitably foreclose entry into many professions and occupations. The average person who first endures the horrors of the criminal justice system because of a marijuana arrest will leave his experience somewhat bitter and alienated. He may, in fact, become so disillusioned as to "dropout"—the ultimate irony since marijuana laws are sometimes cited as essential to discourage pot smoking and the apathy and amotivation which allegedly follows. Clearly, for most individuals the present marijuana laws themselves carry a greater potential for harm than do any other aspect of marijuana use, including possible medical effects.

#### THE BASIC ISSUES

In his excellent book analyzing the legal and social realities of present day marijuana use, *Marijuana, The New Prohibition*, Stanford Law School Professor John Kaplan observes that "(T)he wisdom of a law should be determined in pragmatic terms by weighing the costs it imposes upon society against the benefits it brings." This simple balancing of interests, although self-evident, is sometimes overlooked in our eagerness to promote the general welfare.

Unquestionably, the motives of those who argue in favor of marijuana laws are unimpeachable. The intention is to curb the growing drug culture and prevent adverse health effects, though in actuality few unhealthy side effects have been substantiated despite some 3000 years of use and nearly 80 years of study. There are, of course, few virtues in smoking marijuana, though the same comment holds true for smoking cigarettes or drinking alcohol. If, in fact, the marijuana laws successfully deterred use, then the balancing test suggested by Professor Kaplan might well extol the value of the laws.

But available evidence points to the failure of the laws as a deterrent, as noted supra. The drug is readily available for those who want it, and the prospects of arrest, prosecution and conviction—while an unpleasant reality to some—are too remote to deter most users. The Consumers Union Report, *Licit and Illicit Drugs*, estimates that in the United States, where five million marijuana cigarettes were smoked daily in 1971, the likelihood of being arrested on any particular occasion of use was far less than one chance in 5,000; for many users the risk approached zero. The simple fact is that for the most part of the law is probably an irrelevancy in the decision to use, or not to use the drug—except in those cases where marijuana is used—for reasons of protest and to defy authority—simply because it is illegal. One young man appeared before the New York State Commission on Campus Unrest and related how a severely worded law actually helped entice him to experiment with the drug which he knew to be harmless. He observed: "It isn't often that a person can create a felony in the privacy of his own room in his own house."

When reviewing society's approach toward other potentially deleterious substances one is immediately struck by the unique and adverse status accorded marijuana, this nation's third most popular and widely used (after alcohol and tobacco) recreational drug, according to the National Commission. For example, cigarette smoking is legal despite clear and unequivocal evidence of its danger to life and health. Persons with emphysema are warned that smoking is apt to result in their death. But it is not illegal, punishable by a jail term, for them to smoke cigarettes. Similarly, persons having relatively large amounts of fat in their blood are warned to refrain from certain high-cholesterol foods. But they are not subject to arrest and imprisonment when they ignore their doctor's advice.

Smoking marijuana, on the other hand, remains illegal despite the lack of reputable medical evidence as to direct harm from moderate use. Certainly marijuana smoking does not carry with it even the slightest threat of a lethal experience. On this point the National Commission stated:

"A careful search of the literature and testimony of the nation's health officials has not revealed a single human fatality in the United States proven to have resulted solely from ingestion of marijuana. Experiments with the drug in monkeys demonstrated that the dose required for overdose death was enormous and for all practical purposes unachievable by humans smoking marijuana. This is in marked contrast to other substances in common use, most notably alcohol and barbiturate sleeping pills."

A number of other findings of the thirteen member National Commission on Marihuana and Drug Abuse—including nine appointees of President Nixon—are worth considering in relation to potential dangers, both medical and social, arising from marijuana use.

"The most notable statement that can be made about the vast majority of marijuana users—experimenters and intermittent users—is that they are essentially indistinguishable from their non-marijuana using peers by any fundamental criterion other than their marijuana use."

"From what is now known about the effects of marijuana, its use at the present level does not constitute a major threat to public health."

"A large amount of research has been performed in man and animals regarding the immediate effects of marijuana on bodily processes. No conclusive evidence exists of any physical damage, disturbances of bodily processes or proven human fatalities attributable solely to even very high doses of marijuana."

"Although a number of studies have been performed, at present, no reliable evidence exists indicating that marijuana causes genetic defects in man."

"In sum, the weight of the evidence is that marijuana does not cause violent or aggressive behavior; if anything, marijuana generally serves to inhibit the expression of such behavior."

"No objective evidence of specific pathology of brain tissue has been documented. This fact contrasts sharply with the well-established brain damage of chronic alcoholism."

"No outstanding abnormalities in psychological tests, psychiatric interviews or coping patterns have been conclusively documented."

"In a word, cannabis does not lead to physical dependence."

"Although evidence indicates that heavy, long-term cannabis users may develop psychological dependence, even then the level of psychological dependence is no different from the syndrome of anxiety and restlessness seen when an American stops smoking tobacco cigarettes."

"Research has not yet proven that marijuana use significantly impairs driving ability or performance."

"No valid evidence was found to support the thesis that marijuana, by itself, either inevitably, generally or even frequently causes or precipitates the commission of crime, including acts of violence, or juvenile delinquency. Within this framework, neither the marijuana user nor the drug itself can be said to constitute a danger to public safety."

The report of the National Commission is unique only for the comprehensive, thorough nature of its research. Most of the facts it reports and the conclusions it reaches have been noted by a number of other government commissions, including the Indian Hemp Drugs Commission (1893-94), the Panama Canal Zone Military Investigations (U.S. Army, 1925), the New York Mayor's Committee on Marijuana (La Guardia Report, 1944), the Advisory Committee on Drug Dependence of the United Kingdom Home Office (Wootton Report, 1968), the Canadian Commission of Inquiry into the Non-Medical Use of Drugs (LeDain Commission, 1972), and the National Institute of Mental Health (Marijuana and Health, 1972). Not only were these reports in agreement as to the relative harmlessness of marijuana, many of them recommended that criminal penalties for private possession of marijuana be eliminated. The Section recognizes that differences may exist as to the validity of any given study or report on the subject. However, the Section also believes that the weight of the evidence clearly disproves allegations sometimes heard that "more study is required" or that "not enough is known about marijuana." Simply stated, such comments reflect either a basic ignorance of available information or a conscious attempt to obfuscate the issue.

The hypocrisy of justifying present marijuana laws on the grounds of danger to the users' health or to society generally is further emphasized when alcohol is considered. According to the National Commission, about 80 million Americans currently use alcohol, and dependence on alcohol is "without question the most serious drug problem in this country today."

Alcohol has been shown to be far more dangerous than marijuana in several respects. From the point of view of the health of heavy drinkers the evidence is conclusive. Heavy drinking is associated with nutritional deficiencies, cirrhosis, cardiovascular disease, tuberculosis, and brain damage. Alcoholics die earlier than non-alcoholics of natural and unnatural causes. Adverse social effects caused by heavy drinking among alcoholics and non-alcoholics, while too numerous to detail, include thousands of deaths due to traffic and other accidents. The link between alcohol and crime, particularly crimes of violence, is well known.

Any comparison of alcohol and marijuana should not overlook the issue of physical addiction. It is a uniformly accepted principle that of the two drugs, only alcohol is physically addictive. Alcoholics suffer from distressing withdrawal symptoms (known as delirium tremens) which, if untreated, may lead to death.

Alcohol presents a far greater danger than marijuana to society. This is not subject to honest debate. What has been questioned is the relevancy of the alcohol analogy. It has been urged on both sides of the "legalization" argument that the alcohol analogy is a "red herring." The Section feels that the alcohol analogy is not "red herring." It should be an important element in any consideration of laws making the possession and sale of marijuana illegal. We cannot overlook the question of hypocrisy being raised so adeptly by the younger generation. The label of "red herring" is hardly a rational response to this obvious difference in the handling of drug problems. There is simply no justification for present laws regulating alcohol yet prohibiting marijuana. We are concerned with inconsistencies in law and charges of hypocrisy both in law and in the enforcement of law, and as lawyers we are especially cognizant of the need for the legal system to be just and to appear to be just. Inconsistencies such as these must be corrected if we are to have any credibility when we preach respect for law and the institutions of government.

Prohibition did not work for precisely the same reasons that existing marijuana laws do not work. People want the product and, accordingly, there is widespread flaunting of the law. Still, from nearly every medical and social perspective alcohol is far more destructive and has a far greater adverse impact than does marijuana. Consequently, the two positions (endorsing marijuana laws and opposing any change in alcohol possession and distribution laws) appear to us to defy logic.

But it is not only the alcohol analogy which persuades this Section to urge repeal of criminal penalties for simple possession of marijuana. On balance, the total "costs" of retaining these laws outweigh any benefits derived from them. For, as the National Commission concluded, "The actual and potential harm of use of the drug [marijuana] is not great enough to justify intrusion by the criminal law into private behavior, a step which our society takes only with the greatest reluctance."

#### THE LINK BETWEEN MARIJUANA AND USE OF OTHER DRUGS

One of the arguments most often raised in defense of existing marijuana laws is that use of marijuana leads to use of heroin or other drugs. On this question the National Commission is unequivocal—such arguments are absolutely false. To quote the Commission's findings:

If any one statement can characterize why persons in the United States escalate their drug use patterns and become polydrug users, it is peer pressure. Indeed, if any drug is associated with the use of other drugs, including marijuana, it is tobacco, followed closely by alcohol.

Marijuana use per se does not dictate whether other drugs will be used; nor does it determine the rate of progression, if and when it occurs or which drug might be used.

The fact should be emphasized that the overwhelming majority of users do not progress to other drugs.

While it is true that some 85 to 90 percent of heroin users have smoked marijuana, the more important consideration is that only about 3 percent of those trying marijuana have subsequently used heroin. Indeed, the Committee feels that laws prohibiting marijuana may have a more direct correlation with the use of heroin and other dangerous drugs than does any chemical or pharmacological property of the substance itself. This is true for two reasons.

First, the illegality of marijuana coupled with its popularity and consequent high demand gives rise to a flourishing black market. Most marijuana smokers

obtain their supply from friends or other amateur sources. Indeed, Professor Eric Goode of the State University of New York at Stony Brook estimates that roughly 45 percent of all users have sold or otherwise transferred marijuana at one time or another. At the same time, some marijuana smokers are forced to deal with professional black marketeers whose stock may include not only marijuana but also heroin, barbiturates, amphetamines or hallucinogens as well. These drug pushers have no qualms about offering other of their wares should marijuana be unavailable. Such was the case in late 1969 and 1970 when the U.S. Government's "Operation Intercept" program caused temporary shortages of and higher prices for marijuana. During this period large numbers of young people first began experimenting with "reds" (barbiturates). Ironically, then, present marijuana laws may tend to increase, for at least some young people their exposure to dangerous and addicting drugs.

A second, related factor concerns the user's attitude toward both marijuana and its legal status. A marijuana smoker knows that his use of the drug is illegal. He sees his friends arrested for similar behavior. (The National Commission found that 53 percent of all 16 and 17 year olds know someone who has been arrested for marijuana use.) He realizes he is a criminal because of an act he believes to be essentially harmless. Once his self-image is that of an "outlaw" he feels less inhibited about indulging in other behavior which society condemns. In many states the penalties for possession of dangerous drugs are equal to or only slightly more severe than penalties for marijuana possession. Once the marijuana smoker has risked arrest and imprisonment for his use of that drug he may well harbor no second thoughts about acquiring and using other illegal drugs.

Our marijuana laws have, indeed, created an entire generation of criminals, and respect for all law cannot but suffer as a result. This general attitude of disrespect for and disgust with the legal system poses a far greater societal threat than the simplistic and discredited notion that marijuana is an inevitable "stepping-stone" to heroin.

#### MARIJUANA AND THE AGENCIES OF CRIMINAL JUSTICE

Clearly, an individual who is arrested and prosecuted on a marijuana charge endures great personal anguish for an act with de minimus social consequences. But the real loser because of the current marijuana laws is society itself. We find ourselves today in the midst of rising crime rates and growing concern over the adequacy of our law enforcement and criminal justice systems. Yet we persist in diverting an ample portion of our limited resources to the apprehension of young people whose only crime is smoking a marijuana cigarette. Accordingly, we must acknowledge that one of the most significant costs of present marijuana laws is their adverse effect on a criminal court system already groaning under the weight of huge backlogs of undisposed of cases and an overcrowded prison system which admittedly has virtually failed as an instrument of social rehabilitation.

The direct monetary costs involved are staggering. California alone spends an estimated \$100 million annually to enforce its marijuana laws. In terms of resource allocation, each and every police, narcotics and customs officer who spends his time pursuing marijuana users could more effectively serve the cause of crime control by switching his attention and efforts to those who traffic in heroin and other hard drugs.

Occasionally, someone argues that the failure of the marijuana laws as a deterrent to the proscribed behavior is no reason to repeal these laws, since other criminal laws, e.g., the homicide statutes, also fail in their deterrent capacity. That view might be persuasive if marijuana use were realistically perceived as dangerous or even unhealthy. Such is not the case, however. As the National Commission has declared:

"When the issue of marijuana use is placed in this context of society's larger concerns, marijuana does not emerge as a major issue or threat to the social order."

As already noted, there can be no doubt as to the utter failure of present laws in deterring the use of marijuana. Although the number of people arrested reached the astonishing total of 230,000, this figure represents less than two percent of the total number of regular marijuana smokers. Thus, for most users the possibility of arrest is so remote that few, if any, refrain from smoking marijuana

because of the laws. Yet the cumulative effect on the criminal justice system of these thousands of arrests is staggering.

What is worse, enforcement of the marijuana laws has given rise to police practices of dubious wisdom and doubtful constitutionality. Longhaired young people have become prime targets of police harassment, which most often takes the form of wanton searches of persons and property without probable cause. Such tactics have, for example, become so prevalent along the New Jersey Turnpike that pending litigation seeks a permanent injunction to bar state police from engaging in future illegal searches. Even more insidious is the growing practice of deploying undercover narcotics agents in high schools and on college campuses. While the alleged goal is stopping hard drug traffic, the use of these agents most often comes to light amid highly publicized reports of campus "crackdowns" where dozens of students are arrested for possession of "narcotics." Close scrutiny of these reports reveals that almost all charges and drug confiscations involve not heroin or amphetamines but marijuana. On those campuses where agents are not deployed student informers are relied upon. Millions of students and young people no longer feel secure, even in the privacy of their rooms, a situation which must dismay those of us concerned with the diminishing rights of privacy we all enjoy.

In short, the marijuana laws are responsible for the wasteful and unwise deployment of law enforcement resources, for adding thousands of cases of trivial import to overloaded court calendars, and for inviting abuse of the civil rights and civil liberties of millions of this nation's youth through unconstitutional searches and unhealthy police practices. In practical terms, these costs of existing marijuana laws are perhaps the most significant and certainly the most inexpedient.

#### APPROPRIATE GOVERNMENTAL RESPONSE TO THE USE OF MARIJUANA

We understand the concerns of those who support existing marijuana laws, though frankly we believe that many people have based their position on untenable arguments supported by discredited information and myth. We believe that if recreational drugs such as tobacco, alcohol and marijuana, remain popular—and no reasonably objective observer could conclude otherwise for any of the aforementioned substances—then the government has an obligation to regulate their availability and use. Reliance upon criminal sanctions in an attempt to regulate marijuana is, in our view, both inappropriate and counterproductive. In fact, a key point which must be stressed is that it is impossible to regulate a substance which is prohibited, a lesson which this country should have learned during the days of alcohol prohibition. (A curious footnote to Prohibition is the fact that while the sale of alcohol was universally forbidden, in only a few states was possession of alcohol illegal; this is in marked contrast to the present day situation with respect to marijuana which finds both sale and possession banned in all jurisdictions.)

Having said that, the question becomes one of what response to the issue by government is appropriate. There are several steps which government may properly take in this area. One is education. To date we have not done an adequate job of educating our citizens, both young and old, on the dangers of abusing any drug, including prescription and over-the-counter drugs. By grouping marijuana with heroin, by imposing strict penalties for its use and by overstating the possible dangers of the drug we have, in fact, lost credibility among both users and non-users of marijuana. As a result young people no longer believe us when we counsel against the dangers of narcotics. Thus the Section believes that an essential step in developing sound drug education programs is the reexamination of our response to the widespread use of marijuana and the revision of our criminal laws on the subject to reflect the wealth of information now available.

A second possibility involves governmental regulation of the channels of marijuana distribution. Contrary to what many believe, such a step would actually mean more controls over marijuana, not less. Age controls would be possible, as would purity and potency standards. At present none of these controls—which are properly imposed on the other popular recreational drugs, tobacco and alcohol—can be established for marijuana for the simple reason that a black market seller cares not whether his customer is 13 or 30, whether his product is pure or laced with more potent (and dangerous) adulterants, or whether the marijuana he sells is twice or even four times stronger than his previous supply.

thereby creating a potentially harmful situation for the novice smoker. Government regulation over the distribution of marijuana—with particular emphasis on purity and potency of the drug and age limitations on the buyer—will greatly reduce and perhaps eliminate the major known dangers associated with marijuana use today.

The wisdom of a government controlled regulatory system for distributing marijuana has recently been enunciated by the San Francisco Committee on Crime, by the District of Columbia Mayor's Advisory Committee on Narcotics Addiction, Prevention and Rehabilitation, and by Consumers Union. As the editors of the last named organization concluded in *Licit and Illicit Drugs*:

"We do not recommend legalization because we believe that marijuana is 'safe' or 'harmless'. No drug is safe or harmless to all people at all dosage levels or under all conditions of use. Our recommendation arises out of the conviction that an orderly system of legal distribution and licit use will have notable advantages for both users and non-users over the present marijuana black market. In particular it will separate the channels of marijuana distribution from heroin channels and from the channels of distribution of other illicit drugs—and will thereby limit the exposure of marijuana smokers to other illicit drugs. Even more important, it will end the criminalization and alienation of young people and the damage done to them by arrest, conviction and imprisonment for marijuana offenses."

#### THE SECTION'S RECOMMENDATION

The users of any drug want to know about its dangers. For that reason the government has a responsibility to continue research into possible effects of marijuana on the user, and to publicize its findings. But once adequate warnings are given, the government has fulfilled its obligations. Millions of cigarette smokers daily ignore the government's advice, stated clearly on each pack. Their behavior may be foolish, but it cannot be classified as criminal. The same approach should be followed for marijuana, which medically is a far less harmful substance.

In summary, the Section believes that the time has come for government to acknowledge its obligation to minimize the abuse potential of marijuana by instituting strict legal controls over its distribution and use while recognizing the exorbitant cost of continuing the impractical and ineffective approach toward marijuana presently being followed.

Accordingly the Section of Individual Rights and Responsibilities respectfully urges the House of Delegates of the American Bar Association to endorse our recommendation—as a meaningful initial step toward a rational policy on marijuana—that: (1) there should be no criminal laws punishing the simple possession of marijuana; (2) casual distribution of small amounts not for profit be treated as simple possession; and (3) regulatory schemes governing distribution of marijuana be established by the States.

Respectfully submitted.

MCNEILL SMITH, *Chairman.*

#### INDIVIDUAL RIGHTS AND RESPONSIBILITIES

(REPORT NO. 101)

The Section's third recommendation was approved with amendments agreed to by the Section, except that the resolution urging establishment by the states of regulations governing distribution of marijuana was postponed indefinitely. As amended, it reads: Be it

*Resolved*, That, because of the tendency to punish those who merely experiment with use of small quantities of marijuana and to apply too serious penalties to them, rather than to concentrate on detecting and punishing sellers of the drug, there should be no criminal laws punishing the simple possession of marijuana by users; and be it further

*Resolved*, That casual distribution of small amounts not for profit be treated as simple possession; and be it further

*Resolved*, That the American Bar Association deplores the use of marijuana; and be it further

*Resolved*, That educational programs should be established as widely as possible to discourage the use of marijuana and other drugs which may be harmful.

Mr. WOLFF. Thank you, Mr. Chairman. I must apologize for having to run in and out of here, but we have another meeting of the International Relations Committee at the present time, and we are marking up a bill; and we've had to go in and out for votes.

However, I would like to ask this panel the same question I asked yesterday, with reference to another substance that seems to bear some relationship, as being a non-habit-forming drug. This is the question of cocaine:

Do these same ideas that you have proposed apply as well to cocaine

Ms. LANDAU. The ABA has not taken any position on decriminalizing the use of cocaine. I don't know the facts in terms of usage and its social costs in order to make a generalization.

Mr. WOLFF. Mr. Hornblass?

Mr. HORNBLASS. Congressman, I would be unalterably opposed to any alteration of our criminal laws, vis-a-vis cocaine. Cocaine does not have the widespread use of marihuana. It is a completely different kind of substance.

Mr. WOLFF. At one time, however, it did have very widespread use. Cocaine use appears to be cyclical and now perhaps it does not have the same amount of use, but at one time there was almost an equal use of cocaine and marihuana, before the present surge in marihuana.

Mr. HORNBLASS. As a matter of fact, most of us had cocaine in our Coca-Cola. I don't want to give a plug to one of our soda pops—

Mr. WOLFF [interrupting]. But it is said to be nonaddictive. What is the delineation of the present usage of this drug?

Mr. HORNBLASS. I'm just telling you, the one reason why I would be opposed to any discussion of legalization or decriminalization of cocaine, is because it would muddy the water. And it is not a question of going step by step, but I think so many people are scared of decriminalization of marihuana—which is really not a big step—that if we say cocaine—and cocaine is connected a lot with aggressive and criminal behavior—that any discussion of marihuana would become very passionate and nonobjective and we would not be able to accomplish anything in this country.

Mr. WOLFF. Mr. Miller, would you like to comment?

Mr. MILLER. Well let me just read a very few lines here, of the ACLU policy:

The ACLU is opposed to finding persons as criminal for behavior which, when engaged in alone or with consenting adults, does not harm another person or directly force another person to act unwillingly in any way.

Included in this behavior, which should be exempt from criminal sanctions, is the introduction of substances into a person's own body.

Now that does not mean we would not accept regulation of those substances, and warnings about those substances, but we are not in favor of any criminal sanctions.

Mr. WOLFF. The question was just posed would—that would be a followup—would that include heroin?

Mr. MILLER. Yes; as a matter of fact, in my testimony, you will see that I hope you will begin to deal with that problem. It is a much more serious social problem, if you can handle it by decrim-



inalizing it and put it in a medical context—which it should be—I think we would have a much greater social payoff, not only for civil liberties, but also for a reduction in the real estate crime rate.

Mr. WOLFF. I would like to go on to another question. I don't know whether it was covered or not, but I noticed Mr. Hornblass, in your statement, you talked about the amount of abuse in prisons.

Now what would be the situation, so far as decriminalization, relative to the possession of a marihuana cigarette within a Federal prison if there was decriminalization of marihuana?

Mr. HORNBLASS. I'm not too sure I follow your question.

Mr. WOLFF. Would decriminalization permit marihuana cigarettes to be circulated within a prison?

Mr. HORNBLASS. The answer would be "No, we're not going to permit marihuana to be circulated anywhere—in an institution, or outside the institution."

Mr. WOLFF. Well suppose somebody was able to, on a friendly basis, get the cigarette passed to them—say by a visitor coming in—what would be the situation?

Mr. HORNBLASS. Well I would hope that the penal institution would have regulations prohibiting that action; and, if somebody does bring in contraband, he would be penalized for it.

Mr. WOLFF. Counsel is prompting me here.

Mr. RANGEL. Well, I can prompt on the other side.

Suppose they bring in a bottle of booze? What's the difference? It's against the regulations.

Ms. LANDAU. Those, after all, aren't criminal penalties. Those are, instead, administrative regulations. No criminal penalty would be imposed.

Mr. HORNBLASS. I think if I may, again, just to go to a fundamental point: I am not asking for "legalization," or for acceptance of marihuana. We're saying it should be as Senator Javits said, "discouraged, not accepted"; rejected by all, young or old.

The point that I make is that it has no business being within the criminal justice system—a system that fails, generally in most jurisdictions in this country, to mete out swift and sure justice. And one of those reasons is the fact that we load that system with crimes that really ought not to be there.

Mr. WOLFF. Well, before, you did indicate that you did not want to mix the two—the cocaine and the marihuana. But I want you to know that in the city of New York, we understand that they are not busting people for cocaine, just as they are not busting people for marihuana.

Mr. HORNBLASS. Mr. Chairman, I beg to differ with you.

Mr. WOLFF. Well, according to the information that we had—on two visits that we had into the Harlem area—and we did have sworn testimony to this effect—that they're not busting people for cocaine.

Mr. HORNBLASS. I can just tell you the statistics I get from the police records: which is that, in 1975, there were 16,000 arrests in the city of New York—drug arrests; and over 6,600 were for marihuana. And they are arresting, to the best of my knowledge, for cocaine, too.

I will look into that and get the record straight.

Mr. WOLFF. I did not mean to infer, by my questions on cocaine, that I am for decriminalization of cocaine. I'm playing the role of devil's advocate here.

Mr. RANGEL. So that the panel won't be detained, we do have another vote on the floor. And one of our members has not inquired.

Mr. Scheuer.

Mr. SCHEUER. I'm somewhat concerned over the position that the ACLU takes, and the American Bar Association takes, not on decriminalizing, which I support, but the elimination of all fines.

I think I understand what the rationale may be—on the face of it, marihuana is no more dangerous to health and no more dangerous to society than is alcohol. We have 9 or 10 million alcoholics in this country and they cause 50 percent of all auto-related deaths; and we have not established a fine for alcohol possession. Why should we have a fine for marihuana possession?

To me, a countervailing argument is: There are people who take marihuana who can't cope with it. Many people who take marihuana can cope with it; but why should we give the "Good Housekeeping Seal of Approval," to an additional mind-altering drug that we know, predictably, will produce a user population some of whom cannot cope?

It seems to me that when we go to decriminalization, we should send out a signal that, while we are decriminalizing, we don't approve of the use of the drug; we don't encourage it; we don't condone it. And we are going to have some tough civil fines so that the people who abuse marihuana are going to pay, in part, for the services, to take care of those who abuse it and who cannot cope with it. And I think that is a reasonable position to take, even for a civil libertarian like myself.

I am concerned that the signal that you send out, would not only eliminate the criminal sanctions, but would eliminate all civil sanctions, too.

Ms. LANDAU. The American Bar Association does not take that position. The ABA favors decriminalization and also affirmatively has said it wants education programs; but it has not taken any position with respect to civil regulation. It does not oppose civil regulation.

Mr. SCHEUER. Would they oppose a civil fine structure?

Ms. LANDAU. They have not done so. They haven't specifically endorsed it. It was not before the decisionmaking body.

Mr. SCHEUER. How about the ACLU? You specifically said in your testimony you would oppose all fines, as the ideal situation.

Mr. MILLER. Let me say this: We won't work hard against it, as a step forward, if that is the best that can happen, legislatively.

Mr. SCHEUER. Well I'm asking you what you think is the best that can happen?

Mr. MILLER. Well, let me say why. You made the equal protection argument—and that's a correct one. There's another one, though, that we're having a real problem with. And that is, the pressure we feel on civil liberties, because of a rising crime rate.

Now if you have a heavy civil fine, then attention of both the courts and the police are going to be put on it. Even if it is civil, the

police will pick somebody up in order to get them to the court to get the fine levied, or even a citation. They are going to be out looking for that.

Now we prefer that the police spend their time on personal crimes of property and violence, and take some of this pressure off of people who want to pass repressive laws to deal with crime—which aren't working anyhow.

I think it's a priority question. You really have to weigh: Can we afford to try to control this kind of social behavior—which we can't seem to control anyhow, no matter what we do with it, no matter how heavy? And New York's experience, I think, is one of the best examples.

New York put Draconian laws on drugs, and accomplished nothing. The drug use went up—and I'm not just talking about marijuana—all kinds of drugs; it went up. But attention and time was taken away from other kinds of crime in order to do that, and it still did not help.

I think we have to begin to level with the American people. The Congress has been considering passing a new Federal criminal code. And some Congress people have been talking about it as a way of really reducing crime. Well, as drafted it won't have any effect on real crime because the priorities have not been changed.

What we have to figure out are ways to reduce real crime and still maintain constitutional rights.

Mr. RANGEL. Mr. Miller, we have a restraint here. We have to go to the floor in order to vote. On behalf of the chairman and the committee, I sincerely thank the three of you for sharing your views with us today. And we have another panel that we will go into at 2:30.

So the committee will stand in recess until 2:30 this afternoon.

[Whereupon, at 2 p.m., the hearing was recessed, to reconvene at 2:30 p.m., the same day.]

Mr. RANGEL. The committee will come to order. This afternoon the Select Committee has the opportunity to hear the views of two expert witnesses, Mr. Keith Stroup, the executive director of NORML, Dr. Lester Grinspoon, a professor of psychiatry at Harvard Medical School, and a 3d panelist here will be Burton Joseph of the Playboy Foundation, Inc.

I would ask the witnesses whether or not they would allow themselves to be sworn in together.

[Witnesses sworn.]

Mr. RANGEL. And again, your full prepared statements will be entered into the record in total and in order to afford the committee an opportunity to have an exchange and a dialog, I would ask that you attempt to summarize the remarks and perhaps we could start off with the committee's permission with Mr. Stroup of NORML.

#### TESTIMONY OF KEITH STROUP, ESQ., NATIONAL DIRECTOR OF NORML

Mr. STROUP. Thank you, Mr. Chairman. I will indeed summarize my statement. I am here as the director of NORML, which is the

national organization for the reform of marihuana laws. We are a nonprofit, citizen action lobby whose only purpose is to decriminalize the marihuana smoker.

I want to state early that our organization does not advocate the use of marihuana. In fact, we support a discouragement policy toward the recreational use of all drugs, and that includes alcohol and tobacco as well as marihuana.

But we do distinguish between coercion and discouragement, and we oppose the use of the criminal sanction against otherwise law-abiding individuals who choose to smoke marihuana.

I should point out that we attempt to represent the perspective of the consumer, and with this issue, this means the marihuana smoker.

It is our opinion that the 13 to 15 million Americans who smoke marihuana comprise a legitimate political constituency. We think they have a right to participate in the decisionmaking processes and most importantly in those processes that affect their lives, such as drug policy.

Most basic to our overall position is the belief that an otherwise law-abiding individual who smokes marihuana is not a criminal.

I think you people, as elected officials, are well aware that there are exaggerated views toward marihuana's potential for harm which are widely held throughout the country. Part of that is the result of the Government's own propaganda campaign which has gone on for 35 to 40 years.

Those affected during the early years of marihuana prohibition were not able to defend themselves very well. They were mostly Mexican-American migrant workers in the Southwest and blacks in the South, neither group being franchised very well during the early 1920's and 1930's when these laws were being passed.

Well, for various reasons which have to do, I suppose, with the protest against the Vietnam war and our moves in favor of civil rights during the 1960's, marihuana found its way to the college campuses in large numbers. So, for the first time we began to see white, middle-class kids smoking marihuana. To many of them it was a symbol. It was a symbol of protest.

The older generation had their drug, which was alcohol. It was identified with the aggressive posture of our country in Vietnam and with a lot of other activities. So, for the youth culture to smoke marihuana became a protest in itself.

Now, that may have been fine for those of us on the protesting side, but those who were making decisions about that time and those who are still primarily making decisions in Government often saw the symbolism from the other perspective.

For them, marihuana smoking became synonymous with radicalism. It represented unpopular political action, long hair, hippies, all the kinds of excesses of the youth culture that the traditional culture found threatening.

So, we began to have a war against drugs in this country, and in fact, some of our former presidents used that expression, "war against narcotics," "war on drugs."

Well, gentlemen, it was not a war on drugs, it was a war on drug users. And most of the casualties were those of us who smoked marihuana.

Since 1970, more than 2 million otherwise law-abiding people in this country have been dragged through the criminal justice system because of that war on drugs. Mostly what people were fearing during that time was not really marihuana. It was the symbolism; marihuana represented permissiveness, or it somehow represented a change in our basic value system.

We are suggesting today that that is not the case, that we are not your enemy. And if indeed there is to be a war on drugs in this country, we must begin to differentiate between commercial sellers and those of us who are mere consumers.

Most of us who smoke marihuana are neither radical nor criminal. We are simply otherwise law-abiding citizens who happen to enjoy marihuana. We span all socioeconomic and age subgroups, and to continue to confuse us as criminals is indefensible.

The Marihuana Commission, I should note, made the point in 1972 that marihuana smokers—and I'm quoting: " \* \* \* are essentially indistinguishable from their nonmarihuana-using peers."

Though marihuana is most popular among young adults, its use is now growing in popularity among the over-30 crowd as well, and the NIDA statistics that you have been provided will verify that.

Like the 60 million Americans who smoke cigarettes and the 100 million Americans who drink alcohol, the 15 million Americans who regularly smoke marihuana are recreational drug-users; nothing more, nothing less.

We should not feel inferior or superior to those of you who drink alcohol or smoke cigarettes. We are all in the same category.

But there is one major difference: Those who drink alcohol or smoke cigarettes are not subject to arrest. They are discouraged from using it. We tell them it's dangerous; we continue the research; but we don't make them into criminals.

Those of us who smoke marihuana play a continuing game of roulette with law enforcement, and about 400,000 of us are needlessly and often tragically arrested every year.

That means that about 13 or 14 million of us continue to smoke every year and we are not caught. What you end up with is an incredibly selective system where a few individuals are penalized because of the symbolic value of marihuana to the rest of America.

Now, we also recognize that the police generally today are not out looking for marihuana smokers. The country doesn't have the police resources to go after the 13 to 15 million regular smokers. The idea is absurd. What would we do if we caught them? Where would we put them? A giant football field someplace? Lock them up for a year? That's what the Federal law says.

Well, obviously, that's not a viable alternative. There are still situations, in rural jurisdictions primarily, where individuals on very minor offenses are still receiving long prison terms.

When I heard Chief Davis suggest yesterday that no one has ever gone to jail for possession of a small amount, I felt like per-

haps I should take him on a tour of the Texas prison system, where just a couple of years ago they had 750 people locked up for simple possession of marihuana, and the average sentence was 9½ years.

Apparently Chief Davis has not heard about that. Maybe he hasn't heard about Jerry Mitchell out in Missouri, a client I represent right now. Jerry Mitchell is an 18-year-old college student who sold \$5 worth of marihuana to a friend. Not out on the street. He was home. His friend came over to his house and said, "Don't you have any marihuana?" He said, "No." The friend said, "Well, do you have any personal marihuana? I would like to share it with you." He gave Jerry \$5 for about 11 grams of marihuana, which means Jerry probably lost money on the transaction. He was not a commercial trafficker, but the judge gave him 12 years in jail.

The same judge gave a second-degree murderer, the same month, 5 years.

Mr. NELLIS. Is this Texas?

Mr. STROUP. No; this is southwest Missouri, just in 1976.

Again, I'm not suggesting that's what happens to the average marihuana smoker. I'm suggesting that as long as you leave these laws on the books, though not generally be enforced, you are inviting that type of selective enforcement, and it's going to continue in selected pockets until we change the law.

Again, I want to stress that in most instances those marihuana smokers who are caught today do not spend long periods of time in jail. But they are arrested. They are run through the criminal justice process. They are taken into custody. They are fingerprinted. They are booked. They are treated in all other respects as if they had, for example, committed a minor burglary. They are left in most jurisdictions with a criminal arrest record, and not necessarily one that can be expunged, as I heard testified yesterday. For example, under Federal law you can only have your marihuana record expunged if you're under 21 years of age.

Well, I'm 33 and I smoke marihuana. Why should I be stigmatized as a criminal?

That law's wrong, folks, and it needs to be changed.

The cost of all this in terms of law enforcement is enormous. Forget for a moment the bleeding heart arguments that those of us who smoke would like to have you consider. From your own practical standpoint, we question the wisdom of spending \$600 million in taxpayers' money arresting and prosecuting marihuana-smokers in this country. And that's the best estimate of what we're spending today.

I would also stress the ineffectiveness of the criminal law as a deterrent. I have heard people over and over in the 2 days of this hearing ask the question, "Is there an effective deterrent?" I think probably if there is an effective deterrent to marihuana smoking, then it is for the Government to continue to fund proper research—which you have been doing at a rate of \$4 million a year. NIDA has been coordinating marihuana research, and trying to find out everything possibly wrong about the drug. If it is harmful, those of us who smoke want to know. We're not anxious to hurt ourselves. But, ultimately, we've got to leave the decision as to whether

to take that risk to the individual. Otherwise we really don't have any personal freedom in our society.

I would like to briefly underscore the specific goals of our organization. First, we would like to reach a policy in this country where an individual is allowed to make his own decision as to whether or not he would smoke marihuana. We believe that's part of the individual's constitutionally protected right to privacy. And that is not an argument that we make lightly. It's an argument that the Alaska Supreme Court has already ruled unanimously does apply in their situation, according to the State constitution in Alaska.

For that reason, there's not a civil fine for private possession in Alaska. There's no penalty at all. There is a civil fine for public smoking, something which our organization does support. We have no objections to differentiating between public and private drug use. We oppose public drug use. We are even in favor of discouraging private drug use, but not with a criminal sanction.

We also believe the right to possess marihuana for personal use should include the right to cultivate small amounts of marihuana for personal consumption.

You recall that Dr. DuPont in the past month has issued a statement in which he now also endorses the concept of decriminalizing private cultivation for personal use.

That is not suggested because we think marihuana should be made more readily available. Marihuana is available today, folks. I buy it whenever I want it, and so do the other 15 million people who smoke it. There's an incredible underground market.

The question is, do we really want a governmental policy that continues to feed that underground market. There is a lot of potential for abuses when you're dealing with the black market. They don't sell just marihuana on that black market.

Now, I'm 33, so when I go buy marihuana I should have the maturity to know whether or not I want to buy those other drugs that are available. But I'm not sure that 15-year-old children do. I'm not sure my daughter will when she gets 15 or 16. I don't want to make her take that risk. If she's going to smoke marihuana or anyone else's kids are going to smoke marihuana, I would much prefer they be allowed to grow plants in their backyard. They're not going to be turned on to cocaine or LSD in their backyard.

So, I think cultivation makes sense from a consumer standpoint. It makes sense from the standpoint of public policy. It also puts off the inevitable decision of legalization. There's been a little talk about legalization already with this committee and with the witnesses.

Our organization does not support legalization, and I want to make that point clear. The pressure for legalization does not come from the consumer. It comes from industry. It comes from people who would like to make money on that \$4 billion a year industry. That is not us. We're the consumers.

We would like for you to decriminalize our right to smoke marihuana and leave us alone. That's all. We're not asking you to set up any kind of a legally regulated market. In fact, many of us oppose it.

But we do think you've got to provide us the right to grow our own. Otherwise, those 15 million people are going to continue buying from a black market.

We also believe you should decriminalize the transfer of small amounts of marihuana where little or no remuneration is involved. Now, I would even suggest that if there is a small profit, it should be decriminalized, so long as it is a small amount that is involved.

Decriminalization is an attempt to separate the consumer from the commercial trafficker. Now, just as an alcohol drinker may have three or four fifths of liquor in his closet and not be confused with a liquor store, a marihuana smoker will often have 2 or 3 ounces of marihuana and they are not dealers. They are consumers who have friends over. They may have more marihuana on hand than they can smoke at one time, but to confuse those people as dealers is unjust, it is unfair, and it is unrealistic. And that is why we end up with people like Jerry Mitchell, an 18-year-old kid who sold \$5 worth of marihuana and received a 12-year sentence because the judge thought he was a "pusher." That's all he called him throughout the trial.

Well, Jerry Mitchell was not a pusher. He was a consumer who shared his marihuana with a friend.

You should be realistic. When you consider these reforms, reform a large enough category so we have effectively eliminated the consumer from the criminal justice system.

I should add that we oppose arbitrary quantity limitations. We realize, as some of the spokespersons in the last panel indicated, that politicians may have to select arbitrary limitations, and if so, we will in fact support those bills. Both of the current bills pending in Congress do have arbitrary quantity limitations. We suggest that they should be set as high as politically possible. A 100-gram limit, for example, like the State of Ohio has selected, is much more realistic than a 1-ounce limitation; 100 grams is approximately 3½ ounces.

There has been ample evidence of the success with decriminalization in California and Oregon, and I know you people have copies of those latest studies for the record. But I should perhaps just briefly summarize.

In Oregon, where they have had a similar form of marihuana decriminalization now for more than 3 years, there has been less than a 3-percent increase in usage over that period of time, a very insignificant increase in usage: 58 percent of the people in the State say they approve of the new law; thirty-nine percent say they would prefer to go back to criminal penalty. So, it is overwhelmingly preferred by the citizens in Oregon.

In California, a recent study by the State indicated that California saved \$25 million in the first year of their decriminalization law, by switching to a citation. There was less than a 3-percent increase in usage again, and less than half of those attributed their increase to the lowered penalties.

I think from those two lessons what we should learn is, decriminalization of marihuana does not inevitably lead to increased usage.

It may lead to some increased usage, because one must assume that



there's a small percentage of nonsmokers who are deterred because of the criminal justice penalty. But certainly the people who are deterred are not the young people we are concerned about; 53 percent of all the college kids in the country smoke grass today, so they are not deterred by your penalties. The people who are deterred are the people your age, to be quite honest, who don't break laws. They don't make judgments whether they're right or wrong, they just don't break them.

I don't think the concern of Congress should be over whether someone who's 50 years old wants to go home on a Friday night and smoke a joint with his wife and watch Walter Cronkite. That is hardly a social risk that we need to address at the U.S. congressional level, but that is the only increase that I think you're going to notice, if any at all, from decriminalization.

The medical claims continue to crop up again and again. Those of us who smoke don't want to hurt ourselves. Let's not presuppose we're all kamikaze pilots trying to kill ourselves. We're not. We care about life. I quit smoking cigarettes when the Surgeon General's report came out. It had nothing to do with the criminal justice system. It had to do with my concern about my health. I don't drink alcohol for the same reasons.

I know that a lot of people do use those two drugs despite the evidence available, and other people continue to smoke marihuana. But what we're suggesting is, don't use the medical evidence to justify locking us up. If marihuana is truly harmful, let's all effectively find ways to communicate that to the consumer and to the potential consumer. Let's not turn the consumer into a criminal. If it is dangerous, it's a medical problem, not a criminal justice problem. We simply don't address the medical issue by arresting and locking someone up.

I also get a feeling at times that Congressmen have not read the statistics on the voter attitudes in this country. One would gather from this panel and from others that if any of you were to return to your home district appearing to be sympathetic to marihuana decriminalization that it might have repercussions that would be negative.

Yet, the statistics from NIDA indicate that only 10 percent of the people in the entire country believe a marihuana smoker should go to jail; 86 percent of the people say, no jail; 4 percent are undecided.

And if you divide the question down more and say, "Exactly what kind of penalty do you think is appropriate for a marihuana smoker," 55 percent of the entire public now says, a fine and/or probation—that's all. No jail, folks. Do you understand? Fifty-five percent. It's not a minority position. It's not a radical position. It is a majority position. And that is not, by the way, based on a survey in Berkeley. That's a nationwide survey done by the National Institute of Drug Abuse.

I know also that people argue that the Federal law is not used. So, why should we worry about it? I am willing to concede that I'm not aware of any case where the Federal law has been used for a minor possession case. At least in the 4 or 5 years I've been working on this issue, I don't believe it has been.

But I do testify at a lot of State legislative hearings. We have bills right now in 30 States, and I believe there will be 35 States which will have similar bills during this current session. We go before those people, Dr. Grinspoon and other experts from the medical community come before them and they argue for decriminalization. And every time those State legislators say one thing to us, they say, "Well, if what you tell us is true, then why hasn't Congress acted?"

Well, I say to you folks, why hasn't Congress acted? Your law is the model. At least half of the States will never change their marihuana penalties so long as the U.S. Congress is on record as officially considering those of us who smoke as criminals.

You don't have any need to have Federal laws in this area, other than for the laws as to importation, which are obviously a proper jurisdiction of the Federal Government. Why don't you just back out of this area altogether? If there is a need for laws to control marihuana, at least as to minor offenses, let the States adopt them. It's a proper matter for the States to attend to.

I can't imagine that any serious student of government would suggest that marihuana policy should be properly decided at the U.S. Federal level. But the current Federal law permits 1 year in jail and a \$5,000 fine, even if I sit home and smoke a joint in the privacy of my own home.

We're suggesting that you don't have to make the ultimate decision as to what your State should do. All you really have to do is face up to the responsibility of decriminalizing marihuana under Federal law. The rest will take care of itself.

Thank you kindly.

[Mr. Stroup's prepared statement follows:]

PREPARED STATEMENT OF KEITH STROUP, Esq., NATIONAL DIRECTOR, NORML

I am pleased to appear today in support of the concept of marijuana decriminalization. I am here as spokesperson for NORML, the National Organization for the Reform of Marijuana Laws, a non-profit, citizen action lobby whose only purpose is to decriminalize the marijuana smoker. Our organization does not advocate the use of marijuana, and we support a discouragement policy toward the recreational use of all drugs, including alcohol and tobacco as well as marijuana. But we distinguish between discouragement and coercion, and we oppose the use of the criminal sanction against otherwise law-abiding individuals who choose to smoke marijuana.

NORML attempts to represent the perspective of the consumer; that is, the marijuana smoker. We believe the thirteen to fifteen million regular marijuana smokers in this country are a legitimate political constituency and have a right to participate in the decision making processes, including especially the shaping of drug policy which effects their lives. Most basic to our overall position, we do not believe that an otherwise law-abiding individual who smokes marijuana is a criminal.

As representatives elected by the public, the members of this Committee must be aware that many Americans today hold exaggerated views concerning marijuana's potential harmfulness. This is the result primarily of 35 years of government-inspired propaganda, during which time marijuana smoking was said to be criminogenic and its regular use to lead to insanity. Based on what we now know about the effects of marijuana, the absurdity of those early claims is apparent. But in the 1930's, reinforced and encouraged by Harry Anslinger and the Federal Bureau of Narcotics, they were widely believed and formed the basis of state and federal legislation outlawing marijuana smoking. As marijuana became the national menace—the killer drug—Anslinger and his Agency grew in size and importance.

Those effected by this policy during the early years were mostly Mexican-American migrant workers in the Southwest and blacks in the South—two groups that exercised little political power. They could not effectively fight back. Whenever, periodically, claims would be made that marijuana smoking was on an increase, the penalties would be increased.

In the 1960's marijuana smoking found its way to the college campuses. For the first time large numbers of middle-class whites began smoking marijuana, and finding out personally that the old claims were ridiculous, that it was pretty much like alcohol, without the hangover.

To many it became a symbol. Alcohol was seen as the drug of the older generation, those that led us into an unpopular war in Vietnam. Marijuana became the counterculture's alternative to alcohol. Marijuana smoking became a social statement in itself. To smoke marijuana was to protest against the war, against the establishment.

The illegality of it merely added to its symbolic value, underscoring the hypocrisy of the establishment. It was only fitting that a government that seems to encourage 100 million alcohol drinkers and 60 million tobacco smokers would choose to treat those who smoke marijuana as criminals. To some degree marijuana smoking became the common thread that united the counterculture, its social cohesive. It was a shared-risk, the basis for instant trust.

Ironically, the Vietnam war itself was a major factor in the expanding popularity of marijuana during the 1960's. Hundreds of thousands of draftees—not college kids with deferments, but largely working class kids—were sent to Vietnam where they promptly were introduced to Southeast Asian marijuana, among the best in the world. As these military personnel began to return to the States, many naturally retained their marijuana smoking inclinations, greatly expanding the popularity of marijuana.

This symbolism was not lost on the more traditional culture. From their perspective marijuana smoking became synonymous with radical politics, opposition to the war, and hippies. Just as smoking marijuana had become a symbol of protest, opposing its use became synonymous with patriotism, a belief in traditional values, and a repudiation of the excesses of the youth culture.

As a result, enforcing the marijuana laws became a high priority—permitting marijuana smoking would be perceived as giving in to radicalism. Marijuana was feared as a symbol, a threat to the established value system.

The result was a war against drug users, and those of who smoke marijuana comprised the bulk of the casualties. From a mere 18,000 marijuana arrests nationwide in 1965, the total has risen to 416,000 in 1975, according to the FBI Crime Reports. In fact, 69% of all drug users in the entire country in that year involved marijuana.

I'm here today basically to make the point that we are not the enemy. Those of us who smoke marijuana do not deserve to be treated like criminals. The vast majority of us are neither radical nor criminal. We are otherwise law-abiding citizens who happen to enjoy smoking marijuana. We span all socio-economic and age subgroups. To continue to confuse marijuana smokers as criminals is indefensible.

We're your neighbors, your co-workers, often your children. Most of us are responsible citizens, who care about our community, and we share the same anxieties and aspirations as do other Americans. As the Marijuana Commission recognized in 1972, "(Marijuana smokers) are essentially indistinguishable from their non-marijuana using peers."

In fact, though marijuana smoking remains most popular among young adults, you will see from the statistics gathered by the National Institute on Drug Abuse that smoking is becoming more popular among older Americans as well. Millions of people now prefer marijuana to alcohol. Like the 60 million Americans who currently smoke tobacco, or the 100 million who currently drink alcohol, marijuana smokers are simply recreational drug users. None should feel superior to the others.

But there is one major difference. Those who drink alcohol or smoke tobacco are discouraged from doing so, but not arrested for it. Those who smoke marijuana are not only discouraged, they play a game of roulette with the law-enforcement community.

We recognize that in most jurisdictions today, the police do not go looking for marijuana smokers. Nonetheless, more than 400,000 citizens were arrested

in this country last year on marijuana charges. The vast majority of those people were simply consumers—fewer than 10% were commercial traffickers.

Some of them, like Jerry Mitchell in Missouri, received long prison terms. Jerry, a 19 year old college freshman, admitted to selling \$5 worth of marijuana to a friend, and received a 12 year sentence. These absurdly harsh marijuana sentences are less common today, but they still occur, mostly in rural areas where the misinformation about marijuana remains greatest.

The great majority of marijuana offenders today do not spend long periods of time in jail. The prosecutors and judges have often instituted diversion programs to avoid the harshest consequences of the laws.

Yet the individual is still arrested and run through the criminal justice system at a great cost, though the end result is usually a small fine and possibly a suspended sentence.

I would ask that you consider for a moment the experience of someone who is arrested, taken to the station, finger-printed, booked, and in all other manners treated like a criminal on a minor marijuana charge. It makes a mockery of our criminal justice system and of our concepts of privacy and freedom of choice. Meanwhile the result to the offender is to brand him a criminal, unsuitable for higher levels of education, training, or employment opportunities. He receives, in most respects, very much the same treatment as someone who has committed a minor burglary.

The cost of all this in terms of wasted law-enforcement resources is enormous. The best estimates available are that \$600 million a year is currently being spent arresting and prosecuting marijuana smokers in this country. It seems rather obvious that this extraordinary drain on law-enforcement resources has a negative impact on our ability to detect and prosecute serious crimes.

Also, the ineffectiveness of the criminal law as a deterrent is a factor which must be recognized. Despite harsh criminal penalties for 40 years, marijuana is more popular today than ever before. Even those who continue to strongly oppose the use of marijuana must concede the futility of attempting to prohibit the use of a drug already used regularly by 15 million Americans.

The specific goal of our organization is to reach a policy in this country where an individual is allowed to make his own decision as to whether to smoke marijuana. We believe the individual's constitutionally protected right to privacy should preclude any penalty, either state or federal, for the private possession and cultivation of marijuana for personal use. This is currently the law in the state of Alaska as the result of a unanimous state Supreme Court decision, *Ravin v. State*, 537 P. 2d 494 (1975). If a civil citation is to be used at all in marijuana enforcement, it should be limited in its application to public smoking. We recognize the legitimate right of non-smokers to be free from whatever discomfort or health risks may arise from smoking any substance in non-smoking areas in confined public places.

We believe the right to possess marijuana for personal use should also include the right to cultivate small amounts of marijuana for personal consumption. This would provide a legal source of marijuana for the millions who smoke, without the need to establish a legal distribution system. The potential for abuse from the private cultivation is far less than from the illicit market.

We also favor decriminalizing the transfer of small amounts of marijuana. Small transactions, even where a small profit may be involved, are generally accommodation sales, not commercial selling. Since most marijuana smokers do in fact buy marijuana at times in greater quantities than they may personally smoke, and share it among friends, the law should recognize this custom and permit it without penalty.

NORML opposes arbitrary quantity limitations on the amount of marijuana which a consumer can possess legally. The possession, cultivation, or not-for-profit transfer of any amount for personal use should be decriminalized. Just as an alcohol drinker often has several fifths of liquor in his cabinet without being confused with a liquor store, a marijuana smoker should be permitted to have a few ounces of marijuana on hand without being confused with a commercial trafficker.

I have attached a complete copy of the official NORML Policy for 1977 which spells out in detail the precise positions favored by our organization.

Currently, more than 30 state legislatures are considering versions of marijuana decriminalization, and eight states have adopted modified versions.

Because the results from the states which have adopted this system have been overwhelmingly favorable, many more states are expected to switch to a decriminalization law soon.

In particular, the continuing series of Drug Abuse Council surveys in Oregon have demonstrated no significant increase in marijuana smoking in the three years since that law was adopted, as well as documenting the continuing popularity of this approach among Oregon voters.

In California, where a modified version of marijuana decriminalization was adopted slightly more than a year ago, a recently completed analysis of the impact of the new law by the Department of Health and Welfare of the state of California was overwhelmingly favorable. Again, there was no significant increase in marijuana smoking during the first year of the new law, while there was a significant cost savings, estimated at \$25 million. The law in California now enjoys the support of a majority of all age groups in the state under 60, even if marijuana smokers are excluded from those surveyed.

I have attached for the record summaries of the California study, as prepared by the state of California, and summaries of the latest Oregon data prepared by the Drug Abuse Council.

One of the continuing tactics of those who attempt to hold back reform of the marijuana laws is to exaggerate the potential harm to an individual's health from marijuana smoking. I will not attempt to directly confront the medical claims today, since such eminently qualified individuals as Dr. Robert L. DuPont, Dr. Peter Bourne, and Dr. Lester Grinspoon either have or will be testifying before this Committee. They will testify that these wild claims are simply unsubstantiated. No one is claiming that marijuana is harmless, nor that it is good for people, other than in particular therapeutic situations. But such prestigious groups as Consumers Union, the Drug Abuse Council, and the federal government's own research arm, the National Institute on Drug Abuse, have reviewed the medical claims, and have found that when used in moderation, marijuana does not appear to present any major medical problems.

It can be fairly stated that the consensus in the medical community is that any risks presented by marijuana are relatively minor.

That confirms what many Americans have learned first-hand, that those who choose to smoke marijuana do not generally suffer any significant health repercussions. If indeed marijuana had any significant effect on the health of the user, then there would be ample evidence among the 15 million regular users.

Even if marijuana were eventually shown to be as dangerous as alcohol or tobacco, we should nonetheless decriminalize it. If marijuana is harmful, then it is a potential health problem, not a criminal justice problem. We are not addressing the potential health risk to the user by subjecting him to arrest and jail. Any potential harm should be communicated effectively to the consumer, not used to justify arresting him.

For the past four years, the marijuana decriminalization bills in Congress have been pigeon-holed by Rep. Paul Rogers in the Subcommittee on Health and the Environment. They have received no attention whatsoever, neither legislative hearings or other consideration. These proposals are serious proposals, as evidenced by the individuals who have sponsored them and the fact that similar proposals are being adopted by various states throughout the country. Representative Rogers says he supports marijuana decriminalization, but he continues to effectively kill the measures by refusing to schedule hearings. So we find ourselves in a Select Committee, without any legislative authority on this subject matter, discussing what should have been discussed in Paul Rogers' Subcommittee, where the legislative proposals are sitting. It appears Congress will have been spared yet another year from having to vote on an issue they apparently consider too hot to handle.

Many Congressmen apparently have never read the attitudinal statistics gathered by the National Institute on Drug Abuse. These surveys show that only 10% of the people in this country believe a marijuana smoker should go to jail 86% favor something less than jail, 4% are undecided. In fact, 55% of the public favor a small fine and/or probation, if any penalty at all, for these minor offenses. There is a clear majority of people in this country who now support at least a modified version of decriminalization. It is the politicians who have found this issue difficult to address honestly.

Some argue that the federal law does not need to be changed since it is seldom used for minor offenses anyway, with less than 1% of the 400,000 arrests each year prosecuted under federal law. But the federal law remains a model. It is a constant and obvious reminder that the United States Congress still officially classifies smokers as criminals. And it renders the integrity of the law a sham. How can we expect someone to respect the current federal law, under which an individual can be sentenced to a year in jail and fined up to \$5,000 for smoking a marijuana cigarette, even in his own home.

We should remove the federal law altogether from this area of drug law enforcement. If indeed there is any need for laws controlling these minor offenses, then surely these are matters better addressed by the states. It is inconceivable that any serious student of government would argue that under our federal system, marijuana policy should be made by the U.S. Congress. The U.S. Congress should continue to maintain legislation dealing with importation, but that is all. If the federal government were to simply repeal all other marijuana laws, the states would then be free to experiment with and develop whatever marijuana policy they believe best suits their community.

I stress this need for federal reform. We are working in more than 30 states at this time to decriminalize marijuana under state law. But state law changes will not alter the federal law whatsoever. Those of you with the responsibility for shaping federal drug policy must begin to seriously consider these federal decriminalization proposals. It's time we decriminalized marijuana in this country, under both state and federal laws.

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[NORML MEMO]

To: NORML Special Mailing List.

Re: The Experience with Marijuana Decriminalization in California.

From: Keith Stroup, NORML National Director.

Date: February 9, 1977.

I am attaching an official summary of a recently completed analysis of the experience with a modified version of marijuana decriminalization in California. The study was undertaken by the California Health and Welfare Agency, and includes usage and attitudinal survey results as well as statewide enforcement and cost information on the impact of the law which went into effect on January 1, 1976.

The California law, a compromise measure, continues to classify minor marijuana offenses as "misdemeanors", although enforcement is limited to a citation and a maximum \$100 fine, and the temporary arrest record is automatically expunged after two years. While the law obviously includes several needless reminders of the past criminal approach, at least the smoker no longer faces arrest or jail and receives no permanent criminal record.

Simply adopting a citation system, instead of arresting the smoker, has already saved the California taxpayers at least \$25 million in law-enforcement resources during the first year. And the results have apparently pleased the California voters; a majority of all age groups now favor the new, more lenient approach, among non-smokers as well as among smokers, except those over 60.

Also of interest, less than 3% of those surveyed had begun smoking marijuana during the first year of the new law, and less than half of those attributed their use of marijuana to the lowered penalty.

Mario Obledo, Secretary of the Health and Welfare Agency, concludes: "Based upon the information we have, I would have to conclude that enactment of S.B. 95 was the right decision on the part of the Legislature and the Governor."

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[News Release]

CALIFORNIA'S MARIJUANA LAW

"The state's new marijuana law evidently has the approval of a majority of Californians," said Mario Obledo, Secretary of the Health and Welfare

Agency. "It has reduced costs substantially, and although there has been some reported increase in current users, frequency of use has declined and people do not attribute their decision to use marijuana to the reduction in penalties."

Obledo summed up a report to be sent to the Legislature on the impact of SB 95, the marijuana reform law signed by Governor Edmund G. Brown, Jr. in July 1975. The comprehensive report includes marijuana usage and attitude survey results as well as statewide enforcement and cost information on the impact of the law which went into effect on January 1, 1976. It reduced penalties for possession of one ounce or less of marijuana to a citable misdemeanor with a maximum \$100 fine and no incarceration.

A recent Field Research Corporation poll commissioned by the Health and Welfare Agency's Office of Narcotics and Drug Abuse shows that three in five adults either approve of the state's new marijuana law or prefer that possession of a small amount of marijuana be legalized. These more lenient approaches are favored by a majority of adults in all regions of the state and in every age group except those over 60 years old. Even those who have never tried marijuana prefer the new law or legalization as opposed to stiffer penalties.

#### ATTITUDE TOWARD MARIJUANA LAW

[In percent]

	Possession and sale of small amounts legal	Possession of small amounts legal	Law remain as is	Stiffer penalties
Total adults.....	16	22	23	29
By age:				
18 to 24.....	30	26	20	19
25 to 29.....	31	24	19	12
30 to 39.....	20	27	21	29
40 to 49.....	14	17	28	34
50 to 59.....	6	22	29	35
60 and over.....	2	16	22	43
By area:				
Southern California.....	17	18	25	31
Los Angeles-Orange.....	19	19	25	29
Other southern.....	13	16	25	37
Northern California.....	15	27	21	27
Bay area.....	16	26	24	24
Other northern.....	14	27	17	31
By usage:				
Have used, not now.....	20	35	26	17
Now use.....	54	34	10	-----
Never used.....	5	14	27	42

The Field poll, conducted in November 1976, also asked the sample of 1,033 adults about their experience with marijuana. It was found that while thirty-five percent of California adults report having at least tried marijuana, only fourteen percent consider themselves current users. These findings are being compared with the results of a similar survey conducted in February 1975, before the new law went into effect. The earlier poll (taken 21 months before the current poll) indicated that twenty-eight percent of those surveyed had tried marijuana and nine percent considered themselves current users at that time.

Obledo acknowledges that the November poll results indicate an increase in the level of marijuana use among adults during the 21 month interval between surveys. He noted, however, that frequency of use among reported users had decreased since the earlier survey, and that a majority of people who use marijuana do so once a week or less. Reviewing comparative survey results, Obledo pointed out that some increases have occurred in use reported by persons between the ages of 30 and 59, by residents of Southern California and by Northern Californians living outside the Bay Area. Statewide in 1976, this latest survey indicates that over five million adults have tried marijuana, with over two million of them currently using it.

## MARIJUANA USAGE

[In percent]

	Have used		Currently use	
	February 1975	November 1976	February 1975	November 1976
Total adults.....	28	35	9	14
By age:				
18 to 29.....	54	66	24	31
30 to 39.....	35	47	5	16
40 to 49.....	10	19	1	4
50 to 59.....	6	12	-----	2
60 and over.....	6	5	1	2
By sex:				
Male.....	34	42	13	18
Female.....	21	28	6	10
By area:				
Southern California.....	27	35	8	14
Los Angeles-Orange.....	25	36	8	15
Other Southern.....	32	32	10	9
Northern California.....	29	35	11	14
Bay area.....	35	35	15	14
Other Northern.....	21	35	6	13

"The reduction in penalties for possession of marijuana for personal use was not a major factor in people's decision to use or not to use the drug," said Obledo. He noted that less than three percent of the people surveyed had first tried marijuana within the last year, since the new law became effective, and less than half of this number indicated they were more willing to try marijuana or use it more often because legal penalties have been reduced. These survey responses are consistent with responses in the February 1975 survey in which only eight percent of those who did not then currently use marijuana, or had never used marijuana, said that fear of legal prosecution was their major reason. Conversely, in the latest poll, lack of interest was by far the most prevalent reason given by those who had never used marijuana, or had not used it in the past year.

## REASON FOR NOT CURRENTLY USING MARIJUANA

[In percent]

	February 1975 <sup>1</sup>	November 1976
Possibility of legal prosecution.....	8	2
Not available/not exposed.....	4	2
Not interested/don't need it.....	50	73
It might be dangerous to my health.....	38	14
Other reasons.....	16	7

<sup>1</sup> Adds to over 100 pct since some respondents gave more than one reason.

The impact report also includes an analysis of comparative 1975 and 1976 arrest and citation data collected by the Department of Justice, Bureau of Criminal Statistics. In the first half of 1976 compared to the same period in 1975, the number of adult marijuana possession offenders decreased by 47%. Despite reported increased usage, arrests for marijuana trafficking offenses decreased somewhat, as has the amount of marijuana reportedly seized in California by federal, state and local law enforcement agencies.

As a result of reduced arrests and citations, and a substantial reduction in law enforcement and judicial system effort in handling cited cases, it is conservatively estimated that local criminal justice agencies will save at least \$25 million in workload costs in 1976. There have also been some savings in the State Department of Justice as well as an increase in state and local revenues from fines collected by the courts.

"Based on the information we have," said Obledo, "I would have to conclude that enactment of SB 95 was the right decision on the part of the Legislature and the Governor."

## PUBLIC ATTITUDES

All the surveys listed four kinds of marijuana laws and asked people to state their preference.



The first was the existing Oregon law which makes possession of an ounce or less a civil offense, imposes a maximum fine of \$100 and carries no criminal record or jail term. The second was a law that would legalize the possession of small amounts of marijuana. The third was a law that would legalize the sale and possession of small amounts. The fourth was a law that would reinstate stiffer penalties for marijuana offenses.

As Table 5 shows, the percentage of adults who favor the present law or who favor one of the two legalization measures has remained at 58 percent during the entire three-year period. The 1976 survey, however, showed increasing public support for an even further liberalization of Oregon's marijuana laws.

In 1974 for example, 32 percent favored the existing Oregon laws, 15 percent favored legalizing possession of small amounts of marijuana, and 11 percent favored legalizing the sale and possession of small amounts of marijuana. By 1976, support for the existing law had dropped 5 percent to a 27 percent level, while support for legalizing the possession of small amounts of marijuana had increased 4 percent to a total of 19 percent, and support for legalizing the sale and possession of small amounts had increased 1 percent to a total of 12 percent.

Support for the legalization proposals was strongest among the 18 to 29 year old group (the group with the highest proportion of past and present users), and among those who have used marijuana at least once.

The final survey question was what people felt the effect of the new law had been during the past three years.

The number who felt the law had a beneficial effect was larger than the number who felt the law had a harmful effect. However, as Table 6 makes clear, the most frequent response was that the law had no effect, and 62 percent of the people surveyed either felt this way or were undecided about the effect the law did or did not have.

TABLE 5.—ATTITUDES TOWARD MARIJUANA LAW

[In percent] -

	Civil penalties, as is	Possession of small amounts legal	Sale and possession of small amounts legal	Stiffer penalties	Undecided
Total adults (1976).....	27	19	12	38	4
By age group:					
18 to 29.....	23	30	26	18	3
30 to 44.....	37	18	5	37	3
45 to 59.....	25	16	8	48	3
60 and over.....	24	8	6	53	9
Total adults (1974).....	32	15	11	39	-----
By usage (1976):					
Have used.....	20	40	30	8	2
Currently used.....	10	41	47	1	1
Never used.....	30	12	6	47	5

TABLE 6.—Effect of Oregon marijuana law

Effect:	Percent response
Beneficial.....	22
Harmful.....	16
No effect.....	38
Undecided.....	24

[News Release]

DRUG ABUSE COUNCIL INC.,  
Washington, D.C., January 28, 1977.

## MARIJUANA SURVEY—STATE OF OREGON

In the three years since Oregon became the first state to eliminate criminal penalties for possession of an ounce or less of marijuana, the number of adults who have used marijuana has increased 5 percent and the number who currently are using marijuana has increased 3 percent.

Moreover, the majority of Oregonians continue to support marijuana laws that are at least as liberal as the present law, and there seems to be increasing public support for further liberalization.

These are the major findings of three surveys commissioned by the Drug Abuse Council, Inc., an independent, nonprofit national foundation based in Washington, D.C., that is concerned with public policy and public awareness in the fields of drug use and misuse. The Council was created in 1972, by The Ford Foundation, The Commonwealth Fund, Carnegie Corporation, Henry J. Kaiser Family Foundation and the Equitable Life Assurance Society of U.S.

All the surveys were conducted by Bardsley and Haslacher, Inc., a Portland, Oregon, marketing research firm as part of longer, regularly scheduled surveys of public opinion on a variety of issues. The first survey, conducted in 1974, consisted of 802 personal interviews with adults 18 years of age or older who represented a balanced sample of the state's population. The second survey, conducted in 1975, consisted of personal interviews with 800 adults 18 years of age or older. The third survey, conducted in October of 1976, consisted of 805 interviews.

Although the surveys focus mostly on marijuana use, the Oregon law never was looked upon as a measure to reduce the use of marijuana. The legislature's only goal was to ensure that adults who possessed small amounts of the drug would not be charged with a criminal offense and would not go to jail. To accomplish this, the legislature voted to make possession of an ounce or less a civil offense—similar to a parking violation—and established a maximum fine of \$100.

Since Oregon took this action, seven other states have enacted similar legislation. Approximately 30 jurisdictions will be considering such legislation this year. Besides Oregon, possession of a small amount of marijuana is a civil offense in Alaska, Maine, Colorado, California, Ohio, Minnesota and South Dakota. In four of these states—California, Colorado, Minnesota and Ohio—not-for-profit transfers of small amounts of marijuana also are regarded as civil offenses, punishable by fine.

Oregon, however, remains the only one of these states where a survey has been conducted since decriminalization in order to provide a measure of marijuana use by adults and a measure of public attitudes towards laws that remove criminal penalties for possession of small amounts of the drug.

#### MARIJUANA USE

Table 1 shows the three-year trends with respect to marijuana use by adults in the state of Oregon.

In 1974, when the first survey was taken, 19 percent of the persons interviewed said they had used marijuana at some time in the past. In the fall of 1976, when the final survey was taken, 24 percent said they had used marijuana, an increase of 5 percent.

Nine percent said they were using marijuana at the time of the 1974 interview and an additional 3 percent, or a total of 12 percent, said they were current users at the time of the 1976 interview.

Viewed another way, the data showed that 76 percent of the people interviewed in 1976 said they had never used the drug, compared with the 81 percent who made this statement in 1974.

In 1974, 91 percent of the people surveyed said they were not current users. In 1976, 88 percent said they were not using marijuana at the time of the interview, a drop of 3 percent.

Of the 12 percent who were using marijuana in 1976, more than two-thirds began using the drug before Oregon passed its decriminalization law.

TABLE 1.—*Marijuana use by adults (over 18)*

Percent ever used:		Percent currently using:	
1974.....	19	1974.....	9
1976.....	24	1976.....	12
Percent never used:		Percent currently not using:	
1974.....	81	1974.....	91
1976.....	76	1976.....	88

Table 2 shows the percentage of people in each age group who said they had used marijuana at some time in the past and who said they were using marijuana at the time of the interview.

Nearly two-thirds of the people in the 18 to 29 age group had tried marijuana by the fall of 1976, an increase of 16 percent over the 1974 figure of 46 percent. Among people in the 30 to 44 age group, there was a 3 percent increase in the number who said they had used marijuana in 1976. A 2 percent increase was found in the 45 to 59 age group.

The largest proportion of people who said they were using marijuana at the present time—35 percent—also was found in the 19 to 29 age group.

TABLE 2

Age group	Percent ever used		Percent currently using	
	1974	1976	1974	1976
18 to 29.....	46	62	NA	35
30 to 44.....	15	18	NA	5
45 to 59.....	4	6	NA	3
60 and over.....	2	2	NA	(1)

<sup>1</sup> Less than 1 pct.

NA=Not available.

People who identified themselves as current users in the 1976 survey were asked whether they had increased or decreased their marijuana usage within the past three years. The results are found in Table 3. Half the current users said no change had occurred. Thirty-nine percent said they had decreased their marijuana usage. Nine percent said they had increased their usage. This distribution was similar to what was found what a similar question was asked in 1974 after the new law had been in effect for about a year.

TABLE 3.—CHANGES IN MARIJUANA USAGE

	Percent current users	
	1974	1976
Decreased usage.....	40	39
Increased usage.....	5	9
No change.....	52	50
Undecided.....	3	2

People who have never used marijuana or who have stopped using the drug were asked their reasons. Their responses are found in Table 4.

Sixty-four percent, or nearly two-thirds of those who responded to this question in 1976, said they were "not interested" in using the drug. When the same question was asked in 1974, only 53 percent said they had no interest in using marijuana.

In 1974, 23 percent of the people who responded to this question cited "possible health hazards" as their reason. In the 1976 survey, only 7 percent answered the question this way. The fear of prosecution and the unavailability of the drugs did not rank high as reasons for not using marijuana in either 1974 or 1976.

TABLE 4.—REASONS FOR NOT CURRENTLY USING MARIJUANA

Reason	Percent current nonusers	
	1974	1976
Not interested.....	53	64
Possible health dangers.....	23	7
Possibility of legal prosecution.....	4	4
Drug not available.....	2	4
Other reasons.....	9	17
Undecided.....	4	9

NATIONAL ORGANIZATION FOR THE REFORM OF MARIJUANA LAWS

# NORML MEMO

2317 M STREET, N.W. WASHINGTON, D.C. 20037 202-223-3470

DATE: JANUARY 1977

## LEGISLATIVE MEMO

RE: THE MARIJUANA ISSUE -- SHOULD WE CONTINUE TO TREAT  
MARIJUANA SMOKERS AS CRIMINALS?

FROM: KEITH STROOP  
NATIONAL DIRECTOR, NORML

## OUTLINE

I.	Brief Legal History .....	p. 1
II.	Marijuana Usage Today .....	p. 2
III.	Is Marijuana Harmful? .....	p. 5
IV.	The Legal Options .....	p. 8
	A. Continued Criminal Prohibition	
	1. Costs	
	2. Benefits	
	B. Legalization	
	C. Decriminalization	
	1. Marijuana Commission Version	
	2. Oregon "Civil Fine" Version	
V.	Summary Chart - State Marijuana Citation Laws .....	p. 12
VI.	Conclusion .....	p. 12
VII.	Suggested Marijuana Bibliography .....	p. 13

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# I. Brief Legal History of Marijuana

Marijuana has been used as an intoxicant in various parts of the world for centuries, and in this country since before the turn of the century. However, its use in the U.S. was generally limited to minority groups, including the Chicano migrant workers in the Southwest and blacks in and around New Orleans. As a result, there was little opposition when states first began to ban its sale, Utah and California passing the first anti-marijuana laws in 1915. Sixteen Western states had adopted anti-marijuana laws by 1930.

In the East, New York state led the way in 1927 with what proved to be the model for the Uniform Narcotics Act.

When the Federal Bureau of Narcotics was created in 1930, the marijuana scare had already begun, as evidenced by the many state laws already in existence. But with the start of the Bureau came the first coordinated effort to convince the U.S. public that marijuana was a "killer weed."

Harry Anslinger, the ex-prohibition agent who was named the Bureau's first director, began a campaign that included lobbying for passage of the Uniform Narcotics Act, with an optional provision making marijuana illegal, on the state level and the Marijuana Tax Act federally. By 1937, when the first federal law was passed, marijuana was already illegal in every state and was thought to cause crime and lead to insanity.

In 1951 the Boggs Act raised penalties for drug offenses and for the first time in federal law introduced the concept of minimum mandatory sentences. Additional amendments in 1956 raised federal penalties for drug offenses to their zenith.

During the next decade, marijuana usage skyrocketed. Although never satisfactorily explained, marijuana use became identified with the youth culture of the sixties that was opposing the Viet Nam war. Marijuana became a symbol of dissatisfaction and rebellion, feared by the establishment more for the perceived threat to their value system than for any health threat.

The rebellious youth of the 60's were often middle class and white. So marijuana began to enter the mainstream of political America. As the arrests rose -- arrests not of blacks or Chicanos -- but suburban, white, middle class kids -- pressure began to mount to moderate criminal laws against the user.

In 1970, as part of the Controlled Substances Act, federal penalties for possession of all drugs were lowered from a felony to a misdemeanor, with a special provision for first offenders that permitted the defendant who pleads guilty or is found guilty to be placed on a conditional probation which, if the terms are fulfilled, results in the charges being dismissed. Since no adjudication of guilt is ever entered by the court, the defendant can subsequently report that he has never been convicted of a crime.

Further, if the person when arrested was not over 21 years old, he qualifies to have his arrest records "expunged."

Following the lead of the federal government, states began to similarly moderate their marijuana penalties over the ensuing four years. Where once all states treated possession of small amounts of marijuana as a felony, by 1974 all but Nevada had reverted to the misdemeanor level, and Arizona still gives the prosecutor the choice of proceeding as a felony or a misdemeanor.

And eight states, beginning with Oregon in 1973, have adopted a modified form of decriminalization; minor marijuana violations are treated with a fine only, enforced with a citation rather than an arrest, and the offender is not saddled with a permanent criminal record.

## II. Marijuana Usage Today

A continuing series of U.S. government sponsored surveys beginning in 1971, complimented by Drug Abuse Council<sup>1</sup> surveys beginning in 1974, show that around 13 million Americans (8% of the adults and 12% of youth aged 12-17) are current marijuana smokers and that a total of 34 million Americans (19% of the adults and 23% of the youth) have smoked marijuana at least once.

Interestingly, the marijuana usage rates demonstrate a number of indentifiable patterns but there is no indication that they are in any manner related to the particular law in effect in the jurisdiction.

For example, after Oregon had removed their criminal laws on minor marijuana violations for one full year, 19% of their adults had tried marijuana, and 9% were current users.<sup>3</sup> This compares favorably to neighboring California,<sup>4</sup> which then still retained a possible 10 year felony sentence for minor possession cases, where 28% of the adults had tried marijuana and 9% were current smokers; and nationwide<sup>5</sup> figures showing 18% of all adults had experimented with marijuana and 8% were current smokers.

The results of follow-up surveys by the Drug Abuse Council on the second anniversary of decriminalization in Oregon showed equally favorable results: 20% of the adults had tried marijuana, while 8% are current users.<sup>6</sup> There has been absolutely no increase in marijuana smoking since criminal penalties were removed more than two years ago.

Of the Oregonians who did not currently smoke (91% first year/92% second year) only 6% the first year and 4% the second said that the threat of prosecution was a deterrent; the majority (53% and 63%) said they were simply not interested in marijuana, with concern about possible ill-effects to the smoker's health apparently the only accountable deterrent (23% and 28%). In neighboring California, even with the supposed threat of a ten year felony, only 12% of the non-smokers said the fear of criminal prosecution was a deterrent to them. Much as in Oregon, 50% of the non-smokers were simply not interested in marijuana, and 38% were deterred by fears of adverse health consequences.

It becomes apparent that a majority of our citizens don't smoke marijuana because they are not interested in it and because they are not yet certain of the health implications involved. This is true whether the state decriminalizes marijuana or whether it treats even minor violations as a felony. As of December, 1975, the marijuana usage patterns in Oregon were not unlike the rest of the country; but Oregonians who did smoke were not being arrested.

1

The Drug Abuse Council, located in Washington, D.C., was established in 1972 by a consortium of private foundations to serve as an independent source of information, policy evaluation and research funding in the field of drug use and misuse.

2

Defined as "having smoked marijuana within the past month and indicates some possibility of using again."

3

Survey of Marijuana Use - State of California, Released by the Drug Abuse Council, March 8, 1975.

4

Survey of Marijuana Use - State of Oregon, Released by the Drug Abuse Council, December 15, 1974.

5

Survey of Marijuana Use and Attitudes, Released by the Drug Abuse Council, January, 1975.

6

Survey of Marijuana Use - State of Oregon, Released by the Drug Abuse Council, December 1, 1975.

Perhaps that accounts for the widespread acceptance of the new approach. The Drug Abuse Council found that two years after decriminalization had become effective, 58% of the Oregonians approved of the new law, or a more liberal version of decriminalization, while only 40% favored a return to criminal penalties. A second survey<sup>7</sup> showed an even higher (61%) approval rating, with only 32% disapproving.

The major factors which appear to be determinative of the likelihood of smoking marijuana are regional (East and West Coasts are highest), age (18-25 is highest), educational level (highest rates associated with higher educational level), and population density (urban rates highest).

The following is a reprint of some highlights of a nationwide usage and attitudinal survey sponsored by the National Institute on Drug Abuse, H.E.W., released in October, 1975, with the 1974 data taken between November, 1974 and March, 1975.<sup>8</sup>

#### MARIJUANA AND HASHISH EXPERIENCE

	<u>Adults</u>			<u>Juveniles (12-17)</u>		
	<u>1971</u>	<u>1972</u>	<u>1974</u>	<u>1971</u>	<u>1972</u>	<u>1974</u>
Ever Used Marijuana	15%	16%	19%	14%	14%	23%
Current User**	5%	8%	7%	6%	7%	12%
Began Smoking Marij. w/in Last Year*	*	*	2%	*	*	9%
Ever Used Hashish	*	*	9%	*	*	10%
Current User	*	*	2%	*	*	3%
Began Smoking Hash w/in Last Year	*	*	1%	*	*	5%

\*Not included in 1971 and 1972 Surveys

\*\*Current user defined as "having used within past month"

#### MARIJUANA EXPERIENCE AMONG PARTICULAR SUBGROUPS

<u>Age (Adults)</u>	<u>Have Ever Used</u>	<u>Current Users</u>
18-25	53%	25%
26-34	29%	8%
35-49	7%	1%
50+	2%	--
<u>Age (Youth)</u>		
12-13	6%	2%
14-15	22%	12%
16-17	39%	20%
<u>Sex (Adults)</u>		
Male	24%	9%
Female	14%	5%
<u>Sex (Youth)</u>		
Male	24%	12%
Female	21%	11%

7

Oregon Research Institute State-Wide Survey, November, 1975.

8

Public Experience with Psychoactive Substances, A Nationwide Study Among Adults and Youth, Prepared by Response Analysis Corporation, for the National Institute on Drug Abuse, August, 1975.

Education (Adults)	Have Ever Used	Current Users
Below High School Graduate	9%	3%
High School Graduate	20%	7%
Currently in College	61%	33%
Some College Completed	27%	10%

Region (Adults)		
Northeast	22%	7%
North Central	17%	7%
South	13%	4%
West	29%	11%

Region (Youth)		
North	26%	14%
North Central	21%	11%
South	17%	6%
West	30%	19%

Population Density (Adult)		
Large Metropolitan	25%	9%
Other Metropolitan	19%	8%
Non-Metropolitan	11%	3%

This same federal survey found that 86% of the American adults now oppose the imposition of any jail penalty for minor marijuana offenses, and 52% favor only a fine and/or probation.

#### PREFERRED HANDLING OF MARIJUANA OFFENSES

(Adults)	Possession	Sale
No penalty	16%	7%
A fine only	15%	15%
Probation	21%	10%
Require treatment	34%	1%
Up to 1 year in jail	6%	27%
More than 1 year in jail	4%	36%
No opinion	4%	4%

The individual who smokes marijuana today hardly fits the stereotyped image concocted in the 1930's -- the depraved criminal who got "high" on his reefer and committed vicious crime. In fact, the National Commission on Marijuana and Drug Abuse (Shafer Commission) found, in their March 1972 Report<sup>9</sup> recommending marijuana decriminalization -- "the most notable statement that can be made about the vast majority of marijuana users -- is that they are essentially indistinguishable from their non-marijuana using peers by any fundamental criterion other than their marijuana use."

The use of marijuana today by 13 million Americans is socially the equivalent of the use of alcohol by some 100 million Americans. It is the recreational drug of choice of a substantial minority.

<sup>9</sup>

Marijuana, A Signal of Misunderstanding, First Report of the National Commission on Marijuana and Drug Abuse, March, 1972.



### III. Is Marijuana Dangerous to the User?

No drug is totally harmless, including marijuana. But the evidence strongly suggests no significant harm is caused by the occasional use of marijuana and whatever risk is involved with marijuana is within the range normally permitted in our society. The U.S. Government's chief drug expert, Dr. Robert L. DuPont, Director of the National Institute on Drug Abuse, recently announced that following massive federal research efforts, he now concludes that marijuana presents far less of a health hazard than either alcohol or tobacco.

We should continue to look for potential ill effects from the use of marijuana -- especially the chronic, heavy use. But any findings of potential harm should be used to discourage use, not to justify treating the user as a criminal. As Dr. Tom Bryant, president of the Drug Abuse Council recently stated:<sup>10</sup>

"... we should not permit a medical debate to frustrate the decriminalization policy recommended by the Marijuana Commission. Even if marijuana were eventually shown to be as dangerous as alcohol or tobacco, giving a criminal record to the user only exacerbates the potential harm."

This past couple of years we have heard several new claims of potential harm from marijuana use. These claims have received widespread media exposure, often far greater than the substance of the study warranted. Because of inadequate controls, excessive dosage levels, the known bias of the researchers, or for other reasons, the claims often fall flat under close objective examination. Unfortunately the public is left only with the original, unfounded impression.

A glaring recent example is the Report of the U.S. Senate Subcommittee on Internal Security entitled "Marijuana-Hashish Epidemic and its Impact on United States Security." Subcommittee Chairman James O. Eastland talked of a "marijuana-hashish epidemic," a pending "national disaster," and "a large population of semi-zombies."

The senator's answer to this perceived threat: wage an all-out propaganda campaign, beginning with the distribution of his admittedly unbalanced one-sided Report. Senator Eastland refused to permit anyone to testify unless their testimony would support his premise -- that marijuana was highly dangerous, medically and morally. The result is a biased, frightening document offering little scientific value and no solutions.

Each year the Department of H.E.W. attempts to summarize the research on marijuana and to reach some conclusions about the potential dangers. In their Report for 1975, N.I.D.A. Director Dr. DuPont discusses the recent claims:

"This report does not give marihuana a 'clean bill of health,' as some would hope. Nor does it support the fear and irrationality that still characterize some of the public debate about marihuana. Instead, it is a progress report on our effort to understand a challenging health problem with immense social, political, and economic implications."

Dr. Dupont also endorsed the Oregon approach to marijuana decriminalization, suggesting a \$25.00 civil fine for minor offenses. Dr. DuPont said he believes we should continue to discourage marijuana smoking, but opposes the use of the criminal law for possession of small amounts.

<sup>10</sup>

"Furor Created By Recent Marijuana Studies Questioned," Release of the Drug Abuse Council, July 17, 1974.

It should be stressed that the National Commission on Marijuana and Drug Abuse, when they recommended decriminalizing the user, did not presuppose marijuana would be harmless. And several members of the Commission have reiterated their conclusions since the Eastland Hearings.

"No drug is totally safe or harmless. In a sense, there is no human activity which is totally harmless. However, it is my opinion that marijuana involves only a minimal risk of harm to the user. Clearly the potential harmfulness of marijuana to the user is on a much lower order of magnitude than the potential harmfulness of such other drugs as alcohol, tobacco, amphetamines, barbiturates, and hallucinogens." J. Thomas Ungerleider, M.D., Presidential Appointee to the National Commission.

"Since publication of the Commission's Report in March 1972, numerous studies have been reported, some suggesting that the dangers from marijuana are far greater than the Report indicated, others demonstrating that its use produces relatively little harm. In short, work in the last two years has not fundamentally changed the data base on which the recommendations were made." Dr. Dana Farnsworth, Presidential Appointee to the National Commission.

In response to the flurry of contradictory medical claims, the Drug Abuse Council sponsored a January 1975 seminar to discuss methodological issues of recent research. Participating in the Conference were 19 scientists, representing the disciplines of genetics, immunology, endocrinology, pharmacology, internal medicine, psychiatry, neurology, and psychology, including some of the most vocal opponents of marijuana. At the conclusion of the conference, following closed-door meetings involving critiques of the major work by peers, and Executive Summary Report<sup>11</sup> was released, having this to say:

"Our present state of knowledge indicates that although there are always ample reasons to be concerned about the use of any drug, there are no new reasons to be especially disturbed by the use of marihuana."

The Drug Abuse Council Seminar also concluded that certain of the widely circulated claims should not have been released without more careful review by other researchers.

"Also of importance in the emotionally charged area of drug use is utilizing the final check process of presenting research results to the scrutiny of scientific colleagues, before demonstrating them to a non-scientific audience who do not have always the background to make critical assessments."

This is also the conclusion of a detailed critique of the recent medical reports by award winning science writer Ed Brecher and the editors of *Consumer Reports*, in an update of their excellent work *Licit and Illicit Drugs*. The March and April 1975 issues of *Consumer Reports*<sup>12</sup> conclude that "recent reports, like past reports, fail to prove that marijuana is either harmful or harmless." C.U. reiterated their belief that "no drug is harmless to all persons at all dosage levels or under all conditions of use."

11

Drug Abuse Council Conference on Methodological Issues In Recent Cannabis Research, An Executive Summary Report, January 5-6, 1975.

12

Marijuana, The Health Questions, *Consumer Reports*, March 1975 and Marijuana, The Legal Questions, *Consumer Reports*, April, 1975.

Of the recent alarmist reports, C.U. had this to say:

"Out of all of these many studies (and others not reviewed here), a general pattern is beginning to emerge. When a research finding can be readily checked -- either by repeating the experiment or by devising a better one -- an allegation of adverse marijuana effects is relatively short-lived. No damage is found -- and after a time the allegation is dropped (often to be replaced by allegations of some other kind of damage due to marijuana)."

"If the test procedure is difficult -- like the air encephalograms that Dr. Campbell employed, or like Dr. Heath's work with electrodes implanted deep in the brain -- independent repeat studies are not run in other laboratories. So these allegations of damage continue to be cited in the scientific literature and in the lay press. Then they, too, are eventually replaced by fresh allegations of marijuana damage."

The results of a federally funded study of long term (17.5 years average use) users of very strong marijuana in Jamaica indicate no serious physiological or neurological harm. The Jamaican Study<sup>13</sup>, the first intensive, multidisciplinary study of actual marijuana smokers, found no significant differences in health or motivation between smokers and non-smokers, concluding that even heavy marijuana use

- . . . "does not diminish work drive or work ethic"
- . . . "There is no evidence of any causal relationship between cannabis use and mental deterioration, insanity, violence or poverty."

The Jamaican results were recently checked against similar studies of long-term marijuana smokers in Costa Rica and Greece.<sup>14</sup> Despite extremely heavy usage for up to 20 years, these U.S. federally funded researches were unable to distinguish between the health or work performance of smokers and non-smokers. These longitudinal studies of actual marijuana smokers are convincing evidence that marijuana is relatively harmless.

The potential harm from marijuana has been greatly exaggerated by those who wish to maintain criminal penalties against the user. The thrust of this campaign has been to allege that new research, unavailable when the Marijuana Commission Report was released in 1972, renders their recommendations invalid. This is an attempt to use the medical/health questions as a "red herring."

Marijuana should be decriminalized, even if it were eventually shown to be dangerous. Giving an arrest record to the user only exacerbates the potential for harm.

And while marijuana may not be harmless, neither is it a terribly dangerous drug. Certainly it presents far less of a health hazard than alcohol or tobacco, and a host of other drugs available in our society. Any risk to the user falls within the ambit of choice the informed individual should be allowed in a free society. So long as the research results warrant it, we should warn against the use of marijuana, but we should not exaggerate the dangers nor should we criminalize those who ignore our advice.

<sup>13</sup>

Ganja in Jamaica, Vera Rubin and Lambros Comitas, Mouton and Co., The Hague, Paris, 1975.

<sup>14</sup>

Marijuana and Health, Fifth Annual Report to the U.S. Congress, from the Secretary of H.E.W., 1975.

#### IV. The Legal Options

There are three general approaches to marijuana available to society.

##### A. Continued Criminal Prohibition

Even those who oppose decriminalization (e.g. Senator James Eastland) no longer want the marijuana smoker sent to jail. They claim the criminal law should be maintained as discouragement, though only enforced with fines and suspended sentences, with jail saved for repeat offenders or exceptional circumstances.

##### Costs of Continued Criminal Prohibition

But the costs of continued criminal prohibition are great.

##### 1. ARRESTS

According to the F.B.I., more than one and a half million persons have been arrested for marijuana offenses in this country in the last five years.

##### TOTAL MARIJUANA ARRESTS NATIONALLY

Year	Total Marijuana Arrests	Increase Over Prior Year	% of Total Drug Arrests	Total Drug Arrests
1970	188,682	--	45.4%	415,600
1971	225,828	19%	45.9%	492,000
1972	292,179	29%	55.4%	527,400
1973	420,700	43%	66.9%	628,900
1974	445,600	6%	69.4%	642,100
TOTAL	1,572,989			2,706,000

Source: Uniform Crime Reports, F.B.I.

A statistical analysis of state marijuana arrests by the Shafer Commission uncovered the unsettling fact that 93% were for possession -- not sale -- and two-thirds of these involved the quantity of one ounce or less. Only 7% of the arrests were against the commercial trafficker.

And note that 52% of those arrested were under the age of 21 and 88% of those arrested were under the age of 26.

In sum, what we're doing in this country is arresting more than 400,000 mostly young people each year, the vast majority possessing small quantities of marijuana for their personal use.

##### 2. LAW ENFORCEMENT RESOURCES

The use of the criminal law is a costly and inefficient instrument of enforcing moral standards or combatting different life styles. The marijuana laws stifle the already overburdened and overcrowded criminal justice system with the processing of hundreds of thousands of minor arrests. A vast amount of valuable police and prosecutorial time and resources are used to prosecute marijuana cases, diverting law enforcement resources away from the control of serious crime. Nationally, it is estimated that 600 million dollars is spent annually enforcing the marijuana laws.

##### 3. RESPECT FOR THE LEGAL SYSTEM

To the millions of young people who are defined as criminals, the marijuana laws engender disrespect and bitterness for the entire legal system. They resent being defined as criminal for their use of marijuana in a system which permits, and it often seems encourages, the use of such proven dangerous drugs as tobacco and alcohol.

The enforcement of the marijuana laws is often selective, applied only to those whose life style or political views are not popular. Thus the marijuana laws are viewed as mostly political, a threat to apply when the offender gets "out of line."

#### Alleged Benefit from Criminal Prohibition

The primary benefit of criminal prohibition is the alleged deterrent effect of the threat of criminal prosecution. This assumes that if we removed the criminal penalties, marijuana usage would increase greatly. Thus, it is reasoned, the costs of criminal prohibition are justified in our fight against drug abuse in this society.

First, one cannot help but conclude that 35 years of criminal prohibition have failed miserably as a deterrent to use. In 1937, when the federal law was passed, it is estimated that there were, at most, 50,000 smokers in the country. Today there are 13 million regular smokers. Consumers Union recently concluded, in Licit and Illicit Drugs:

"It is now much too late to debate the issue: Marijuana versus no marijuana. Marijuana is here to stay. Non conceivable law enforcement effort can curb its availability."

Also, the change to a decriminalization approach in Oregon was effected without any apparent increase in usage. The Drug Abuse Council surveys taken after one year, and again after two years, uncovered the following:

- 1) there has been no increase in persons smoking marijuana in Oregon; less than one-half of one percent of the adults began smoking marijuana during the first year after criminal laws were removed; and there was an apparent 1% decrease in smoking during the second year.
- 2) those who do smoke marijuana actually reported a decrease in usage (40% the first year and 35% the second reported a decrease; only 5% an increase).

Therefore, decriminalization should not be seen as leading inevitably to increased usage. In fact, in Oregon, where we have accumulated some experience, that has not been the result.

#### B. Legalize the Sale and Use of Marijuana

There are those who favor the adoption of a legal market in order to exercise control over the currently uncontrolled, black market.

With a black market, there is no way to impose age, strength or quality controls. With proper controls, the potential harm from marijuana might be minimized. The country made this decision with alcohol in 1931, and will likely eventually reach the same conclusion as to marijuana.

However, this is not currently a political option. First, the concept of legal marijuana is still opposed strongly by the public. Misunderstood, legalization is seen as a permissive step, opposed by around 80% of the population. Second, our international treaty obligations, under the Single Convention Treaty of 1961, would appear to conflict with such a system. These obligations could be redefined, and probably will be eventually, but this argument would be immediately raised should a legalization bill be introduced either federally or by a state.

The Marijuana Commission rejected this option on the basis that such a system would institutionalize marijuana use. They said they preferred to continue to discourage marijuana use and to see if its popularity diminished. That was their rationalization for decriminalizing use without providing a legal market.

### C. Decriminalize the User

Decriminalization was the brainchild of the Marijuana Commission (Shafer Commission). It was intended to balance the potential harm to society from marijuana, or the perceived threat to society's value system from its use, with the need to eliminate the social costs in wrecked lives and careers from bringing criminal charges against so many of our citizens.

Decriminalization, by eliminating criminal penalties from the user, allows the police resources to be concentrated against the commercial seller. This is consistent with a discouragement effort, and morally more defensible.

Since the Marijuana Commission made its recommendation in March of 1972, the concept of decriminalization has been endorsed by a growing list of organizations, including:

- American Bar Association
- Consumers Union, publishers of Consumer Reports
- National Conference of Commissioners on Uniform State Laws
- American Public Health Association
- National Advisory Commission on Criminal Justice Standards & Goals
- National Council of Churches
- The Governing Board of the American Medical Association
- National Education Association
- B'nai B'rith
- Canadian Commission of Inquiry into the Non-Medical Use of Drugs (Le Dain Commission)
- San Francisco Committee on Crime
- Mayor's Advisory Committee on Narcotics Addiction (District of Columbia)
- American Academy of Pediatrics
- State Bar Associations in Illinois, New York, Washington, Massachusetts, California, Arizona and Minnesota.

In addition, nine states have made their own studies (California, Illinois, Maine, Massachusetts, Michigan, New Jersey, Pennsylvania, Virginia and Wisconsin) and all have recommended decriminalization.

The concept has been endorsed editorially by William F. Buckley, Jr., James J. Kilpatrick, Ann Landers, The Washington Post, The New York Times, The Boston Globe, The Los Angeles Times, The Chicago Sun-Times, and a host of others.

OREGON

In October, 1973, the state of Oregon adopted a modified form of decriminalization which defined possession of up to one ounce of marijuana as a violation, subjecting the violator to a maximum \$100 civil fine. Criminal penalties were retained for all other categories.

A report by the Legislative Research Office of the Oregon Legislature concluded after one year that:

"it appears that the laws have not caused the major problems for the state which some had predicted, and that the laws have for the most part, been accepted or approved of by those officials who are responsible for enforcing and administering them"

Mr. Pat Horton, District Attorney for Lane County Oregon, agrees. After one year, Mr. Horton said,

"Decriminalization has, in fact, prioritized police work into areas of violent crime and crime against property. . . .Currently law enforcement officers spend more time in the area of violent crimes and, thus, better serve their community. . . .The relationship between the youth in the community and the police has improved substantially. . . .It has removed from the docket approximately one-third of the total number of cases awaiting trial."

"Acceptance of the new legislation in Oregon has been overwhelmingly positive," Horton observes. "By all measurable standards, decriminalization was a comfortable transition, signifying fair play to the individual and widespread acceptance by our electorate."

And Consumer Reports, in the April 1975 issue, offers the following opinion of the Oregon experience:

"CU's research for 'Licit and Illicit Drugs' impelled us to be among the first national organizations to recommend marijuana decriminalization -- that is, the removal of all criminal penalties for marijuana possession and personal use."

"Oregon's experience with the practical results of decriminalization buttresses our decision to remain on that list."

And perhaps most importantly, the Drug Abuse Council Surveys indicated that there had been absolutely no increase in marijuana smoking following two years of decriminalization. The use of small civil fines instead of arrest and jail has not led to a greater number of users, as some had feared.

Based upon the favorable Oregon experience, similar citation bills have now been introduced in more than half the state legislatures, and in Congress. And seven states have recently joined Oregon in this approach -- Alaska, Maine, Colorado, California, Ohio, South Dakota and Minnesota

## SUMMARY CHART - MARIJUANA CITATION LAWS

State	Max. Fine Imposed	Max. Amount Possessed	Criminal or Civil Violation	Effective Date
Oregon	\$ 100.00	1 oz.	Civil	Oct. 5, 1973
Alaska	\$100.00	Any amount in private for personal use or 1 oz. in public	Civil	Mar. 1, 1976
Maine	\$200.00	Any amount <sup>a</sup> for personal use	Civil	Mar. 1, 1976
Colorado <sup>b</sup>	\$ 100.00	1 oz.	Class 2 petty offense - no criminal record	July 1, 1975
California <sup>b</sup>	\$100.00	1 oz.	Misdemeanor - no permanent criminal record	Jan. 1, 1976
Ohio <sup>b</sup>	\$100.00	100 grams (approx. 3½ oz.)	Minor misdemeanor - no crim. record	Nov. 22, 1975
South Dakota	\$ 20.00	1 oz.	Civil	April 1, 1977
Minnesota <sup>b</sup>	\$100.00 <sup>c</sup>	1½ oz.	Civil	April 10, 1976

<sup>a</sup> There is a rebuttable presumption that possession of less than 1½ oz. is for personal use, and possession of more than 1½ oz. is with an intent to distribute.

<sup>b</sup> Distribution of marijuana by gift, or for no remuneration, is treated the same as possession in four states: California (for up to 1 oz.), Colorado (up to 1 oz.), Ohio (up to 20 gr.), and Minnesota (up to 1½ oz.).

<sup>c</sup> Only Minnesota provides for increased penalties for second offense: 0-90 days in jail and/or a \$300 fine for second offense within a two year period.

This concept, classifying marijuana as a civil-fine offense, was a minority recommendation of the Marijuana Commission favored by the Commission's only two House members, Congressmen Tim Lee Carter (D-Ky) and Paul Rogers (D-Fl), and by former director of the Illinois Bureau of Investigation, Mr. Mitchell Ware.

#### V. Conclusion

Public attitudes towards marijuana smoking have changed dramatically over the past few years. Where once stiff jail penalties were demanded for someone caught with a small amount of marijuana, small fines are now favored by a majority of our citizens, and are routine in almost all jurisdictions today.

But the laws remain, and so do the arrests. In fact, the number of young people arrested grows each year, and that means costly attorney's fees, life-long criminal arrest records with their debilitating impact on one's educational and career opportunities, as well as the costly drain on law-enforcement resources, badly needed to combat serious crime.

Decriminalization represents a "cease-fire," a compromise measure to stop the senseless and tragic arrest of hundreds of thousands of marijuana smokers each year, while we develop a rational, well thought out, long-term marijuana policy in this country.



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Mr. RANGEL. Thank you. The committee has decided to withhold the questions until the full panel has testified. So perhaps we can hear from Dr. Grinspoon.

**TESTIMONY OF LESTER GRINSPOON, M.D., ASSOCIATE PROFESSOR  
OF PSYCHIATRY, HARVARD MEDICAL SCHOOL**

Dr. GRINSPOON. Thank you.

I have submitted a statement which is much too lengthy. It's 36 pages. As you noted it deals with the possible medical hazards about marihuana, and I shall try to summarize those in a few minutes.

I thought it might be worthwhile, however, before I got to that to try very briefly to deal with the history of marihuana. After all, we are at a point of history, and this committee will be playing a part in the history of this drug in this country, and it might be worthwhile to put its history into a perspective.

Actually, it goes back to the year 2737 B.C. when the first recorded notation of cannabis was made by the Chinese emperor, Shen Nung. From the herbal of that day—the herbal is a kind of equivalent to our Pharmacopeia—it is clear that it was very largely used in those times as an indigenous medicine and in fact its entry into the west as a medicine occurred in India when W. B. O'Shaunnessy, a 30-year-old British surgeon, observed the Indians using this substance as a medicine, did some animal experiments, satisfied himself it was not a very toxic substance, and published a paper on its use in the treatment of rheumatism, epilepsy, and tetanus in 1839. And this caused quite a stir in the Western medical literature. Between 1840 and 1900 there were to be found about 100 papers on the use of what was then called cannabis indica—that is a solution of cannabis in alcohol—it is not water soluble—papers on the use of cannabis indica for various ailments and illnesses. In fact, this old medical literature is now being reconsidered, and one of the things I address in my statement is the medical potential of this drug, which I think is quite significant. In fact I am confident that within 5 years we will be able to prescribe certain cannabis for various medical uses.

Now, while it began to be used as a medicine in this country in 1840, the plant, the hemp plant from which cannabis or marihuana is obtained, as you know, has an older history in this country. When the British got into their trade difficulties with the Dutch and needed hemp—you see, the hemp plant has in its pericycle a long bast fiber which was very important in the making of cordage and sails and clothing and so forth—the Crown insisted it become part of the Virginia contract, and in fact the first crop of hemp was harvested in 1611 outside of Jamestown.

Mr. RANGEL. Doctor, this is what you've got to tell us before you get to the medical evidence, is that right? I mean, all this is very informative, but from a medical point of view this is where, I believe, the committee lacks substantial evidence today. Do you have that history included in your paper?

Dr. GRINSPOON. No, I do not. And I thought you might be interested in knowing how we arrived at this point today. It has a long history in this country, but if you don't think it's relevant, I will skip over it.

Mr. RANGEL. No, I'm not making that. We will leave the record open, because we would like to have it. But I'm certain that many of the members are very concerned about your medical testimony.

Dr. GRINSPOON. Well, let me start then with the kinds of things that have been said about marihuana, the hazards of using marihuana as a psychoactive drug. Let me just bring in the medical history for a minute to say that it was very largely used in the 19th century, from the mid-19th century until toward the end of the century as a medicine, particularly for its analgesic or pain-killing qualities and its hypnotic or sleep-inducing qualities. It was also used in the treatment of migraine headaches, of various kinds of neuralgias, for childbirth and so forth and so on. And during this whole period of time the kinds of things which later came to be associated with cannabis as harms were not described in this literature. They came into being starting in about 1930 and were very much a product of the Federal Bureau of Narcotics who, under Mr. Harry Anslinger, undertook what he called an educational campaign.

There were many, many distortions introduced into the public view about this drug.

For example, the most important one in the early part of the campaign was that it was criminogenic—that is, there was some inherent psychopharmacological property of the drug which would lead to crime and violence, particularly rape or sexual crimes.

Now, this was largely abandoned after Dr. Walter Bromberg, a psychiatrist who worked in the New York courts, published a paper establishing that marihuana was not related to crime, and indeed a couple of Indian investigators sharing the name Chopra demonstrated the same thing in India, and in fact, to use their words, marihuana, rather than leading to violence, “tended to quieten” the people who used it.

Another myth about marihuana which was prominent during the 1930's was that it led to sexual excess, whatever that is. But the implication was that people who used it would rape people and so forth and so on. And again, there is no need to go into that very much. That is not to say that there is not some part that marihuana plays in the sexual experience, but it is certainly not anything that will lead to the kinds of behaviors that were described at that time.

Now, it was said at that time to be an addicting drug, and in fact I'm sure I do not have to tell you there is no evidence whatsoever that the drug is addicting. Well, people say, if it's not addicting—and this is something that still persists today—it leads to psychological dependency.

But if we examine psychological dependency, what does it mean? It is really very difficult to distinguish between what is referred to as psychological dependency and a habit—the use of something that we find pleasure in, whose experience we enjoy, or without which we would be put off. For example, I like to eat Post Toasties every morning for breakfast. One might say that I have a psychological dependency. I don't like not to have them. I don't like eggs. One might say I have a psychological dependence on Post Toasties. I think that's perfectly fair.

The important thing about psychological dependence is, how harmful is the substance or habit or whatever it is that we are involved

with in the psychological dependence? In the case of marihuana, how harmful that is is certainly much less, in my view, than many other people think. One of the studies of this was performed in the Panama Canal Zone when an investigator by the name of Sila deprived people who smoked both marihuana and cigarettes of both of these substances and 15 percent said they missed marihuana, 80-odd percent said they missed cigarettes.

Well, regardless, if it isn't addicting, if psychological dependence is not terribly important, there is the matter of the steppingstone hypothesis—that is to say, it used to be believed and still is, I'm afraid, by some, that there is an inherent psychopharmacological property of cannabis which makes it necessary for the person who uses it to go on to a so-called harder drug. This idea really came about through the specious reasoning that comes from the following:

If you have a sample of 100 heroin users and you ask them, how many of you used marihuana before you used heroin, about 60 to 70 percent will say that they used marihuana beforehand. But if, as an English investigator by the name of Abrams did, you ask how many have used amphetamines, about 76 percent; methamphetamines, about the same; alcohol, even more. And I'm sure if you asked how many had used Coca-Cola, the figure would be nearly 100 percent, and yet nobody would try to make any causal relationship between Coca-Cola and heroin.

And indeed, the prospective studies which have been done more recently indicate that the only determinant which relates marihuana use to the use of other drugs are cultural ones—that is to say, people who get involved with pushers and so forth and so on, something which is dictated by the present legal system, are more likely, through the social intercourse with these people, to become involved with heroin—not very much so, but certainly that seems to be the link.

One of the more modern kinds of concerns about cannabis, ones which have been raised, oh, since about 1970, is, for example, the amotivational syndrome.

Now, this was first elaborated by Drs. West and Allen at UCLA in 1969 and 1970. It states that a person who uses large amounts of marihuana will lose his motivation, his interest in achieving, will become slovenly in his dress and his habits and so forth and so on. And I think most people will agree now, most investigators, that there was a confusion again of cause and effect. That during the 1950's part of dropping out was to adopt some of these habits, the hip patina, and part of it was to smoke marihuana.

The prospective studies which have been done by Hochman and Brill, by Walters at Harvard, the studies by Rubin and Comitas in Jamaica, and the Stephanis study in Greece find absolutely nothing to support the so-called amotivational syndrome or chemical pre-frontal leukotomy syndrome, as it was sometimes called.

Someone mentioned this morning the British study which purported to show there was brain damage from the use of marihuana. This was a study which was published in 1972 by A. M. G. Campbell. It considered 10 cases of people who used marihuana for fair periods of time and it was involved with the use of air encephalography—that is to say, the brain, or the cavities in the brain were visualized

by a certain kind of X-ray technique. When these cavities are larger, it means there has been destruction of brain tissue. Campbell and his associates demonstrated that there was this kind of brain damage.

The problem with those 10 cases were that 2 of them were epileptic, at least 5 were schizophrenic, 3 or 4 of them had a history of brain damage, many of them had used amphetamines, most of them had used LSD, and the most important neurotoxic substance, namely, alcohol, was not mentioned.

Since then, attempts to replicate this study have failed.

Now, another concern that has come up more recently is the matter of chromosome damage. This was first published by Dr. Stencheva in Salt Lake City first in 1972 and then again in 1974. However, without going into the technical details of this at this moment, let me just summarize a conference that was held on this in 1975 in which even Dr. Stencheva was willing to accept that this had definitely not been established to be any more of a problem for cannabis than it is for aspirin and Valium.

The question of testosterone is another issue which has come up. A physician by the name of Kolodny—R. C. Kolodny—3 years ago first published his report in the New England Journal of Medicine which indicated that people who were admitted to a hospital and used marihuana after 5 weeks began to demonstrate a drop in their level of testosterone.

Another article published in the same journal, the New England Journal of Medicine, some months later by Mendelsohn and his group at Harvard failed to replicate this.

Now, there may have been some methodological problems with Mendelsohn's study, but in fact the way the situation stands now, it is not at all clear that there is a significant drop in testosterone—that there is a drop, I think most people would agree, but it does not get below what are considered normal limits. It seems to me it's an area that we would have to be cautious about, particularly in our concern about very young people using this drug.

I think that sort of summarizes as briefly as I can the state of our knowledge about the medical hazards of cannabis.

Mr. RANGEL. Well, I'm certain, Doctor, that staff would be asking you questions later to clarify some views which still may remain unclear.

[Dr. Grinspoon's prepared statement follows:]

PREPARED STATEMENT OF LESTER GRINSPOON, M.D., ASSOCIATE PROFESSOR OF PSYCHIATRY AND JAMES B. BAKALAR, LECTURER IN LAW, HARVARD MEDICAL SCHOOL, BOSTON, MASS.

Use of marihuana continues to increase, and arrests for possession and sale or intent to sell remain at a high level (reaching a high of 445,000 in 1974 and declining slightly to 416,000 in 1975, according to the FBI), while doubt becomes more insistent about whether its effects on mental and physical health justify the criminal laws regulating it. The position of advocates of continued prohibition has become defensive rather than offensive. Many old claims about marihuana's deleterious effects have proven unwarranted and are being quietly abandoned; the new ones are often advanced tentatively and based not on clinical observation but on experiments or laboratory analyses that are difficult even for specialists to interpret. At the same time, the increase in recreational use of marihuana has helped to revive interest in its medical uses, many of them recognized for millennia by folk medicine and commonly known in the

nineteenth century but ignored in recent years. Although the possible dangers of marihuana when taken for pleasure and its possible usefulness as a medicine are two different issues, they are historically and practically interrelated: historically, because the arguments used to justify public and official disapproval of recreational use have had unwarranted influence on opinions of its medical potential; and practically, because the more evidence accumulates that marihuana is relatively benign even when used chronically in large quantities, the more clear it becomes that the first requirement for a medicine—that it be safe—is satisfied.

In this paper we will review the common contentions about health hazards of marihuana use, dealing briefly with those that are obsolescent and more fully with the more up-to-date ones. We will also consider the medical potential of the drug as revealed by its history and by recent clinical studies. The enormously increased amount of research on cannabis since 1970 has affected public understanding of these issues. People are beginning to recognize that prohibition is not desirable and does not work anyway; interest in the medical uses of cannabis and cannabis derivatives is at its highest point in years. We hope to contribute to that recognition and intensify that interest.

The following statement, based on numerous studies including elaborate and thorough investigations like the Indian Hemp Drugs Commission Report of 1894 and the La Guardia Committee Report of 1939-1944, was written in 1971:

"While there can be no question that the use of psychoactive drugs may be harmful to the social fabric, the harm resulting from the use of marihuana is of a far lower order of magnitude than the harm caused by abuse of narcotics, alcohol, and other drugs. Marihuana itself is not criminogenic; it does not lead to sexual lebauchery; it is not addicting; there is no evidence that it leads to the use of narcotics. It does not, under ordinary circumstances, lead to psychoses, and there is no convincing evidence that it causes personality deterioration. Even with respect to automobile driving, although use of any psychoactive drug must perforce be detrimental to this skill, there exists evidence that marihuana is less so than alcohol. Marihuana use, even over a considerable period of time, does not lead to malnutrition or to any known organic illness. There is no evidence that mortality rates are any higher among users than nonusers; in fact, relative to other psychoactive drugs, it is remarkably safe (Grinspoon, 1971, p. 347)."

On balance, work done since then has substantiated these conclusions and confirmed that cannabis derivatives are "remarkably safe" compared to many other substances, both drugs and non-drugs, that are not subject to criminal penalties. Most impressive are the controlled investigations of heavy cannabis users in Jamaica, Costa Rica, and Greece that have already begun to dispel old prejudices and influence public policy in the United States and elsewhere. During these same years, experiments and tests have been reported that suggest new potential deleterious effects of cannabis—on the tissues of the brain, on the immune system, on sexuality and testosterone levels, or on chromosomes; but these reports are at worst completely unconvincing and at best too inconclusive to serve as a basis for public policy.

The dangers to be considered fall into the categories of acute and chronic psychological, behavioral, and physiological effects.

#### ACUTE PSYCHOLOGICAL AND BEHAVIORAL EFFECTS

##### *Effects on cognition and motor coordination*

Many studies show mild, dose-related impairment of short-term memory, reaction time, attention, time estimation, motor coordination, and number facility (Klonoff and Low, 1974, pp. 122-124). Cannabis reduces driving skill (Klonoff, 1974), but possibly not as much as alcohol at intoxicating doses; and unlike alcohol, it does not increase aggressiveness (Dott, 1974). Nevertheless, similar precautions should be taken about driving under the influence. Experienced users of marihuana often contend that they can control the degree and quality of the intoxication by "coming down" when it is necessary to perform some task, and there is evidence that they are right (Babor, 1974; Cappell and Pliner, 1974; Cohen and Rickles, 1974).

##### *Acute anxiety reaction and psychosis*

The most common adverse reaction to marihuana is a state of acute anxiety, sometimes accompanied by paranoid thoughts, which may rarely reach the

proportions of panic. The sufferer interprets the perceptual and emotional effects of cannabis as signs that he is ill, dying, or losing his sanity. He may also begin to think that others present are critical, hostile, subtly ridiculing him or planning to inform on him to the police. These paranoid ideas are usually tenuous and easily dispelled by simple reassurance—the best treatment for the acute anxiety reaction in any case. Someone who is taking the drug for the first time or in an unpleasant or unfamiliar setting is much more likely to react this way than an experienced user who is comfortable with his surroundings and companions; it is very rare where marihuana is a casually accepted part of the social scene. The likelihood of the reaction varies directly with dose and inversely with the user's experience; thus the most vulnerable person is the inexperienced user who inadvertently (often precisely because he lacks familiarity with the drug) takes a large dose which produces perceptual and somatic changes he is unprepared for. Anxiety and paranoia are heightened and to some extent justified in this country by a quite rational fear of arrest; these symptoms are less prominent in areas where penalties for the use of hemp are nonexistent or less severe. The acute anxiety reaction is in no sense a psychosis: there are no "true" hallucinations, and the ability to test reality—necessary if the "treatment" by reassurance is to succeed—remains intact.

The anxiety and paranoid thoughts which characterize this adverse reaction resemble an attenuated version of the frightening parts of an LSD or other psychedelic experience—the so-called "bad trip." Some proponents of the use of LSD in psychotherapy have asserted that the induced altered state of consciousness involves a lifting of repression. Although the occurrence of a global undermining of repression is questionable, many effects of LSD do suggest important alterations in ego defenses. These alterations presumably make new percepts and insights available to the ego; some of these percepts and insights, particularly those most directly derived from primary process, may be quite threatening, especially if there is no comfortable and supportive setting to facilitate the integration of the new awareness into the ego organization. So psychedelic experiences may be accompanied by a great deal of anxiety, particularly when the drugs are taken under poor conditions of set and setting; to a much lesser extent, the same can be said of cannabis. Frightening LSD experiences are sometimes followed by flashbacks, and these have also been reported, albeit rarely, in connection with cannabis. It is thought that cannabis users who have used LSD or other psychedelics are more likely to experience flashbacks. It is possible that flashbacks are attempts to deal with primary process derivatives and other unconscious material which have breached the ego defenses during the psychedelic or, less commonly, the cannabis experience.

Two kinds of psychosis, not always carefully distinguished, are reported in the cannabis literature: a toxic delirium from the ingestion of a very large dose and a syndrome described variously as hemp insanity, cannabis insanity, and cannabis psychosis. There is enough evidence in the Eastern literature to make it plausible that cannabis, especially in the form of large doses of hashish that are eaten rather than smoked, is like many other drugs in its capacity to produce an acute toxic psychosis of short duration, resembling the delirium of high fever, with restlessness, confusion, disorientation, apprehension, illusions, and hallucinations. Emotionally unstable people are most susceptible to this reaction. It is not likely to occur when cannabis is smoked, probably because smokers find it easy to regulate their intake.

Hemp insanity or cannabis psychosis is generally described as a more prolonged derangement with symptoms peculiar to hemp drugs, caused mainly by chronic heavy use rather than the ingestion of a single toxic dose. As such, it would presumably be a very serious matter. But this syndrome has proved to be peculiarly elusive as a clinical entity. It has never been reported in the West, and diagnostic and record-keeping practices in the Indian and Near Eastern hospitals of the late nineteenth and early twentieth centuries, where it used to be a common diagnosis, were extremely inadequate. In some cases one would assume from the record that half or more of the patients in a hospital were cannabis psychotics. Further investigation reveals that the diagnosis was often copied directly from police reports which were required to state a reason for admission and routinely put down "hemp insanity" as the simplest. There was also a practice of assigning cannabis as the cause of a psychosis if any evidence could be discovered that the patient had used it;

in this way a large proportion of the schizophrenics and manic patients in these hospitals were misdiagnosed. No clearly defined symptoms differentiate "cannabis psychosis" from acute schizophrenia or the manic phase of manic-depressive illness (Grinspoon, 1971, pp. 251-262). Procedures of this kind may give some idea of the number of psychotics who use hashish, but they say nothing about how many hashish users become psychotic. What reliable evidence there is—for example, a study of cannabis smokers and drinkers by the Indian authors I.C. and R.N. Chopra—suggests that the rate of psychosis in this group is no higher than in an average European or North American population (Grinspoon, 1971, p. 259).

Research over the last thirty years in the United States and elsewhere has failed to confirm the existence of a cannabis psychosis. Occasional findings to the contrary, when closely examined, can be attributed to pre-existing psychiatric disturbances or the use of other drugs. To mention just one piece of evidence, Dr. David E. Smith of the Haight-Ashbury Medical Clinic wrote in 1968 that in 30,000 patient visits to the clinic "no case of primary marihuana psychosis was seen" among its client population of heavy cannabis users (Grinspoon, 1971, p. 270). A survey of 36,000 U.S. soldiers also concluded that cannabis alone almost never produces a psychosis (Tennant and Groesbeck, 1972); recent studies of chronic heavy users in Jamaica, Greece, and Costa Rica are in agreement. In particular, a study of ganja, the powerful cannabis preparation smoked in Jamaica, found no evidence that it was a cause of admission to mental hospitals. People who persistently suffer acute anxiety reactions are regarded as "not having the head for ganja" and simply avoid it; there is no recognized ganja psychosis (Rubin and Comitas, 1975, p. 155). A recent review of the literature on cannabis and psychosis concludes that results are "limited and often contradictory" (Halikas, 1974, p. 292). Undoubtedly cannabis can precipitate psychosis in a few people whose egos are so vulnerable that any severe stress or alteration in consciousness, like those produced by a serious automobile accident or an alcoholic debauch, would have the same effect. But now that there are 13,000,000 people in the United States who smoke marihuana regularly, as well as many heavy chronic cannabis consumers abroad, if the drug precipitated a psychosis with any regularity we would have some unequivocal evidence of the fact.

For some people all this accumulated evidence was less significant than a paper published in the *Journal of the American Medical Association* in April, 1971 by Drs. Harold Kolansky and William Moore (Kolansky and Moore, 1971). The reception of this study is a part of social history rather than a part of medical and scientific history; although long since discredited as scientific work, it is still occasionally cited by opponents of marihuana use. Kolansky and Moore reported on 38 patients seen in their psychiatric practice; all had used marihuana and later suffered from some form of psychopathology; eight had become psychotic. The study was not prospective and therefore could not establish a causal connection with any certainty; but even the inferior retrospective form of experiment can provide controls to eliminate extraneous variables, and Kolansky and Moore failed to do this. There is also a place for anecdotal studies in clinical research as a way to provide clues for further testing; but the symptoms Kolansky and Moore describe are too varied and ill-defined and too insecurely related to cannabis use even to supply hints for further research. For example, when a boy is seduced homosexually by an older man who also introduces him to marihuana and the boy later develops a psychosis, most psychiatrists would consider the seduction to be of primary importance; but Kolansky and Moore see only marihuana. They further imply that when the boy is hospitalized and recovers, it is withdrawal of marihuana rather than the treatment or the natural course of the illness that restores him to health. The fact that the patients themselves and their parents often attributed their symptoms to marihuana is irrelevant; the parents may have been displacing their own feelings of guilt, and the patients may have been unconsciously providing Kolansky and Moore with the data they needed in order to fulfill a desire to please the therapist that is one consequence of the transference phenomenon. The *Journal of the American Medical Association* would not have accepted this paper for publication if it had had only reasonable medical considerations in mind. It is safe to say—there has actually been some progress since 1971—that it would not accept a paper of similar quality on this topic today.



An article in the 1976 Archives of General Psychiatry by V.R. Thacore and S.R.P. Shukla compares 25 cases of what the authors call a paranoid psychosis precipitated by cannabis with an equal number of paranoid schizophrenics (Thacore and Shukla, 1976). The cannabis psychotics are described as patients in whom there has been a clear temporal relationship between prolonged abuse of cannabis and the development of a psychosis on more than two occasions. All had used cannabis heavily for at least three years, mainly in the form of bhang, the weakest of the three preparations common in India; it is usually drunk as a tea or eaten in doughy pellets. In comparison with the schizophrenics, the cannabis psychotics are described as more panicky, elated, boisterous, and communicative; their behavior is said to be more often violent and bizarre, and their mental processes characterized by rapidity of thought and flight of ideas without schizophrenic thought disorder. The prognosis is said to be good; the symptoms are easily relieved by phenothiazines, and recurrence is prevented by a decision not to use cannabis again. The syndrome is distinguished from an acute toxic reaction by the absence of clouded sensorium, confusion, and disorientation.

Thacore and Shukla do not provide enough information to justify either the identification of their 25 patients' conditions as a single clinical syndrome or the asserted relationship to cannabis use. They have little to say about the amount of cannabis used, except that the patients' relatives regarded it as abnormally large; they do not discuss the question of why the psychosis is associated with bhang rather than the stronger cannabis preparations ganja and charas. The meaning of "prolonged abuse on more than two occasions" in the case of men who are constant heavy cannabis users is not clarified, and the temporal relationship between this and psychosis is not specified. Moreover, the cannabis-taking habits of the control group of schizophrenics are not discussed—a serious omission where use of bhang is so common. The patients described as cannabis psychotics are probably a heterogeneous mixture of acute schizophrenic breaks, acute manic episodes, severe borderline conditions, and a few symptoms actually related to acute cannabis intoxication: mainly anxiety-panic reactions and a few psychoses of the kind that can be precipitated in unstable people by many different experiences of stress or consciousness change. Thacore and Shukla end their paper by writing: "The history of drug abuse among the patients was invariably known to the observers, and this situation could have influenced their observations. Therefore, this study may suffer from limitations that more sophisticated methods could overcome." The modesty of this conclusion is justified and welcome.

#### CRIME AND VIOLENCE

The contention that marihuana use causes crime has been familiar since the days of Harry Anslinger's notorious campaign against the drug; it has now been thoroughly discredited, presumably beyond the hope of revival. On the matter of aggression, Jared R. Tinklenberg concludes: "There is no convincing evidence that the pharmacological properties of marihuana incite or enhance human aggression," defined as intentional acts leading to physical injury (Tinklenberg, 1974, p. 354). All efforts to show that either the acute effect of large doses or some character change caused by prolonged use inclines people to criminal acts of any kind have failed (Grinspoon, 1971, pp. 302-311).

#### ACUTE PHYSIOLOGICAL EFFECTS

These are recognized to be slight. Marihuana causes a dose-related increase in heart rate, reduces systolic blood pressure slightly, reddens the conjunctiva, lowers body temperature, and dilates the bronchi. It affects breathing very little. It has one of the highest known ratios of lethal dose to effective dose: in the range of 20,000—40,000 to 1. There is no well-authenticated case of death from cannabis ingestion in a human being (Grinspoon, 1971, pp. 227-228). In one recent incident, a small girl swallowed the enormous dose of 1.5 grams of cannabis resin (about 225 mg of delta-1-tetrahydrocannabinol, the main active principle, an amount equivalent to 25 or 50 ordinary marihuana cigarettes and rarely obtainable in such concentrated form): her condition was normal after a day (Bro, Schon, and Topp, 1975).



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**4 OF 7**

## CHRONIC PSYCHOLOGICAL AND BEHAVIORAL EFFECTS

Once this was the target on which most accusations were concentrated, and the issues were often confused by law-enforcement zeal and hysterical misrepresentation. Today the results of older work like that of the La Guardia Committee and newer controlled research in Jamaica and elsewhere have become familiar, and it is much harder to persuade people by means of appeals to diffuse fear or social and racial prejudice that prolonged use of marihuana has deleterious effects. When these fears and prejudices are dispelled, there is very little argument for any of the charges; and in fact many of them are being quietly abandoned by advocates of marihuana prohibition.

## ADDICTION AND TOLERANCE

Cannabis is not physically addictive. Something resembling mild withdrawal symptoms has been reported in laboratory animals given enormous doses of THC (delta-1-tetrahydrocannabinol) for a long time and even in human beings in a laboratory situation (Benowitz and Jones, 1975); but as a clinical phenomenon in ordinary recreational use a cannabis abstinence syndrome simply does not exist, even among Jamaicans who use up to 420 mg of THC a day (Rubin and Comitas, 1975, p. 130). There is equally little evidence of pharmacological tolerance in human beings at recreational doses; in fact, it appears that experienced users are more sensitive to the desired effects at lower doses. "Behavioral tolerance," probably a matter of learning to compensate for or direct the effects of high-dose intoxication when necessary, has been reported in laboratory animals and undoubtedly arises in human beings as well; presumably it enables Jamaicans to do hard physical labor while taking large doses. Some experiments on human beings also reveal dose-related tolerance to various psychological and physiological effects (Benowitz and Jones, 1975). Whatever the nature or degree of the tolerance or reverse tolerance that arises in various circumstances during marihuana use, it does not present a problem to the user or society. There are no reports of a need to increase the dose to recapture the original euphoria or prevent a relapse into misery.

Although it is accepted that cannabis is not physically addictive and does not give rise to significant tolerance, it is often said to create a psychological dependency. But this term does not tell us much; almost any habit that satisfies a need or desire, whether related to drugs or not, can be described as a psychological dependency. Some dependencies are trivial, some benign; the significant question is whether the habit does any harm to the individual or society. One test of this (not, of course, the only one) is whether the person who has the habit wishes he could give it up but feels unable to do so. Marihuana users rarely feel that way; they usually state that they can take the drug or leave it and they do not feel tormented craving in its absence. Undoubtedly there are exceptions; some people, especially those suffering from anxiety, depression, feelings of inadequacy, or certain character disorders, may be susceptible to a psychological dependency on cannabis as to other kinds of psychological dependency. But the inadequacy is more important than the use of cannabis to compensate for it. Certainly the medical evidence suggests that dependence on cannabis is preferable to dependence on, say, alcohol or tobacco.

## STEPPING-STONE HYPOTHESIS

In the propaganda campaign directed by the Federal Bureau of Narcotics from the 1930's through the 1950's, the notion that smoking marihuana somehow leads to the use of opiates and other dangerous drugs succeeded the contention that it causes crimes of violence. Since few people take this idea seriously now, it might almost seem superfluous to discuss it. Nevertheless, for the record: There is no good evidence that any property of marihuana produces a peculiar susceptibility to heroin addiction or that marihuana users tend to "graduate" to heroin. It is true that most heroin users have smoked marihuana first, but an even greater proportion of them have used alcohol, and almost all have drunk milk and Coca-Cola; retrospective associations of this sort provide no evidence of a causal connection. (It is interesting to note that one prominent early propagandist of the stepping-stone hypothesis was convinced that the descent to hell began with tobacco smoking, which caused the

marihuana use that led to heroin (Grinspoon, 1971, p. 239). The evidence for this three-step version was undoubtedly as good as that favoring the more popular two-step version; but the Federal Bureau of Narcotics, when it belatedly took up the stepping-stone idea around 1950 in its quest for new reasons to continue the war against marihuana, showed no interest in this plausible extension of the theory.)

It should hardly be surprising to find, and it usually is found, that anyone who uses any given drug is more likely to use others and that in particular, by a process of cultural selection rather than anything inherent in the drugs, anyone who uses a given illegal drug is more likely to use other illegal drugs. When allowances are made for this, the relationship between marihuana use and heroin use proves to be remarkably slight, more obviously so as marihuana becomes more popular and readily available. For example, from 1960 to 1968 opiate arrests in California declined while marihuana arrests increased 400% (Mandel, 1968, p. 215). If any progression from marihuana to other drugs does occur (and this is doubtful), it is likely to be toward psychedelics like LSD rather than toward heroin, which offers a different kind of euphoria and is generally condemned by the intellectual and cultural leaders who favor use of marihuana.

The stepping-stone hypothesis, which used to have "a life of its own apart from the published data" (Mandel, 1968, p. 216)—a life largely pumped into it by law-enforcement officials—is now dead or at least playing possum. But it is useful to keep in mind this theory and its fate when considering other charges against marihuana that may be inspired by a need to find justifications for a fixed conviction that prohibition is necessary.<sup>1</sup>

#### OTHER PROLONGED ADVERSE REACTIONS

One of the most common contentions made by opponents of marihuana use, and one of the most difficult to prove or disprove, is that in the long run it causes mental, moral or emotional deterioration of some kind—either cognitive and psychomotor impairment or a personality change like the vaguely defined impairment of mind, emotions, and will known as the "amotivational syndrome." The problems that arise in connection with the stepping-stone theory exist here too: intervening variables and cultural bias. Does smoking marihuana cause personality change or, in our culture, is it the other way around? If there is a personality change, from whose point of view and by what implicit standards is it assumed to be a deterioration? Objective measures of this phenomenon are in short supply, and so are prospective studies that might extricate a causal role for marihuana from the complex web of associations tying social and psychological conditions to drug use.

Given all the ambiguities, it is impossible to make a definitive pronouncement. But it is safe to say that the conclusion of the seven-volume report published by the Indian Hemp Drugs Commission in 1894, the product of one of the most extensive surveys of cannabis use ever conducted, has been repeatedly confirmed: "There is no evidence of any weight regarding mental and moral injuries from the moderate use of these drugs" (Grinspoon, 1971, p. 277). Later studies confirming this include the report of Mayor La Guardia's Committee on The Marihuana Problem in the City of New York (1944), a study by H.L. Freedman and M.J. Rockmore of 310 marihuana users published in 1946, and a study by W. Bromberg comparing 67 marihuana-using criminals with a similar non-marihuana-using group (Bromberg, 1939). In more recent work, a survey of a random sample of UCLA students made in 1972 (Hochman and Brill, 1973) showed no difference between users and nonusers in grade-point average. Homer B.C. Reed, Jr. found no difference on tests of general intelligence and specific cognitive and psychic capacities between casual and heavy users of marihuana (Reed, 1974). The report of the National Commission on Marihuana and Drug Abuse (1973) and the Canadian Government's Le Dain Commission (1974) have also denied the existence of an amotivational syndrome. On psychological tests and neurological examination, 47 Greek subjects who had used cannabis heavily for an average of 23 years showed no deficit compared with controls (Stefanis, et al., 1976). In a rare controlled prospective study of American college students, C.M. Culver and F.W. King

<sup>1</sup> See Grinspoon, 1971, pp. 237-252 for the story of how the stepping-stone hypothesis was developed and promulgated and a discussion of the evidence refuting it; see also Carlin and Post, 1971.

found no deterioration even with frequent cannabis use in scores on a set of psychological tests including the Wechsler Adult Intelligence Scale and tests of spatial perception; this result is subject to the qualification that the period between tests was only a year (Culver and King, 1974). A recent controlled study of chronic heavy cannabis users in Costa Rica (Satz, et al., 1977) found no deficit on neuropsychological, intelligence, or personality tests. The results of a prospective study of subjects who smoked large amounts of marihuana daily in a research ward at UCLA for 94 days were similar: no significant effect on learning, performance or motivation (Lessin and Thomas, 1976).

Possibly the most substantial evidence on this subject so far is contained in a study that has already influenced legislation in the country where it was undertaken and may be on its way to becoming a classic: Ganja in Jamaica, by Vera Rubin and Lambros Comitas. Rubin and Comitas compared 30 heavy chronic cannabis users with 30 controls matched for age, residence, and socioeconomic status; all were admitted to a hospital for six days of medical examinations, psychological questionnaires and tests, and psychiatric interviews; their life histories were taken, and their work habits were observed in the field. There was no evidence that continual heavy use of cannabis (up to 420 mg of THC a day, far more than most heavy users take in the United States) caused violence, psychosis, poverty, mental deterioration, or apathy and indolence. Ganja does not produce an "amotivational" condition but on the contrary is used to provide the will and energy to work. Ganja users showed no significant differences from controls on indices of mental status, social deprivation, extraversion, and neuroticism (Rubin and Comitas, 1975, pp. 104-106). There were no signs of brain function impairment of any kind and no differences between the two groups on fifteen intellectual and verbal and fifteen neuropsychological tests—including many that are sensitive to the acute effects of cannabis (Rubin and Comitas, 1975, p. 118). Ganja users expend slightly more energy than non-users in performing some tasks, because the cannabis makes their movements less efficient; but Rubin and Comitas regard this as much less important than the fact that they often take the drug in order to work (Rubin and Comitas, 1975, p. 68). It is worth noting, in view of the conclusion of the Indian Hemp Drugs Commission that "moderate" use of cannabis is harmless, that the daily consumption by these Jamaicans is probably the highest in the world (Rubin and Comitas, 1975, p. 122) and yet on the evidence does not constitute immoderate use. The results of this study should make us regard with some skepticism the anecdotal reports from the Old World, and especially from Egypt, suggesting what would otherwise be plausible: that cannabis, like alcohol and opium, destroys the mental and physical health of a few who take it to excess. There seems to be no condition among ganja users corresponding to that of the alcoholic or the heroin addict.

The question now arises how to evaluate numerous studies showing personality differences between marihuana smokers and non-smokers, especially those made in the United States in the late 1960s and early 1970s. For example, a survey of a random sample of blacks by L.N. Robins found more psychopathology among those who used marihuana (Halikas, 1974). Brill and Christie found that college students who had used marihuana for seven years or more were more likely than others to report a worsening of their emotional state (Brill and Christie, 1974). Other college studies found cannabis users to be more alienated, less well-adjusted academically, more impulsive and rebellious, or more cynical, moody, and bored (Robbins et al., 1970). Heavy drug users in general tend to show more depression, personality disorders, and poor social adjustment.

In the case of marihuana, at any rate, excessive use of the drug seems to be symptomatic rather than causative. The personality characteristics associated with marihuana in these studies are partly psychological problems or conditions that existed before the marihuana use began. People who are depressed or coping poorly are more likely to take to heavy drug use. Several studies of heavy tobacco smokers suggest that all the psychiatric labels applied to heavy marihuana users can be applied to them as well: weak basic personality, asocial, introspective, inhibited, lack of purpose and values (Grinspoon, 1971, pp. 286-287)—yet no one has suggested that cigarette smoking causes the psychopathology revealed in these studies, and this assumption is no more plausible in the case of marihuana.

But as the Jamaican study reveals, it is not even the case that heavy cannabis use must be associated with prior psychopathology; that depends

more on the social role played by the drug and general attitudes toward it than on any characteristic of either the drug or its users. In other words, the personality characteristics associated with marihuana in recent American studies are largely a product of its social status and will probably change as that social status changes. So long as use of marihuana is illegal and heavily stigmatized, those who turn to it are more likely to be different in various ways from more conventional people—either more moody, restless, hostile, bored, and dissatisfied with their lives or simply more self-critical, adventurous, and open to experience and therefore more willing to describe themselves in ways that might seem unflattering from a conventional point of view. As Kenneth Keniston has remarked, they may question the assumptions on which the questionnaire measures of good mental health are based and consider it desirable not to defend themselves against feelings of inadequacy. Once marihuana use has begun, the reaction of society further shapes users' attitudes. Norman Zinberg and Andrew Weil studied a group of chronic marihuana users who had begun to take the drug before 1965, at a time when they were likely to be identified as psychologically aberrant or as criminals, rebels, heroes, or prophets. They were all bitter about the attitudes of the conventional world and hostile toward and fearful of its authority; all described how these feelings were reinforced as they sought out others who used marihuana and therefore felt the same fears and bitterness. In the same study, Zinberg and Weil found that people who had begun to use marihuana after 1966 were much less rebellious and distinctive in their attitudes (Zinberg and Weil, 1970).

Personality has been defined in a multitude of ways. A psychodynamic approach sees personality as evolving over time and within the limits of genetic potentials through a prolonged series of stages of social experiencing into a system of more or less enduring and consistent attitudes, beliefs, desires, capacities for affective expression, and patterns of adaptation, which make each individual unique. The distinctive whole formed by these relatively permanent patterns and tendencies of a given person is spoken of as his personality. Once it is fully formed it is rather resistant to change; even a profound experience like psychoanalysis often has only a limited and subtle effect on it, and it is doubtful that use of marihuana could have more. The "hippie" syndrome of apparent slovenliness, indolence, and passivity once associated in the public mind with marihuana, to the extent that it was more than a construction out of prejudice and misinformation, probably manifested not a deep personality change but a more or less purposeful transformation in ideology, goals, and habits. Like a girl entering a convent, the hippie takes on a new dress and demeanor, new personal habits (including use of illicit drugs), and new expressed values; and like her usually remains the same person underneath. Now that certain hippie attitudes and styles have become more popular, it is obvious that they never did imply a decisive change in personality; in particular, now that marihuana use has separated itself from other elements of this cultural pattern and is becoming increasingly common among people who otherwise lead conventional lives, it is clear that the drug does not have the capacity to alter personality once attributed to it hopefully by its friends and fearfully by its enemies. Soon we may arrive at the situation described in Rubin and Comitas' study of Jamaica, where it is hard to find any significant differences in personality between those who use cannabis and those who do not.

#### CHRONIC PHYSIOLOGICAL EFFECTS

Most of the recent research on medical hazards of marihuana has concentrated on physical disease and organic pathology, partly because psychiatric research produced few results and partly because new experimental techniques have become available for investigating things like chromosome breaks, immune response, and brain damage. Before reviewing some of this often highly technical work, we would like to point out that clinical observation in marihuana-using populations generally shows no organic disease or deficiency attributable to the drug. The Indian Hemp Drugs Commission reported that "Large numbers of practitioners of long experience have seen no evidence of any connection between the moderate use of hemp drugs and disease," (Grinspoon, 1971, p. 277) and this conclusion has never been seriously challenged. It should be added that, as in the case of psychiatric illness, no

level of use has yet been discovered that qualifies as obviously immoderate for the purposes of this judgment. The La Guardia Committee came to the same conclusion as the Indian Hemp Drugs Commission, and studies in Jamaica (Rubin and Comitas, 1975), Greece (Stefanis et al., 1976), and Costa Rica (Coggins et al., 1977) confirm the observations made in India and New York. An examination of chronic marihuana users in the United States finds no adverse effects on physical health after two to seventeen years (Bernstein, 1974). Laboratory work on animals also indicates no serious pathological changes after chronic use (Rosenkrantz et al., 1975).

Recent investigations have concentrated on brain damage, testosterone levels, immune response, chromosome breakage, birth defects, and pulmonary function.

#### BRAIN DAMAGE

It is convenient to dispose of the least plausible claim first. We would expect some clinical evidence of serious brain damage if it existed—for example, some effect on neurological and neuropsychological tests in the Jamaican, Greek, and other studies—but none has been found. The recent controversy about brain damage and marihuana had its source in a report by Dr. A.M.G. Campbell and his associates in *The Lancet* for November 1971 stating that the brains of ten heavy marihuana smokers showed evidence of cerebral atrophy as demonstrated by air encephalography (Campbell et al., 1971). The bias of the authors is indicated by their reference to marihuana users as "addicts" and their approving citation of the dubious work by Kolansky and Moore associating cannabis use with mental illness. Even aside from this, the deficiencies of Campbell's study are crippling. All ten subjects were psychiatric patients, and no comparison was made with psychiatric patients who do not use cannabis. At least one and maybe two were epileptics, several had suffered head injuries, one was mentally retarded, and as many as five may have been schizophrenic. All had taken LSD, most had used amphetamines, and a few were heavy users of opiates, barbiturates, and tranquilizers. The possible role of alcohol, which is known to be neurotoxic, was not considered. The peculiarity of this sample and the absence of controls make Campbell's results valueless. It would be useful to have controlled prospective studies on cannabis and brain damage, but there is little reason to expect that any connection will be discovered. In a controlled retrospective study of chronic cannabis users in Greece, for example, encephalographic measurement revealed no evidence of cerebral atrophy (Stefanis et al., 1976).

#### TESTOSTERONE

The question of reduced testosterone levels and possible consequent impotence or sterility in men was raised in an article published by Robert C. Kolodny and his associates in the *New England Journal of Medicine* in 1974 (Kolodny et al., 1974). Kolodny found that chronic marihuana users had lower plasma testosterone levels than controls and that abstinence from marihuana after chronic use produced an immediate increase in plasma testosterone. In a later study he found that testosterone began to decline in subjects hospitalized on a research ward in their fifth week of smoking a predetermined amount of marihuana (Kolodny, 1975). Other studies failed to replicate these results either in retrospective surveys or on the experimental ward (Mendelson et al., 1974; Schaefer et al., 1975), but this work may have been methodologically inadequate (Kolodny et al., 1976). Cannabis resin in the diet of young male rats at very high doses—10 mg THC per kg per day, the equivalent of 700 mg in a 150-pound man—slows the development of testes, the prostate, and seminal vesicles; but it is apparently not estrogenic, since it does not accelerate uterine development in young female rats (Qkey and Truant, 1975).

The significance of these findings is very difficult to determine. Testosterone levels vary considerably from day to day and even from hour to hour without clear cause or obvious effect; it takes a very large decline to affect sexual performance much; even castration has very variable effects on sexual activity in monkeys. Kolodny himself is cautious about drawing implications from his results. In a public discussion, he mentions that two of his subjects on the research ward increased their testosterone levels up to 50% by lifting weights; he also admits that making a judgment about effects of testosterone depletion from a test taken once a day is like judging a person's behavior from snapshots taken once a day. Even after the reported decline, he found no testosterone



levels that could be called subnormal; he concludes that the sexual effects in normal adult males would probably be negligible, but is more apprehensive about effects on prepubertal and pubertal males and on fetal sex differentiation (Kolodny, 1975). In any case, Kolodny did not control for the effects of incarceration, and locking up men apart from women for a month or more might be expected to lower their sex hormone levels whether or not they smoked marihuana. However, Kolodny also found decreases in both testosterone and luteinizing hormone as an acute effect of a single marihuana cigarette. He states that the significance of these acute changes is unclear and recommends further investigation of the endocrine effects of marihuana (Kolodny et al., 1976).

#### IMMUNE RESPONSE

The effects of marihuana smoke and cannabinoids on immunological defenses constitute an unusually difficult research issue. Neither the reliability of the available measuring techniques nor the proper way of interpreting the results is agreed upon. Procedural variations in experiments alter the results, and retrospective design makes their significance questionable. Nothing certain can be extracted from the conflicting results of various studies. However, it is not too misleading to summarize as follows: Most evidence suggesting impairment of immune response by cannabis comes from test-tube research; the impairment has not generally been confirmed by *in vivo* studies (Silverstein and Lessin, 1976) and as far as we now know does not increase susceptibility to infectious diseases or cancer in human marihuana users. It is not clear whether the damage to lymphocytes observed in experiments is caused by an ingredient peculiar to marihuana, as opposed to tars or other substances present in the smoked material; and the clinical significance is doubtful in any case, since the body has a great deal of reserve lymphocyte capacity. A recent review of "Marihuana and Immunity," after discussing in highly technical detail the methods used to examine cells for this purpose, concludes that nothing substantial has been proved (Munson, 1975). Further information will require prospective studies and possibly full-scale epidemiological surveys.

#### CHROMOSOME DAMAGE AND FETAL DEFECTS

Assertions like the contention that marihuana causes violence or is a stepping-stone to heroin are easy for the user to evaluate and repudiate. The suggestion that it causes chromosome damage in reproductive cells of a kind that might lead to birth defects is very different and much more frightening, because it represents the insidious unknown. So studies by Stenchever and his associates reporting chromosome breaks in leucocytes caused by marihuana aroused great interest and apprehension (Stenchever and Allen, 1972; Stenchever et al., 1974). But closer examination of this work and further studies have revealed that marihuana users have very little reason to worry about genetic damage. A recent review of the literature by Steven S. Matsuyama concludes, "In summary, the available cytogenetic data provide no definitive evidence for chromosome damage as a result of marihuana use." (Matsuyama, 1975, p. 23) In the same symposium, Arthur Falek states, "At present, genetic findings in drugs of abuse including marihuana are open to question . . . Possibly the equivocal findings are due to the relatively gross methods of analysis now employed." (Falek, 1975, p. 12) In the discussion following these papers, Stenchever himself in effect endorses these conclusions (Stenchever, 1975), which are also echoed by the Fifth Annual Report of the Secretary of Health, Education, and Welfare on Marihuana and Health.

Two characteristics of studies associating marihuana with genetic damage make them questionable: they are based on examination of body cells (not even reproductive cells in particular) rather than on observation of actual fetal abnormalities; and they are all retrospective, so that it is impossible to separate the effects of marihuana from other factors. The relationship between chromosome breaks in body cells, or even reproductive cells, and genetic defects is uncertain. Many chemicals besides cannabis constituents, including aspirin and diazepam (Valium), cause such breaks. Chromosome breakage in non-reproductive cells or chromosome breakage that merely creates a nonviable cell and does not lead to a rearrangement of working genetic material is clinically of little importance. But even on their own terms cell studies do not

support the suggestion that cannabis causes genetic abnormalities. Although there may be methodological deficiencies in their work, Rubin and Comitas report no chromosome abnormalities in Jamaican users (Rubin and Comitas, 1975, p. 85); and recent prospective studies on both animals and human beings have shown no chromosome differences between cannabis users and controls (Nichols et al., 1974; Matsuyama, 1975). The rule here as in other areas of marihuana research seems to be that if we either analyze another culture where heavy marihuana use is not considered deviant or abandon retrospective design in studying our own culture, we find no evidence of health hazards.

#### PULMONARY FUNCTION

The only well-documented common adverse effects of prolonged marihuana use are attributable to residual substances in the smoke rather than to the drug itself. Rubin and Comitas found that smokers had a lower postexercise bicarbonate level and reduced lung capacity; they concluded that smoking causes a mild functional hypoxia in body tissues (Rubin and Comitas, 1975, pp. 85-101). Donald P. Tashkin and his associates found a "mild but statistically significant airway obstruction" after 47 to 59 days of heavy smoking. Eleven of his 28 subjects smoked marihuana daily before as well as during the experiment, but none reported coughs, wheezing, or chest illness. Even at the end of the experiment, pulmonary function was still in the normal range (Tashkin et al., 1976). Tobacco smoking has similar effects on the lungs; but they are probably more severe because tobacco does not dilate the bronchi like tetrahydrocannabinols, and also because heavy tobacco users smoke much more than even the heaviest marihuana users.

There is no convincing evidence that chronic use of cannabis does serious damage to the body or the mind. Even a relatively conservative group of authorities like those who participated in the symposium headed by Jared R. Tinklenberg on Marihuana and Health Hazards in 1975 had little ill to speak of it. The question remains whether some pathology has been ignored either because it is too subtle to be detected even with modern laboratory techniques or because it is too rare to be uncovered without full-scale epidemiological analysis. The samples in the Jamaican, Greek, Costa Rican, and other research, it is said, were too small to reveal the kind of association represented by the relationship of tobacco smoking to lung cancer; a prospective study on a much larger scale is needed before we can give marihuana a clean bill of health (something which no other drug or medicine has achieved). It has been estimated that this would require at least \$2,000,000 and five years (Maugh, 1976).

The never-ending call for more research before making policy changes is wearily familiar to advocates of legalization. It can be answered in two ways. First, the chances are poor that we will find out something new and important. Usually a large-scale study is undertaken because some unexpected correlation has been noticed, for example between mothers' use of DES during pregnancy and daughters' vaginal cancer. If marihuana had some such effect, we would probably have a hint of it by now. The search for damaging effects of marihuana has been more like a fishing expedition than an attempt to validate a causal connection with an observed clinical abnormality. No one can prove that if we search long and hard enough we will not find a relationship between marihuana use and some disease or deficiency, but there are more important uses for our medical resources, including those devoted to the study of marihuana.

The second and more important answer is that although continued research will undoubtedly be of value, the cry that we don't know enough yet should no longer be used as an excuse for delay in the matter of legalization: we do know enough about the disastrous effects of present policies. If we balance the concrete, immediate, and substantial harm caused by the present punitive, repressive approach to marihuana against some dubious and nebulous possible cumulative effect of legalized marihuana use, it should be obvious where the weight falls. There is a *prima facie* case against any such restrictions on liberty, and the case here is a particularly strong one. Let advocates of prohibition continue to try to prove that some effect of legalized marihuana would be worse than the effects of criminal penalties for its use, but let the burden of proof be on them. Possibly even this way of posing the question grants too much to the prohibitionists. Decriminalization has not caused any

increase in the use of marihuana in Oregon, and it is doubtful that full legalization would make any more difference. So there may be nothing at all to balance against the disadvantages and injustices of prohibition.

Since legalization of marihuana would not do any obvious harm and possibly would not even affect the rate at which its use is increasing, there seems to be little reason for opposing it. But reason has had limited influence in this matter. Past crusades against marihuana were often the expression of displaced anxiety, projection, and cultural factors that had nothing to do with the effects of the drug itself (Grinspoon, 1971, pp. 331-343). In milder forms, these prejudices remain. For example, Dr. Robert L. DuPont, Director of the National Institute on Drug Abuse, who now favors a civil fine for possession and continued criminal prosecution of bulk traffickers, is quoted in an interview in *Science* as warning that marihuana is dangerous because it represents "the leading edge of change in drug-using behavior" (Maugh, 1976, p. 648). This is either a nonsequitur stating that marihuana use should remain illegal because it is becoming more common; or a revival in modified form of the discredited stepping-stone hypothesis; or, more likely, simply an expression of the kind of vague anxiety that should not be influencing policy. There is also some feeling that legalization would be bad because it would imply official endorsement of marihuana use, as though, after all these years, potential marihuana users are likely to change their attitudes to conform to what they believe is official approval; if anything, it might make them suspicious. Besides, legality would not imply endorsement in the case of marihuana any more than it does in the case of tobacco or alcohol. Again, it is the emotional symbolism involved rather than any anticipated actual effects of legalization that gives this kind of argument what weight it has.

Rigorously impartial scientific investigation is important to counteract the prejudice and irrationality that have characterized much of the debate about marihuana, but this impartiality should not be allowed to degenerate into a false objectivity that declares it unscientific to make policy recommendations. We must take the scientific conclusions where they lead us as citizens, and stop the increasingly unjustifiable persecution of marihuana users.

#### MEDICAL POTENTIAL OF CANNABIS

Cannabis derivatives have a long medical history that has been largely forgotten over the last forty years in the West. They are important in folk medicine in the West Indies, South America, the Near East, and India and were the subject of great professional interest in Europe and the United States from 1840 to 1900. Use of cannabis declined when apparently more reliable drugs were introduced, but even in 1937 there were 28 preparations containing it in the U.S. Pharmacopoeia; it was removed in 1941, after legal difficulties imposed by the Marihuana Tax Act of 1937 made it nearly impossible to use. Memories are so short that in 1967 a Journal of the American Medical Association position paper could declare that "Cannabis (marihuana) has no known use in medical practice in most countries of the world, including the United States." (Grinspoon, 1971, p. 227) Now that some of the bars to clinical research are down and the past of cannabis as a medicine is being recalled, its future is very promising.

In the nineteenth century cannabis was used most often as a sedative-hypnotic and analgesic. For example, Dr. R.R. McMeens, reporting on the findings of a Committee on Cannabis Indica to the Ohio State Medical Society in 1860, declared that it deserved a place next to opium as a hypnotic; it was less reliable and less intense in its effects, but disturbed digestion and appetite less and produced a more natural sleep (Grinspoon, 1971, p. 219). Dr. J.R. Reynolds in 1890, summarizing thirty years of experience with cannabis, recommended it especially for senile insomnia; and in 1891 J.R. Mattison expressed his preference for it over the increasingly popular "modern mischief-maker, hypodermic morphia," as a safe hypnotic. Cannabis was also used as an analgesic in childbirth, tetanus, facial neuralgia, rheumatism, and especially migraine. Mattison calls this its most important use and states that it not only relieves the pain of migraine but prevents attacks; Sir William Osler also regarded cannabis indica as the most satisfactory remedy for migraine (Reynolds, 1890; Mattison, 1891; Osler, 1913, p. 1089). Their data and arguments are so convincing that it seems particularly unfortunate that migraine

sufferers today are not permitted to use it therapeutically. A recent double-blind experiment has confirmed that smoking marihuana heightens pain tolerance. (Milstein, 1975); and paraplegics in a V.A. hospital have reported some relief of phantom pain, spasticity, and headache (Dunn and Davis, 1974). Delta-1-tetrahydrocannabinol at the level of 15 mg has been shown to relieve the pain of cancer patients, by an action that seems to be distinct from its sedative and euphoriant effects (Noyes et al., 1975). Hypodermically administered opiates and then synthetic analgesics like aspirin and hypnotics like barbiturates took the place of cannabis; now that the dangers and disadvantages of these drugs are clearer, and cannabis preparations of more consistent quality are available, consideration of cannabinoids as sedative-hypnotics and analgesics is a better idea than ever.

Cannabis has also been investigated as an antidepressant since the middle of the nineteenth century; the research, usually uncontrolled, has produced mixed results and conflicting contentions. The few controlled studies have not shown cannabis to be effective in cases of moderate to severe depression. For example, delta-1-tetrahydrocannabinol at 0.3 mg per kg administered twice daily to depressed patients for a week in a double-blind experiment produced no mood change (Kotin et al., 1973). But THC proved to be an effective mood elevator and tranquilizer in cancer patients receiving chemotherapy (Regelson et al., 1976).

Cannabis has been recommended for the relief of symptoms of opiate and alcohol withdrawal and as a benign alternative for alcoholics and addicts. Mattison called it the best treatment for delirium tremens and also used it as a substitute for morphine in addicts (Mattison, 1891). Drs. S. Allentuck and K.M. Bowman, in a 1942 study of 49 cases, found that cannabis alleviated opiate abstinence symptoms and enabled patients to return to work sooner (Allentuck and Bowman, 1942); L.J. Thompson and R.C. Proctor reported similar results in 1953 from the use of a synthetic cannabinoid in treating alcohol, barbiturate, and opiate withdrawal symptoms (Thompson and Proctor, 1963). More recent research also indicates that marihuana may be useful in therapy for alcoholics (Rosenberg, 1975). There may be some people who cannot avoid dependence on a drug but are able to substitute one drug for another; in these cases a cannabis habit would unquestionably be preferable to an alcohol or opiate habit. It has in fact been suggested that ganja in Jamaica provides protection from alcoholism and its consequences (Rubin and Comitas, 1975, pp. 155-156, 163).

Cannabis has also been proposed as an adjunct to psychoanalytically oriented psychotherapy, but it is doubtful whether the patient's heightened sense of insight and communication is conveyed to the therapist. Nevertheless, the drug might be useful in promoting fluidity of associations.

The medical literature on cannabis as an anticonvulsant begins as early as O'Shaughnessy's report from Calcutta in 1839 but has been sparse since. In 1949 J.P. Davis and H.H. Ramsey, in an experiment on five institutionalized grand mal epileptic children, found that two tetrahydrocannabinol congeners were as effective in three of them as the usual treatment of phenobarbital and diphenylhydantoin (Dilantin) and more effective in two; one became entirely free of seizures (Davis and Ramsey, 1949). A more recent clinical report describes a patient who needed marihuana as well as phenobarbital and Dilantin to control his epileptic seizures (Consroe et al., 1975). Both delta-1-tetrahydrocannabinol and cannabidiol, a non-psychoactive constituent of cannabis, raise the threshold of convulsive reaction to electric shock in mice (Karler, 1973).

It is universally reported that cannabis stimulates appetite, so it would presumably be useful in any illness where appetite loss is a problem and especially in the symptomatic treatment of anorexia nervosa. It is disappointing, although not surprising, that psychiatrists have not yet systematically experimented with marihuana or cannabinoids in treating this syndrome; they should certainly consider it.

The subject of marihuana as a treatment for glaucoma reached the newspapers recently, when a victim of that disease petitioned for the right to smoke it after being arrested for possession; his lawyer stated that he needed it to save his sight (Johnson, 1976). Experiments show that a dose-related, clinically significant drop in intraocular pressure lasting several hours is produced by smoking marihuana and by oral or intravenous delta-1-tetrahydrocannabinol in

both normal subjects and those with increased ocular tension. The effect seems to be specific to THC and other cannabis constituents rather than a consequence of general euphoria and sedation; diazepam, for example, does not produce it (Hepler and Frank, 1971; Hepler et al., 1976).

Another possible use of marihuana is suggested by its bronchodilator effect. Vachon and his associates found that smoked marihuana reversed the bronchoconstriction of asthmatic patients for hours (Vachon et al., 1973). Tashkin and his associates, in a controlled study, determined that "Inhaled delta-9-THC [delta-1-THC, in the notation we prefer] (in the form of marihuana) causes a prompt, complete, and sustained reversal of methacholine-induced bronchospasm and correction of the associated hyperinflation" in asthmatics (Tashkin et al., 1975, p. 382). They doubt its therapeutic usefulness because of the psychoactive effects and possible airway obstruction from chronic use. Aerosolized THC may be preferable to marihuana in treating asthma because it does not contain the terpenes and other irritants in marihuana smoke.

If the results of Harris and his associates in experiments on mice are confirmed, cannabinoids may even have some use in the treatment of cancer. They found that oral delta-1-THC, delta-6-THC, and cannabinal reduced the size of lung tumors and lengthened survival time by a quarter to a third. Delta-1-THC also inhibited the growth of one kind of leukemia virus. The authors conclude that cannabinoids may be antineoplastic because they preferentially inhibit RNA and DNA synthesis in tumor cells (Harris, et al., 1976).

But probably the most promising use of cannabis in cancer treatment is as an antiemetic for patients undergoing chemotherapy. In a study using placebo controls, oral delta-1-THC prevented vomiting in fourteen of twenty cancer victims who were refractory to conventional antiemetics; the dose was 15 mg every four hours (Sallan, 1975). Since cannabis also reduces pain, sedates, tranquilizes, and stimulates appetite, it might be helpful in many ways to these patients.

The greatest general advantage of cannabis as a medicine is its unusual safety for a drug with such powerful effects: no addiction, no tolerance, extraordinarily high ratio of lethal to effective dose, practically no disturbance of vegetative functions or organ toxicity. The main disadvantages are deterioration in potency over time (about 6% a year), insolubility in water, and difficulty in penetrating the bloodstream from the gastrointestinal tract. It should be possible to overcome these problems by the use of suitable production and storage techniques or by producing synthetic cannabinoids; water-soluble cannabinoids that lower blood pressure have been synthesized, and other synthetic congeners may be found to serve particular medical purposes.

Recreational use of cannabis has affected physicians' opinions of its medical potential in some irrational ways. When marihuana was regarded as the drug of blacks, Mexican-Americans, and bohemians, doctors were ready to go along with the Federal Bureau of Narcotics, ignore its medical uses, and urge prohibition. The results of this alliance are incorporated in the Controlled Substances Act of 1970, which governs federal policy on psychoactive drugs; it places cannabis and its derivatives in Schedule I as drugs with a high potential for abuse and no current medical use. Now that marihuana has become so popular among middle-class youth, we are more willing to investigate its therapeutic value seriously; recreational use is now spurring medical interest instead of medical hostility. Whatever the cultural conditions that have made it possible, there is no doubt that the discussion about marihuana has become increasingly sensible. We are gradually becoming conscious of the irrationality of classifying this drug as one with a high abuse potential and no medical value. If the trend continues, it is likely that within a decade marihuana will be sold in the United States as a legal intoxicant. Even before that cannabis-derived compounds, possibly in the form of synthetic homologues of the natural cannabis constituents, will be available to physicians as prescription drugs.

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Mr. RANGEL. I now ask Mr. Joseph from Playboy Foundation to proceed.

**TESTIMONY OF BURTON JOSEPH, EXECUTIVE DIRECTOR, ON BEHALF OF PLAYBOY FOUNDATION, INC.**

Mr. JOSEPH. Mr. Chairman, and gentlemen, over lunch I misplaced the remarks I was going to give, but I see Keith Stroup and Dr.



Grinspoon found my prepared statement, and they gave it to the committee, so I'll keep my remarks exceedingly short.

I urge the committee to recommend decriminalization of the use and possession and accommodation sale of marihuana, for a number of reasons.

It has been said, by Mr. Stroup and other witnesses before this committee, that the law—the Federal law—although on the books and imposing criminal sanctions, is not enforced to any significant degree, if at all. I submit that that is the first reason, and a compelling and a prevailing reason as to why decriminalization should be accomplished. Because law that is neither enforced nor enforceable demeans the institution of law itself, and it affects the attitude of people toward the law generally, and toward the criminal law in particular.

What is the purpose of a law that is neither enforced nor enforceable? I think it is exceedingly valuable for this committee to consider decriminalization as an impetus, as a standard for the States to follow. Because in my position as a practicing attorney, I have an office in both Chicago, Ill., and in San Francisco, Calif., and am admitted to practice before the supreme courts of both of those States. I know from that position, and from my position as the director of the Playboy Foundation, that the laws involving the use and possession of marihuana are quixotic in enforcement, are a denial of equal protection of the law—perhaps not in a legal sense, but at least in the social sense, where the enforcement and where the penalties vary substantially from community to community within the State, and from State to State within our Nation.

I think therefore, that it is important and compelling that this committee take the lead toward decriminalization to remove one of the elements that, more than anything else, breeds disrespect for the law. And that is, the unequal application of the law from place to place.

I don't have to go into detail as to the cost that marihuana enforcement incurs, or what the money could be used for in terms of our criminal justice system. Other witnesses and data available to this committee I think persuasively attest to that.

I think, though, that without regard to whether marihuana may be harmful, there are many substances that are harmful that we ingest. We cannot pick up the newspaper on any day without a ruling by the Federal Food and Drug Administration, by the Institutes of Health—overeating, cholesterol, cigarettes, any number of substances that we ingest in our body may be harmful, or have the potential for being harmful.

What I think I find objectionable—and that this committee should find objectionable—is the use of criminal sanctions to discourage the use of substances that may be harmful to us.

I think our society is based upon the assumption that everybody should be able to make that kind of judgment for themselves.

Now the chief counsel to the committee has asked me as a practicing lawyer, to speak about the practical application of civil penalties.

In that regard, I would like to make a couple of comments: The first is, to correct an impression I think that Congressman Mann made, when he said: "What is the difference between treating this

as a traffic violation, because traffic violations are criminal, in themselves."

In the States in which I practice, and from my understanding in most States of the country, traffic violations are not criminal statutes at all, but are in the nature of actions to collect a debt. They arise from the common law action of indebitatus assumpsit, and they are not criminal penalties. They do not follow criminal rules of procedure. They do not require proof beyond a reasonable doubt; but are really actions to recover a civil fine.

I was asked by the counsel to the committee to comment upon the problem of what happens if somebody is given a citation for a civil penalty, and that person sees fit to ignore the citation.

My answer to that is that it could be treated, as I envision decriminalization, in civil penalties in the same way traffic citations are treated under similar circumstances. There can be penalties, not for the substantive offense, but rather penalties for ignoring the summons into court on the civil penalties.

I think there should be a variety of options available to a judge that hears these cases. If you're dealing with a youngster, I don't think mandatory minimum fines are appropriate. I think that there should be options available: drug education programs, fines, probation, or other kinds of sanctions. But it seems to me that continued use of the criminal law, when it is rarely imposed, where it is quixotically imposed, and where it is an inappropriate remedy for the harm that is perceived, is an improper response to what we perceive as a problem.

I personally know of innumerable instances where the enforcement of marihuana laws is, when enforced, criminogenic, because of the examples that I set forth in my statement: the use of people caught in the process to be informers, to be used as the basis of entrapment for other people who may or may not have committed a crime, except for the fear of the consequences of their own arrest.

So, for these, and all the other compelling reasons, that Keith Stroup enumerated, and the other witnesses this morning, I would urge upon this committee to be leaders to set an example for the States to follow, and to decriminalize the use and possession, and accommodation and sale of small amounts of marihuana.

Thank you for giving me the opportunity to make these remarks.  
[Mr. Joseph's prepared statement follows:]

PREPARED STATEMENT OF BURTON JOSEPH, EXECUTIVE DIRECTOR OF THE  
PLAYBOY FOUNDATION

"I am writing to you hoping that you would be able to help me gain the relief I am seeking in this matter. I am an inmate of the Texas Department of Corrections currently serving a 20 year sentence for an offense of marijuana. I was convicted on a plea of guilty to a sale of ten (10) marijuana cigarettes (3.72 grams). This sale was to a DPS (Department of Public Safety) narcotics agent and was my first offense of dealing in drugs. . .

This is an extraordinarily long time to be punished, to be denied my freedom, and to be away of my dear beloved ones for such a petty crime. . ."

Letter to the Playboy Foundation  
November 5, 1976

My name is Burton Joseph, and I am an attorney licensed to practice my profession before the Supreme Court of the United States, the Supreme Courts

of Illinois and California as well as other jurisdictions. Since 1970, in addition to maintaining the practice of law, I have served as the Executive Director of the Playboy Foundation which is a division of Playboy Enterprises, Inc., and is charged with implementing the editorial policy of Playboy.

The recommendation of this Committee and the action by the Congress of the United States in decriminalizing the use, possession and accommodation sale of marijuana would be of great symbolic significance in encouraging the several state legislatures to take decriminalization action. Essentially, the prosecution and incarceration of marijuana offenders is a state rather than a federal problem. Federal reform will undoubtedly have a salutary effect and would be an impetus to decriminalization on a state level.

This Committee has a plethora of data regarding the scientific aspects of marijuana use and its effect, if any, upon health and behavior. It also will undoubtedly hear from many witnesses and accumulate statistics regarding the incidence of prosecution and disposition of cases, the length of sentences, the cost in money and manpower to law enforcement, judicial and correction resources. I will not burden the Committee with reiteration of that material.

"I was arrested in Austin, Texas for possession of 21 pounds of marijuana. . . My lawyer advised me to plead guilty. . . The only facts the jury heard during the trial were that I was 18 years old, that I possessed 21 pounds of marijuana when I was arrested, and this was my first criminal offense. . .

The jury sentenced me to 25 years in prison. . . As things stand now, I will not be totally free from legal supervision until 1996. I will be 43 years old".

Letter to the Playboy Foundation

"Two years ago the police in . . . Ohio raided my home, searched there for four hours and came up with enough grass to make up approximately one joint. The charges: possession for sale (10 to 20 years) and maintaining a house for users (1 to 5 years). Although this was my first offense the judge ran sentences consecutively so I'm in for 11 to 25 years. I defy anyone to imagine what it's like to lose 11 years of his life much less 25 years, and tell me this is justice".

Letter to the Playboy Foundation

"Three men in a Louisiana jail beat another prisoner to death last June. Bond was set at \$1,000 for each man. My brother was arrested here for possession of a few marijuana plants; his bond was \$5,000".

Letter to the Playboy Foundation

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Letters such as the ones quoted in part above encouraged Playboy to take a strong editorial position on the issue of decriminalization of use, possession, and accommodation sale of marijuana, and to support the National Organization for the Reform of Marijuana Laws (NORML) from its inception to the present time. I have continually served as a member of the Board of Advisors of NORML, and I have worked closely with the organization to ameliorate the legal and social problems of persons accused of marijuana offenses.

Playboy has long taken an editorial position discouraging the use of marijuana and other drugs, and also has taken a strong position against the excesses of criminal enforcement. In light of the Playboy audience of up to 20 million people each month, most of them young, we have been recipient of hundreds, perhaps thousands of letters and calls from people involved in law enforcement problems related to marijuana.

I may be in a unique position to speak on behalf of the few persons who have become involved in the criminal justice process for no reason other than their personal use and possession of marijuana. Of the 30 million plus persons who have experimented with marijuana and of the 15 million who are estimated to be regular users only a small percentage have been caught in the random selection to be victims of these criminal statutes.

The laws prohibiting use and possession of marijuana are not viable statutes; they are not and cannot be enforced. They do stand as a symbol of harassment for the few—mostly young, mostly poor, and disproportionately from minority groups—who experience the personal tragedy of being branded a criminal, and living with its consequences.

When the President's Commission on Marijuana and Drug Abuse was conducting hearings I attended an informal session at the request of a member of the Commission. The purpose of the meeting was for a dialogue between

regular users of marijuana and members of the Commission and their staff. The users were not young, were not poor, and were not minority. They were successful professional people in Chicago who were voluntarily in attendance to relate personal experiences to the Commission and staff. There was in attendance the senior partner of one of Chicago's most prestigious and successful law firms; an editor of one of the city's leading newspapers; a partner in one of the city's largest advertising agencies; a physician and several other people who distinguished themselves in law, medicine and commerce, and by service to their community. One of the insidious effects of the enforcement of marijuana laws is its discriminatory application. The affluent, the prominent, the sophisticated almost never suffer the consequences of criminal penalties, but these hearings themselves would never have been conducted had not the use of marijuana spread from ethnic ghettos to middle class and affluent communities.

From my personal experience as an attorney whose office frequently handles the defense of persons charged with marijuana offenses and from my vantage point as Executive Director of the Playboy Foundation which receives a large volume of correspondence from a national constituency, certain things become clear:

a. The enforcement of laws dealing with marijuana vary greatly from region to region, state to state, and community to community within the state. The pervasive fact is that similarly situated offenders are treated in a grossly disparate manner. Decriminalization on a federal level would be a productive step in the realization of equality before the law by the example of decriminalization.

b. That the cost of marijuana investigation, prosecution, incarceration or probation is substantial. Law enforcement officers, states attorneys, judges, bailiffs, clerks, probation and parole officers and correction officers devote an enormous amount of time and effort to implementing the laws. In our communities where personal threat to safety, white collar crime, and violence are endemic one must ask: Are our limited law enforcement resources being devoted to problems of the highest priorities, and could the money being spent on enforcement of marijuana laws be more productively spent for the public interest?

c. The law enforcement officers frequently engage in demeaning and insidious activities which, under narrow interpretations of entrapment may not be illegal, but which certainly are offensive to our traditional sense of justice. I personally find this one of the most serious and harmful consequences of criminal laws relating to marijuana. I have personally been involved in many cases in which enforcement not only destroys personal, family, and peer relationships, but is also in itself criminogenic.

Time after time I have run into the following situation: A student is charged with possession of a small amount of marijuana. Being young, inexperienced with the law he or she is vulnerable to threats of long term incarceration on one hand, and suggestions of leniency in exchange for cooperation on the other hand. Cooperation means not only identifying friends and fellow students who may be in possession of marijuana, but to set-up a sale for the purpose of aiding law enforcement officers in an arrest. Frequently, the student then asks her or his friends and fellow students whether they have any pot available, and the criminal transaction is arranged. There is now another victim who is even more vulnerable than the first, who is again alternately subjected threats and promises and who, facing serious felony charges for sale, sets up further transactions (that may or may not have been made except for official encouragement and the self interest involved). The money, the contraband, and the plan are often provided by the law enforcement officers; officers who are dedicated to serve and protect the community. I cannot blame the law enforcement officers who are charged with enforcing the law by any legal means; I cannot blame prosecutors or judges who have sworn to uphold the law; I cannot blame legislators who enacted these laws based upon faulty information. I can, however, expect those who have present ability to do something about past abuses, who are in a position to ameliorate past injustices, and who have the compassion, sensitivity and interest to protect us from future abuse, and to take some action toward these commendable ends.

It is now almost universally recognized that laws relating to the use or possession of marijuana are sumptuary laws not based upon public safety, but rather upon an effort of one segment of the community to impose its moral and personal values upon another. Now law that provides criminal sanctions serves the public interest when only a small fraction of the violators are called to answer for their illegal conduct. No one would argue that you should not have a law against armed robbery because all armed robbers are not captured and convicted, but when millions of Americans are in technical violation of criminal statutes, and only a minute percentage will every be called to task for such violation, you have laws incapable of enforcement. This demeans the law and our institution of justice. St. Thomas Aquinas wrote about the "possibility of the law" and he commented that only laws that could be uniformly, rationally, and humanely enforced should be enacted. When a law is incapable of enforcement, when if enforced it would change the nature of our institutions of justice, and when it is fortuitously applied only to those unlucky enough to be caught within its grasp, it is far, far better that there be no such law at all. Such a law violates our instincts of fairness and equality.

In the great scheme of things, perhaps the world will not be much different if we decriminalize use and possession of marijuana, but for those individuals past, present, and future who are suffering the hardship and irrational consequences of such laws we have a duty to offer hope. It is my expectation that you will be leaders and innovators toward that end.

"Great ideas, it has been said come into the world as gently as doves . . . Perhaps, . . . if (you) listen attentively, amid the uproar of empires and nations, (you) shall hear a faint flutter of wings, the gentle stirring of life and hope". (Camus)

Mr. RANGEL. Mr. Joseph, you wouldn't extend that to removing the criminal sanction for the use of—the personal use of cocaine or heroin, would you?

Mr. JOSEPH. Consistent with my own view as to the responsibility of each person in our society to themselves my answer would be "Yes." I regret that that issue is involved in the issue before us—the decriminalization of marihuana.

Mr. RANGEL. It is not involved. I just asked.

Mr. JOSEPH. I think that, in the last analysis, if this is a social problem, if this is a public health problem, there is some more effective way to deal with that other than the use of the criminal law. And it seems to me that the money, and the resources in terms of personnel and in terms of dollars, in the arrest, prosecution, adjudication, and incarceration—

Mr. RANGEL. Are you talking about heroin, now?

Mr. JOSEPH. Well, it seems to me that that money would be better spent in alternative programs for not only the marihuana user but for the cocaine and even the heroin user.

Because I don't think the criminal law is an appropriate vehicle to change what it is perceived to be—a social problem.

Mr. RANGEL. Do you share that view, Mr. Stroup?

Mr. STROUP. Yes, I do, Mr. Chairman. The organization I work with—and I want to make sure that's understood—does not address other drug issues.

We were set up 7 years ago for the specific purpose of trying to build a coalition of individuals and organizations that favor marihuana decriminalization. We have been very careful to do that, and to do only that.

Individually, I've become somewhat of a libertarian; the experience I've had with this organization has taught me to be very cautious when looking to the criminal justice system to solve social problems.

I would never suggest, under any conceivable circumstances, that we should ever, for example, legalize cocaine, heroin, drugs like that, if by "legalize" we mean set up a legally regulated market. I would be unalterably opposed to that. But I do not believe we should treat any drug user as a criminal, period. I don't think it matters what the drug is; if the drug is dangerous, then let's find an effective way to respond with a medical response.

Mr. RANGEL. Mr. Chairman.

Mr. WOLFF. I think there were others here before me. I would yield my time.

Mr. RANGEL. Mr. Beard?

Mr. BEARD. I would yield my time.

Mr. WOLFF. I would yield to Mr. Rogers.

Mr. ROGERS. Yes; I would ask a question. I do have a committee I must go to. I was not sure of what you thought would be a proper amount—say if a bill were to be passed to allow personal possession. You say a "small amount," that is politically possible. What would that be?

Mr. STROUP. Mr. Rogers, if the choice were really ours to make, we would suggest the Alaska system. As I think you know, in Alaska there is no quantity limitation as to the amount you're allowed to possess. It is a factual determination. If the court and prosecutor determine that the amount you have is likely for resale, then they're going to bring criminal charges.

Mr. ROGERS. Does this give much assurance to people, though?

Mr. STROUP. I recognize that would be a difficult legislative plan. It was adopted in Alaska, but it was a court decision. I recognize that you gentlemen have to respond to your constituencies.

I would think that the 100-gram limit chosen by Ohio is a realistic limit. I would think anything less than 3½ ounces is clearly a consumer offense.

Mr. ROGERS. You still would maintain the heavy penalties for trafficking in amounts above that?

Mr. STROUP. That's correct, Mr. Rogers, although I would caution this: I think we do have to differentiate between what we call the "accommodations seller" versus the "commercial trafficker." And by that I mean, the 18-year-old example I gave you. There are many of those examples of young people, and sometimes not-so-young people, whose only offense is basically that they buy marijuana in a quantity, say, of 4 ounces, and they share 2 ounces with a friend. Well they can't always afford to give that marijuana away, so they charge whatever they paid. That should not, I think, be a serious offense.

But we're not suggesting you should decriminalize larger amounts, nor that you should decriminalize commercial sale.

Mr. ROGERS. I notice, too, in Oregon you referred to, they passed it, but for less use. Now that doesn't seem to be indicated—and I know this doesn't necessarily prove "use"—but the arrest records show some increase of 41 percent.

Mr. STROUP. I would counter that with what we have, which are actual statistics.

Mr. ROGERS. Well these are statistics.

Mr. STROUP. Those are seizure and arrest statistics, not usage statistics. And as both you and I know, any law enforcement agency

in the country can raise seizure records simply by spending more money.

Mr. ROGERS. But how do you get valid "user" figures? Do you go out and ask people: Have you ever used it?

Mr. STROUP. No, I don't ask them that; but the Drug Abuse Council does.

Mr. ROGERS. Well how do you find out?

Mr. STROUP. The Drug Abuse Council issues statements once a year on the progress in Oregon, and I've submitted those attached to my statement.

Now what they've shown is not a decrease—I don't want to represent that. They have not shown a decrease. They have shown an insignificant increase. I think it is 3 percent over 3 years.

Mr. ROGERS. What about Alaska?

Mr. STROUP. There have not been any user statistics. And I realize you gentlemen heard from the chief of the State police in Alaska.

Mr. ROGERS. He said there was.

Mr. STROUP. I must say that—and I think you probably know it, but for the record—the people you invited from Alaska are the same people who fought to defeat that bill when it was being considered.

Mr. ROGERS. And now we've invited you. And you're fighting tooth and nail the other way.

Mr. STROUP. What I'm suggesting is: I wouldn't go to the chief of the State police to ask whether there's been an increase in usage.

Mr. ROGERS. Well, we go to the users to find out if they're using it.

Mr. STROUP. No you don't go to the users; you go to surveys. You do investigative surveys.

Mr. ROGERS. Where do they get the information—the surveyors? From the users?

Mr. STROUP. But they're not anecdotal accounts from chiefs of police. They are sophisticated surveys.

Mr. ROGERS. "Sophisticated?" How many people are going to want to admit they use it? They may not. I'm not sure of the validity of any of the figures, so I'm not sure that we can say precisely what has happened. That is my point.

Mr. STROUP. I accept that point.

Mr. ROGERS. Thank you.

Thank you, Mr. Chairman.

Mr. STROUP. Congressman Rogers, before you leave could I just suggest this:

We are here before this Select Committee, when in fact the constituency I work for wonders why your committee has not scheduled hearings on the two decriminalization bills now before us. We have had those bills pending for 4 years and have not yet had committee hearings.

Mr. ROGERS. Well, for a number of reasons. As a matter of fact, we have many health problems that we are having to give some priority to that cure health, not bring on additional problems. That is where we have given priority, in the first place.

Second, I think you might approach the Senate side. I haven't seen you make much effort there.

Mr. STROUP. We had hearings there last session.

Mr. ROGERS. I haven't seen any action, yet, and it might be well, I think—in other words, I don't think there is any point in our going through an exercise over here until the Senate has some action.

Why don't you get some action there, and then we will consider it.

Mr. STROUP. My response is: Senator Birch Bayh held hearings on marihuana decriminalization in this last Congress.

Mr. ROGERS. I didn't see any bill passed.

Mr. STROUP. But you didn't even hold hearings on the House bill.

Mr. ROGERS. It wasn't necessary; there wasn't any bill from the Senate.

Mr. STROUP. Couldn't you originate the bill in the House?

Mr. ROGERS. We've been busy on other health matters that can improve peoples' health, and as soon as you get some action in the Senate I'm not adverse to taking a look at it.

I don't want to go through an exercise that will do no good.

Mr. Wolff. Basically, this committee was created because other committees of the House that are responsible for specific areas of legislation, because of their schedules, have been unable to address various problems that exist—and I refer to the Judiciary Committee, the Interstate and Foreign Commerce Committee, Ways and Means.

What we are attempting to do is to stimulate the interest in the problems and to attempt to coordinate the activities of the various committees that are involved.

We intend to turn over the results of this committee's hearings to both Mr. Rogers' committee, as well as the Committee on the Judiciary.

From that point on it is their respective jurisdictions to make a determination. However, when you indicate that hearings have not been held, that is the exact purpose of this committee, to bring the issues succinctly before the legislative committees and the House.

When you hold a hearing before a specific subcommittee of the House, it does not mean you are going to get your message through to the entire House. We have the representation of a variety of the committees of the House here. And that is, I think, a great step forward.

Mr. STROUP. I would concede that it is a step forward, and we are appreciative of the opportunity for the hearing.

The problem we have, Mr. Chairman, is that the specific proposals to decriminalize marihuana have never been voted on by Members of the House of Representatives. And, since the Select Committee does not have direct legislative authority, one must assume these proposals will not yet be directly voted on.

As constituents, as proponents, we feel that elected officials should, by this time, be willing to take a position. Either you favor criminal penalties for us, or you do not. Right now you are not voting; you are "ducking," that is what you are doing.

Mr. ROGERS. Mr. Chairman, may I just respond to that?

The Congress did take a position, in lowering penalties. And perhaps the gentleman was not around at that time, but in the Controlled Substances Act, we made rather significant steps—which I have not heard you mention—in reducing penalties, considerably, from a felony down to a misdemeanor.

And furthermore, we also allowed a young person who might be experimenting to be on probation and have his record expunged.



So when you say the Congress has not been alert to some of the problems, I don't think that is entirely true.

Now also I think you've already heard the testimony from the Federal officials. What you are proposing won't change the impact of Federal law. They are not now doing that. It is all States.

So your proper remedy may well be the States where they are beginning to make some changes.

Mr. STROUP. And they're saying to us: Why hasn't Paul Rogers held hearings?

Mr. ROGERS. Tell them what I said.

Mr. STROUP. I will. [Laughter.]

Mr. ROGERS. It's good to hear from you.

Mr. RANGEL. Thank you, Mr. Rogers.

Mr. Beard, you're recognized for 5 minutes.

Mr. BEARD. Yes.

You opened your statement, Mr. Stroup, as Dr. Bryant has stated—he's one of the directors of your organization, that many people think that your organization is pro-marihuana. But, as he said, in his words: "I've found it not to be so. Its official policy is one of discouragement, not encouragement."

What exactly has your organization done, as far as "discouragement?"

Mr. STROUP. I think the most effective thing we have done for discouragement—and I will concede, to begin with, that we do not see that as our primary function; our primary function, we perceive, is to represent the constituency that has been wrongly criminalized now for 40 years.

So, our priorities are that before we worry too much about drug education in the schools, we would like to get out of jail. That is really our first priority. But we do do certain things.

For example, we sent out in the past year I would guess maybe 2,000 copies of the NIDA research on marihuana. Now that is not NORML research. That's not research that says marihuana is good for you. You people have the report; it says you should not smoke it. We have made that available to every State legislator that we can get to take it on the State level; we have sent it to you people on the Federal level.

So I would say that the discouragement that we have used is simply to try to get out accurate information about marihuana's potential for harm.

Mr. BEARD. Well in your reports on when you testified, you state that: The fact is that hundreds of researchers in this country and abroad who are studying marihuana, there are few who are simply antimarihuana. Their research always supports a preconceived notion.

Mr. STROUP. There are plenty who fit that category.

Mr. BEARD. All right, but do you ever mention the ones that should be considered legitimate? Dr. Brill, of the National Commission—the Commission's report. Do you ever mention that, as to the dangers that they report? Do you make that a part of your testimony? You did not today.

Mr. STROUP. Well, because of the fact that there are other eminent experts available, including Senators Javits—he was a member of that Commission. I think it would be a little arrogant of me to come in and tell people about the Commission.

Also, I did not deal much with the medical issue, because you had people like Dr. Grinspoon, who are much better qualified.

Generally in fact, the basis of our program is the Marihuana Commission Report. We have never attempted to say that, because a few marihuana smokers at NORML want the law changed, that you people should change it.

What we are suggesting is that you people are not following your own Study Commission. What you've done is spent a lot of money to find out about marihuana, and when the Commission came back and said it's not so bad and you ought to decriminalize it, you have ignored the report.

We're just suggesting you follow your own advice.

Mr. BEARD. Well I'm concerned with your interview—it's the accepted thing—in Playboy, with some of the things in this issue. "I think marihuana is harmless and should be legalized. Decriminalization is a kind of halfway step—a ceasefire."

The interviewer then asks: "But do you see legalization of marihuana at the end of the road?" And you replied: "Definitely. I expect the first stage to legalize within 5 to 7 years."

Mr. STROUP. I think that's true. I think the first States will begin to experiment with regulated systems, within 5 to 10 years. I don't personally, incidentally, favor that. I think it may be inevitable. My personal position is that I would rather have the companies kept out of it.

Mr. BEARD. But these are quotes from you. You also state that—

Mr. STROUP. Quotes from "me?" Or quotes from a publication. I think there may be a difference.

Mr. BEARD. These are quotes from Playboy Magazine.

You also stated, in the June 1976 issue of High Times—which I don't think is really—I don't think this magazine—and I would like—I just happened to have a few.

Mr. STROUP. I did not know you read it.

Mr. BEARD. It's fantastic.

Mr. JOSEPH. Congressman, quotations from Playboy are frequently taken out of context.

Mr. BEARD. The thing is, I don't see this as really discouraging the use of marihuana.

Mr. STROUP. Well that's not my publication, Mr. Beard.

Mr. BEARD. But do you receive any financial support from this publication?

Mr. STROUP. Yes, we received \$20,000 last year.

Mr. BEARD. Did you receive any financial support from RUSH, and other drug organizations?

Mr. STROUP. No; our budget last year was approximately \$300,000, of which we received \$20,000 from the High Times people; and I believe \$40,000 from the Playboy Foundation. The rest of our money was raised from individuals who joined the organization.

Mr. BEARD. It just concerned me when you said "I would favor an absolutely open market, with no age controls, no street controls."

Mr. STROUP. That's my position.

Mr. BEARD. "And, after legalization, I want to see a good market. I would like to have marihuana blends from a lot of different countries."

Well, the fact that you're the director, the top man of this organization, and are just coming out in all the different publications, to me to a large degree you are representing them. And I'd question the "discouragement."

I don't see, in any of your statements as to your admittance of having tried LSD and some other heavier stuff—

Mr. STROUP. Would you rather I lied about that?

Mr. BEARD. No; but I think it's important that you're opening statement about "discouraging"—I really have not seen any discouragement. I see no discouragement in almost any of the publications, or any of the materials, or any of the interviews that you have been involved in.

And I think that that is something that should be brought forth. As a matter of fact, I would like to submit, for the record, some of the advertisements by Mr. Stroup's organization in these 100 percent drug-oriented magazines. And I would like to submit those for the record—and I will wait until I have got some more time.

Mr. NELLIS. Is that in *High Times*?

Mr. BEARD. There are different advertisements in different magazines, and it is so indicated on each advertisement. And I know my bell rang, so I will wait until I can come back.

Excuse me, if there is no objection from the committee, we will have that put in the record.

[The interviews mentioned previously appear here; because of printing restrictions the advertisements cannot be reproduced here but may be seen in the committee files.]

#### STROUP INTERVIEW—PLAYBOY, FEBRUARY 1977

##### STROUP APPROVES FULL LEGALISATION OF CANNABIS

P. 154 "... I think that marijuana is substantially harmless and should be legalised."

P. 63 *Stroup*. (We should now "study . . . and analyse various potential legalisation models . . .")

*Playboy Interviewer*. "But you do see legalization of marijuans at the end of the road, don't you?"

*Stroup*. "Definitely . . . I expect the first states to legalize within five to seven years."

"For now we view such a change as premature. Our immediate goal is decriminalisation . . ."

P. 63 "Decriminalization is a kind of halfway step—a cease fire . . ."

P. 63 "I'd like to see non-profit corporations grow and sell legal marijuana, with the profits going to drug education"

Pg. 63 "Once legalization arrives . . . the goal will be to see that the marijuana user gets a fair deal."

"We need laws that permit the user to grow his own marijuana-private cultivation."

"What we do, once we get decriminalization, we go back the next year with a cultivation bill, or challenge the constitutionality of the cultivation penalties in the courts. We are doing that now in Oregon and California. The things we'll have to push for, once grass is legal and regulated are that the regulators provide a decent quality of marijuana, the price is fair, the place and hours of sale are reasonable, things like that."

"If marijuana must be taxed,—I'd like to see the money go for drug education and rehabilitation. We in the drug culture should admit there are casualties to drug use . . . We want legalisation without commercialisation."

##### PERSONAL USE OF DRUGS

*Stroup*. "I think South East Asian grass is the best in the world. There is grass coming out of . . . Hawaii . . . that is the best I've ever smoked . . ."

the people from High Times magazine brought some to the NORML conference last year . . ."

*Interviewer.* "You smoke a lot of marijuana. Why?"

*Stroup.* "Because its fun. Because I enjoy it . . . I smoke because it feels good, . . . But there's a second level at which you begin to have a better sense of awareness of yourself—Your place in the universe. . . . I think drugs can have very positive, emotional and philosophical benefits."

Pg. 20 "the first drug I ever used was amphetamines" "It was a dry county and some of us made money bootlegging, running whiskey in from Paducah" "I went to the University of Illinois . . . I spent the next couple of years discovering booze and women . . ."

Pg. 64 John (Finlator) and (Dr.) Dorothy (Whipple) . . . came back to my room and we all smoked grass.

Pg. 71 "The first time I smoked was in law school"

#### COCAINE—LSD, ETC.

Pg. 152 "I don't do cocaine much because its terribly expensive and the legal risk is incredible. It's *not* addictive . . ."

Pg. 154 "I've tried just about every drug except heroin" ". . . heroin is dangerous and addictive and should not be legalized." "Cocaine is an interesting drug to use occasionally"

*Interviewer.* "What about L.S.D.?"

*Stroup.* pg. 154—" . . . some friends and I experimented with hallucinogens and I have a great deal of respect for the whole hallucinogenic family—LSD, MDA, psilocybin and the others". . . . "I came to enjoy it as an intellectual pursuit."

Pg. 63 ". . . a dealer recently gave us two ounces of good Colombian to use at NORML's conference party."

Pg. 64 *Interviewer.* "who were some of your experts (that were made available to state legislatures by NORML)?"

*Stroup.* "Dr. Tom Ungerleider UCLA"

"Pat Horton—Oregon—District Attorney"

"Richard Sonnie Associate Director Marijuana Commission"

"Dr. Dorothy Whipple—Pediatrician"

"Dr. David Smith—San Francisco—Haight-Ashbury Clinic"

"Dr. Lester Grinspoon—Harvard University"

"Dr. Norman Linberg—Harvard University"

"John Finlator—Bureau of Narcotics"

*Interviewer.* "Do most of the people who are active in the reform movement smoke grass?"

*Stroup.* "Most do but by no means all. I've visited about 40 states, and smoked in all of them; often among young doctors, lawyers and legislators who are supporting reform."

#### POLITICS

*Interviewer.* "Keith, you've been lobbying for marijuana law reform for six and a half years. Eight states have abolished criminal penalties . . . ('some remarkable political achievements'—editor)"

P. 64 ". . . there are at least 13,000,000 regular smokers in America and NORML represents them politically. In publishing you have "High Times" "Rush" and "Head" all magazines directed to smokers that have reached mass circulation now."

*Interviewer.* "Let's talk about how NORML operates and what *you've done* to get laws changed,—you mentioned the 1970 Federal law lowering penalties."

. . . "The next milestone—was the National Commission of Marijuana and Drug Abuse in March of 1972. . . . (it) concluded that marijuana was relatively harmless when smoked in moderation, and that its use should be decriminalized."

"Oregon was the next milestone . . . In October, 1973 it became the first to decriminalize . . . we were surprised . . . We didn't expect them to move so quickly . . . Oregon gave us invaluable data . . . the Drug Abuse Council have shown that rate of smoking stayed the same (after the new law). So we began flying around the country to dozens of states armed with the marijuana commission report and the Oregon data . . . a kind of portable task force

experts . . . for state legislative hearings. . . . We quickly flew Dr. Ungerfelder and Horton to Alaska and they talked to the Governor and to the head of the state police . . . by the time they finished, the governor had decided not to veto the bill."

"Shortly after the bill passed, the Alaska Supreme Court upheld unanimously . . . (the) right of the individual to smoke and grow marijuana privately. The Court said *effects of marijuana on the individual are not serious enough to justify widespread concern at least as compared with the far more dangerous effects of alcohol, barbiturates and amphetamines*."

"NORML is now raising similar constitutional issues in a dozen Federal and State courts"

(In the California legislature) "on the first roll call we got only 38 votes . . . the bill was tabled until we could come up with three more votes"

Interviewer. "Was that when you went out to California?"

Stroup. "Yes, I spent three weeks there before the second vote was taken . . . The first thing I did was to contact some leading Democrats, some celebrities, some businessmen who smoke, some who'd given money to NORML in the past, and I made sure they called or sent a telegram to the Democratic leaders in the assembly . . ." etc. etc.

"We expect to have bills considered by at least 30 states this year."

#### "HARMLESS" CLAIM FOR MARIJUANA

"(Marijuana is) . . ." less damaging to your health than other drugs

"I think marijuana is substantially harmless"

"The National Commission on Marijuana and Drug Abuse . . . concluded that marijuana was relatively harmless when smoked in moderation."

". . . since the Marijuana Commission report in 1972, every reputable study has confirmed its findings about marijuana causing no serious physical or mental ill effects. This includes studies by Consumer's Union, the Drug Abuse Council, the National Institute on Drug Abuse and the U.S. Army."

#### PROPAGANDA AND OTHER PRESSURES

P. 70 "One of NORML's biggest jobs is to counter false and misleading statements about marijuana, particularly medical statements"

". . . if hundreds of researchers in this country and abroad who are studying marijuana, there are a few who are simply anti-marijuana. Their research always supports their pre-conceived notions.

"Almost all the studies prove to be inconclusive or misleading . . .

"We've had a lot of success in knocking them down and discouraging others"

"I had the idea of NORML . . . to stand for *Repeal* of Marijuana Laws . . . (Ramsey Clark) correctly pointed out (to me) that repeal was a scare word and that I could more accurately use *reform* (instead of *repeal*) still keep my acronym and sound like part of the traditional reformist movement this country has always supported.

#### FINANCING

P. 61 Editor. "1970—Playboy Foundation put up the money to start NORML . . . \$5,000 to start . . . (later) a commitment of \$100,000 for the next year."

P. 152 Stroup. ". . . when Playboy agreed to give NORML a free full-page ad in the magazine . . . we (then) received \$2,000 in cash."

"Altogether we raise and spend around \$300,000 a year.

"In 1975—\$130,000 from memberships; \$70,000 sale of shirts and stickers; \$50,000 Playboy Foundation; \$20,000 from High Times; \$20,000 lecture fees."

#### COCAINE

"The reforming of cocaine laws . . . I think its a legitimate issue."

#### ALCOHOL

P. 154 "I truly think that this country would be better off if the 100,000,000 people who currently drink alcohol would try marijuana."

## Stages in Adolescent Involvement in Drug Use

**Abstract.** Two longitudinal surveys based on random samples of high school students in New York State indicate four stages in the sequence of involvement with drugs: beer or wine, or both; cigarettes or hard liquor; marijuana; and other illicit drugs. The legal drugs are necessary intermediates between nonuse and marijuana. Whereas 27 percent of high school students who smoke and drink progress to marijuana within a 5- to 6-month follow-up period, only 2 percent of those who have not used any legal substance do so. Marijuana, in turn, is a crucial step on the way to other illicit drugs. While 26 percent of marijuana users progress to LSD, amphetamines, or heroin, only 1 percent of nondrug marijuana users and 4 percent of legal drug users do so. This sequence is found in each of the 4 years in high school and in the year after graduation. The reverse sequence holds for regression in drug use.

Although marijuana is usually considered as the first step in drug use, such a view is both arbitrary and inadequately documented (1). Previous attempts to ascertain sequences of drug use over periods of time have been inferential and based either on interrelations in patterns of use at one point in time, or on retrospective reports in which subjects are asked to recall what drugs they used in the past and the order in which they used them (2). Direct delineation of sequences of drug use requires prospective longitudinal studies in which the drug use histories of the same individuals are examined over a period of time.

I now present data from two longitudinal surveys based on random samples of high school students in New York State, and I find that drug use does not begin *de novo* with marijuana, but with legal drugs: beer or wine at first, and cigarettes or hard liquor subsequently. Some of the youths who smoke or drink continue on to use marijuana, and some of the marijuana

users progress further to use one or more other illicit drugs. On the basis of these data, I propose a model for involvement in drug use based on a sequence of four well-defined stages: beer or wine; hard liquor or cigarettes; marijuana; and other illicit drugs (3).

Data on sequences of use over time were derived from two longitudinal cohorts of adolescents: (i) a two-phase random sample of adolescents representative of public secondary school students in New York State, who were surveyed in their classrooms with the use of structured, self-administered questionnaires, in the fall and spring of one academic year at an interval of 5 to 6 months ( $N = 5468$ ); and (ii) the senior class members from the same 18 sample schools, who were contacted a third time 5 to 9 months after their graduation from high school ( $N = 985$ ) (4). At each of the three times, adolescents indicated (i) whether they had ever used and (ii) used within the past month, each of 14 legal and illegal substances. At times 2 and

3, adolescents were also asked about the use of each drug during the interval between the current survey and the preceding one.

The first suggestion of stages in drug use came from the earlier scalogram analyses of data from the first survey of the total high school sample (5, 6). The results indicated that adolescent drug use behavior fitted a valid Guttman scale (5, 6). The patterns of all the drugs ever used could be arranged according to a well-defined cumulative and one-dimensional hierarchical order with seven steps: (i) nonuse, (ii) legal drugs only (beer, wine, cigarettes, or hard liquor); (iii) cannabis (marijuana, hashish); (iv) pills (ups, downs, tranquilizers); (v) psychedelics (LSD, other psychedelics); (vi) cocaine; and (vii) heroin. Any response that deviates from this order is called an error. Thus, an error occurs when a respondent has used a drug ranked high on the scale (such as heroin), but has not used a lower ranked drug (such as pills). The scale had coefficients of reproducibility of .98 and of scalability of .64 (7). The fit of the data with the Guttman scale model implied that youths at any one step have used the drug at that particular level as well as all lower ranked drugs, but they have not used any of the higher ranked drugs. Since these earlier findings were based on data gathered at a particular time, no time order among the usage patterns could be established. Direct evidence for the existence of stages requires longitudinal data.

Although Guttman scaling has been used solely to rank responses at a single time, I have used it here for analyzing movement from one step to another during an interval of time. The power of the approach resides in the fact that Guttman scaling provides, for each respondent, a complete and unambiguous summary of cumulative patterns of drug use up to a particular point in time (or during a specified period). Therefore, it can clearly show subsequent progressions or regressions from these patterns, as well as the extent to which changes follow the cumulative steps specified in the scale, an important criterion for determining the existence of stages in drug use.

In each cohort, the patterns of all the drugs ever used by an adolescent at the time of the initial interview were defined in terms of the seven-step Guttman scale classification described above, and were related to the adolescent's subsequent pattern of use during the follow-up interval. Drug use in the interval was also classified in terms of a Guttman scale, independently of drug use patterns at the initial interview. Results for the total high school cohort (Table 1) are completely rep-

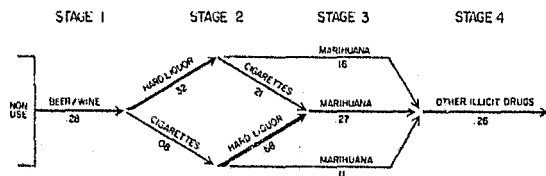


Fig. 1. Major changes of adolescent involvement in drug use. Probabilities of moving from one stage to another based on changes between fall 1971 and spring 1972 in a cohort of New York State high school students, 14 to 18 years old. Youths who started using more than one drug within the follow-up interval were distributed in a sequential order which reproduced the proportions of known exclusive starters of each drug.

licated in the cohort of graduated seniors (not shown). Data below the diagonal indicate progression; those above, regression. C<sub>i</sub> angles follow the steps outlined by the Guttman scale and tend to involve only adjacent categories. Progression follows the sequence from nonuse to legal drugs to cannabis to pills to psychedelics to cocaine to heroin. Among adolescents who regress, the same sequences are generally followed in reverse. Thus, illegal drug users do not regress directly to nonuse, but only to lower categories of illegal drugs or to legal drugs. The higher the starting level of use, the less the tendency to retain a cumulative pattern of use over time (Table 1). Of the youths (82 percent) who are still using heroin by time 2, more than half (23 percent) discontinued their use of some of the drugs at a lower step during the follow-up period.

Drug use starts with legal drugs, which are a necessary stage between nonuse and illegal drug use. A direct progression from nonuse to illegal drug use practically never occurs. Of those in the total high school sample who were nonusers in the fall (time 1), 36 percent progressed to legal drugs during the subsequent 5 months and 1 percent started to use legal drugs and cannabis. Only 1 percent of the nonusers went directly to illegal drugs without prior experience with a legal drug. The trends in regression are similar. Illegal drug users do not regress directly to nonuse, but only to lower categories of illegal drugs or to legal drugs. The same findings apply to the sample of graduated seniors.

Sequences of change involving adolescents in our samples who were already using legal drugs at the initial interviews demonstrate that marijuana use is a crucial step in the induction into illicit drug use. Within each of the follow-up periods, most of the legal drug users who progress go only to marijuana. Marijuana is a crucial stage prior to the use of other illicit drugs, such as LSD, pills, or heroin. Only 2 or 3 percent of the legal drug users in each cohort progress directly to these other illicit drugs without first trying marijuana (see distribution of error types in Table 1 for the high school cohort). By contrast, the further progression from marijuana to other illicit drugs is not rare: 26 percent in a 5- to 6-month period among the high school students (Table 1); 16 percent among the graduated seniors.

Because of the crucial role played by the legal drugs, and the large number of youths who have used these drugs (82 percent), we examined in detail the sequences of change over the follow-up intervals for each of the specific substances included in the legal drug classification. Exclusive users of legal drugs at time 1 were differ-

entiated into five groups according to whether they were currently (in the past 30 days) using only one of the three legal drugs, or any two in combination, or all three (Table 2). The majority of nonusers

who start using a legal drug start with beer or wine (8). Two to three times as many beer and wine users progress to hard liquor as progress to cigarettes. Furthermore, while more than half the cigarette smokers

Table 1. Subsequent drug use in the total high school sample grouped according to the initial Guttman patterns. Drug use in the follow-up interval between time 1 (fall 1971) and time 2 (spring 1972) is classified in terms of a seven-step Guttman scale, independently of drug use patterns at the initial interview.

Drug use between T1 and T2	Guttman pattern of drugs ever used as of fall 1971 (T1)						
	(i) None (%)	(ii) Legal (%)	(iii) Cannabis (%)	(iv) Pills (%)	(v) Psychedelics (%)	(vi) Cocaine (%)	(vii) Heroin (%)
True Guttman pattern							
(i) None	62	10					
(ii) Legal	36	79	19	11	8		
(iii) Cannabis	1	7	33	32	18	6	16
(iv) Pills		2	9	33	15	6	10
(v) Psychedelics			5	8	33	26	10
(vi) Cocaine				3	7	33	11
(vii) Heroin					1	1	19
Error*	1	2	11	12	18	28	34
Total percent	100	100	100	100	100	100	100
Total N	(482)	(2911)	(558)	(307)	(250)	(40)	(40)
Error* according to highest step in interval							
(iii) Cannabis			1				
(iv) Pills	1	1	3	3	4	6	
(v) Psychedelics		1	4	7	7	9	1
(vi) Cocaine			2	2	3	5	10
(vii) Heroin			1	4	5	23	
Total percent	1	2	11	12	18	28	34

\*Pattern of use does not follow the cumulative order of the Guttman scale; respondents did not use all the drugs below the highest-ranked drug they used. Summation of percentages of true Guttman scale types and those in error, for each drug listed in rows, shows the highest drug level at which adolescents with different initial patterns of use remained or to which they moved during the follow-up interval. For example, a total of 12 percent (9 percent + 3 percent) moved from cannabis at time 1 to pills at time 2.

Table 2. Subsequent use of legal and illegal drugs among previous nonusers and exclusive users of legal drugs in two cohorts of New York State adolescents. T<sub>1</sub> to T<sub>2</sub> represents the interval between the spring of 1972 and the winter of 1972-1973.

Period and use	Current use among exclusive legal drug users at initial surveys						
	Never used any (%)	Not current* (%)	Beer/wine only (%)	Cigarettes only (%)	Cigarettes + beer/wine (%)	Liquor + beer/wine (%)	Cigarettes + liquor + beer/wine (%)
New York State total high school panel sample: fall, 1971 (T1)							
T1 to T2							
None	64	51	13	22	1	1	
Beer, wine	30	78	83	44	93	94	97
Cigarettes	13	14	14	68	75	21	75
Liquor	10	56	33	32	68	88	90
Cannabis	2	5	4	16	16	11	27
Other illicit drugs	1	2	2	7	6	4	11
Total N	(467)	(694)	(731)	(70)	(356)	(429)	(342)
Graduated seniors panel sample: at end of senior year, 1972 (T2)							
T2 to T3							
None	58	58	14			4	2
Beer, wine	31	33	84		94	93	94
Cigarettes	6	38	14		81	19	76
Liquor	18	17	41		56	84	90
Cannabis	6		11		18	18	29
Other illicit drugs	2		2		6	2	4
Total N	(62)	(8)	(103)	(5)	(16)	(206)	(91)

\*Have all used cigarettes or hard liquor or both (Marijuana or hashish). †Includes 5 percent who were not currently using beer or wine (Methedrine, other amphetamines, barbiturates, tranquilizers, LSD, other psychedelics, cocaine, heroin).

subsequently start to drink hard liquor, a few of the adolescents who start hard liquor right after beer and wine subsequently start to smoke. No youths in either cohort progress from beer and wine to illicit drugs without also taking up hard liquor or cigarettes on the way. Progression to marihuana appears predominantly among adolescents who have already used tobacco or hard liquor; the effects of the two are independent and additive.

The types of changes and the sequences in patterns of change are strikingly similar in both cohorts and are found in all grades in high school, in both sexes, and are independent of family educational background and race (data not presented).

Although the data show a clear sequence in drug use, a particular drug does not invariably lead to other drugs higher up in the sequence. Many youths stop at a particular stage and do not progress further, many regress to lower drugs. However, the data do establish that patterns of use are likely to follow certain paths. Four stages in progression are diagrammed in Fig. 1. Estimates of the proportion of youths progressing through each stage are based on data from the high school cohort (9). The model in Fig. 1 is supported by the fact that few drug users proceed to a drug at a particular stage without first trying the preceding one. In addition, different factors are related to drug use behavior at each of the stages (10). These stages are probably culturally determined. The extent to which they are can be determined only by comparative and cross-cultural studies.

The identification of these stages in drug use behavior has important implications for studying the factors that predict, differentiate, or result from drug use. Whereas most studies compare youths within a total population on the basis of their use or non-use of a particular substance, my results suggest a different strategy. Since each stage represents a cumulative pattern of drug use and generally contains fewer adolescents than the preceding stage in the sequence, comparisons must be made among members of the restricted group of respondents who have already used the drug or drugs at the preceding stage or stages, and those who have not. Unless this is done, the attributes identified as apparent characteristics of a particular class of drug users may actually reflect characteristics important for involvement in drugs at the preceding level (11).

DENISE KANDEL

Biometrics Research, New York State Psychiatric Institute, and School of Public Health and Department of Psychiatry, Columbia University, New York 10032

#### References and Notes

1. For detailed critiques, see E. Goode, *Drugs in American Society* (Knopf, New York, 1972); L. Garfinkel, *Marihuana Reconsidered* (Harvard Univ. Press, Cambridge, 1971); B. Johnson, *Marihuana Users and Drug Subcultures* (Wiley, New York, 1973); J. Kaplan, *Marihuana: The New Prohibition* (New World, New York, 1970). The view that marihuana is the first drug in drug use is arbitrary and derives from the fact that other substances, such as alcohol and tobacco, often are not regarded as drugs, probably because they are legal [H. Nowlin, *Contemp. Drug Prob.* 1, 3 (1971-1972); National Commission on Marihuana and Drug Abuse, *Drug Use in America: Problems in Perspective*, (Government Printing Office, Washington, D.C., 1973)].
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3. These stages involve movement from one type of drug use to another, and not movement (or increased involvement) within a specific drug class, as has been described for alcohol [E. M. Jellinek, *Q. J. Stud. Alcohol* 13, 673 (1952)] or heroin [H. Chien, D. L. Gerard, R. S. Lee, C. Rosenfield, *The Road to Hell* (Basic Books, New York, 1964); L. Aikane, L. Liechman, L. Brill, *Int. J. Addict.* 2, 231 (1967); A. Weisler, *Br. J. Addict.* 57, 73 (1961)]. The specific number of stages that are identified is somewhat arbitrary and depends on the classification of drug behaviors considered in a particular analysis.
4. Usable questionnaires were obtained from 8206 adolescents at time 1 and 7250 at time 2. The samples at each wave have been "neighborhood" to reflect the variable probabilities of selection of schools and homerooms and the response rates in each school. The follow-up, after the students were graduated from high school, was carried out by mail and by telephone, and produced a response rate of 69 percent. By means of self-generated identification code numbers [D. Kandel, *Science* 181, 1067 (1973)], 66 percent of the high school students sampled in the fall (time 1) could be matched to themselves in the spring (time 2), and 60 percent of the seniors surveyed in the spring (time 2) could be matched to themselves after graduation (time 3). Thus, legal and ethical considerations in drug research dictate the use of a record linkage scheme in which a substantial portion of the students surveyed cannot be matched to themselves over time. Since unmatched cases contain a higher proportion of drug users than matched ones, the high school panel sample from time 1 to time 2 was weighted to reproduce the frequency of marihuana use observed at time 1 in the total cross-sectional sample.
5. L. Guttman, in *Measurement and Prediction*, S. A. Stouffer, L. Guttman, E. A. Suchman, P. S. Lazarsfeld, S. A. Star, J. A. Clausen, Eds. (Wiley, New York, 1958), p. 60.
6. L. Singe, D. Kandel, R. Faust, *J. Health Soc. Behav.* 15, 344 (1974).
7. The index of reproducibility reflects the ability of scale scores to predict the scores of individuals on each of the items included in the scale. The lower acceptable limit is .90 (5). The number of drug use responses classified as errors in the scale fell well within acceptable limits, as reflected in the high value (.98) of the index of reproducibility. The index of scalability adjusts the reproducibility criterion by the minimal and maximal degrees of reproducibility possible given the item marginals. The acceptable lower limit is .60 [H. Menzel, *Public Opinion Q.* 17, 268 (1953)].
8. A very small group of former nonusers starts exclusively with cigarettes or hard liquor. 5 and 2 percent, respectively, in the high school cohort.
9. For those youths who start to use more than one illegal drug within the follow-up periods, the order in which they try the various legal drugs is not known. These multiple legal drug starters were distributed into a sequential order on the assumption that the proportion using a particular legal drug first in that group within the follow-up interval reproduced the proportion of known exclusive starters of that drug.
10. D. Kandel, D. Freeman, R. Faust, L. Singe, paper presented at the annual meetings of the American Sociological Association, Montreal, August 1974.
11. D. Kandel and R. Faust, *Arch. Gen. Psychiatry* 32, 923 (1975).
12. This work was supported by National Institute on Drug Abuse research grant DA-00064. R. Faust participated in the earlier stages of the analysis. S. Zubin assisted in the preparation of the tabulations. I thank E. Kandel for critical reading of the manuscript.

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Mr. STROUP. Perhaps the point you and I are disagreeing on is whether drug users are a legitimate political constituency. I recognize that to many Americans, users of illicit drugs are still seen as criminals. That's the point. You classify us as if we are either sick, perverted, or criminal. Well, most drug users in this culture are none of those things. They are average people like you. In fact, I would guess that all of you use drugs. I don't know which one of you smoke or drink, but most of you probably drink coffee or tea or alcohol, so you are drug users, too. And the fact that we at NORML communicate through magazines like *High Times* simply reflects our belief that those people have a right to participate in this decision-making process. We want them to be well informed. And what you read in our ads, I would point out will invite those people to write Congress. That's mostly what our ads do, say let your Congressman know how you feel about marihuana. I think that is an appropriate activity for our organization.

Mr. RANGEL. Mr. Scheuer, excuse me, would you let the chairman—he has to go to another committee.

Mr. SCHEUER. Sure.

Mr. WOLFF. I would like to ask Dr. Grinspoon, since Mr. Stroup has recommended that the committee participate in the drug scene, what sort of disorientation do we get from a cup of coffee?

Dr. GRINSPOON. From a cup of coffee? A disorientation, none.

Mr. WOLFF. What sort of disorientation do we get from a cigarette, an ordinary cigarette, or a pipeful of tobacco?

Dr. GRINSPOON. Well, just one cigarette, none. But if you smoke a pack a day—

Mr. WOLFF. Well, I asked the question about one cigarette.

Dr. GRINSPOON. None.

Mr. WOLFF. Now, as I understand it, there is disorientation of some sort—am I correct in that—in one cigarette of marihuana, depending upon the strength, but even that of a very limited strength.

Dr. GRINSPOON. You see, if you describe disorientation as I do with respect to time, place, and person, I cannot agree that one marihuana cigarette of any strength would do that.

Mr. WOLFF. Well, let's go to another point. Perhaps you and I don't agree, since I am not a doctor, and I have the advantage of not being a lawyer up here.

Is there any mind alteration whatsoever from the smoking of one marihuana cigarette, even of limited strength?

Dr. GRINSPOON. Yes, assuming it has enough tetrahydrocannabinol, and depending upon the experience of the user and the setting and so forth.

Mr. WOLFF. I think we have got to take these things into context. Unfortunately, what is happening here, there are so many generalizations that it's becoming confusing to this committee, at least to this member. And one of the things we have to try to do is, instead of going this general route we have taken, we have to get down to the specifics.

Now, I should like to know, on the question—let me backtrack for a minute.

One of the basic reasons for the constitution of this committee, as I have indicated before, is to try to coordinate the activities of other

committees of the Congress. But one of the reasons that I have for becoming interested in this problem is to find out why people are into any part of the drug scene at all, whether they are into marihuana, whether they are into heroin, to cocaine, into whatever drug or mind altering substance they are into.

Now, why is it that people smoke marihuana?

Mr. STROUP. Since I am the only one in the room who apparently can admit to it, perhaps I should try to answer. The reason I smoke marihuana is because I enjoy it, and that is what the Marihuana Commission said in 1972. We certainly don't do it out of any sense of self-destructiveness, as I am sure you would recognize. Most drug users, whether legal or illegal, do not do it to hurt themselves. They do it because it feels good. It is fun. It's a social lubricant—that's an expression I think alcohol drinkers like to use. And whether the drug is legal or illegal makes very little difference in terms of the appeal of the drug to the individual.

I happen to prefer marihuana to alcohol for very practical reasons. Alcohol leaves you a hangover. It is physiologically much more dangerous. I think it is a destructive drug to the individual. I'm not suggesting drinkers should be made into criminals, but I don't want to use alcohol. Marihuana is a better drug.

Mr. WOLFF. Let me ask you something. Do you look at alcoholism in any manner, shape, or form as being destructive?

Mr. STROUP. Very much so. And of course, 10 percent of the drinkers are problem drinkers. But we would not address that issue by arresting them all.

Mr. WOLFF. The sense of euphoria that is created, this enjoyment feeling, is part it an escape from reality?

Mr. STROUP. Well, to the same extent, I think, that to drink alcohol at a cocktail party is an escape from reality.

Mr. WOLFF. I agree. There's no question. All I'm trying to do now is just try to narrow this down so that we can have a clear understanding of why people are into this scene in the first place.

Mr. STROUP. Well, let me suggest that we not consider it a new phenomenon.

Mr. WOLFF. No, it certainly is not new.

Mr. STROUP. In fact, I don't think there has ever been a culture that did not use recreational drugs of one kind or another. I know we use more in this culture than in most. There are 100 million alcohol drinkers alone. Those of us that smoke marihuana are a very small part of the drug culture. The alcohol drinkers have us outnumbered some 7 to 1.

Mr. WOLFF. I don't think you should, again, make generalizations when you say "you people." That's part of the problem that we're having here.

Now, is there any difference between use and abuse?

Mr. STROUP. Certainly. With all drugs. The Marihuana Commission's second report—not the one that dealt with marihuana, but the second one made that distinction. The Commission said we have to begin to define the casual user as not necessarily being an abuser unless he is debilitated.

Mr. WOLFF. But where does the difference lie between the casual user and the abuser?

Mr. STROUP. Well, it's not going to be an easy distinction to ever define, but I think the answer is that if the individual becomes debilitated in any meaningful manner, if he cannot have a meaningful family relationship or if he can't maintain a meaningful employment relationship, then we would all agree at that point it becomes abuse, whatever the drug is. It still is not addressed appropriately by the criminal justice system, but it is abuse.

Mr. WOLFF. I clearly understand the major thrust that is here. But as I said, I think we have to lay the groundwork for what we are talking about, because, unfortunately, what is happening here is that there has been an abuse of terms and we get to a position where we come to an adversary situation.

I think our objectives are the same. I do not think that we are interested in making laws that are onerous laws, laws that are against the interest of the people of this Nation. We are attempting to make laws to put into practice those things which are in the best interest of the people, and it is determined by what one considers to be in the best interest or what the panel determines, individually or collectively, to be in the best interest. And therefore, I think that we must very clearly define what we are talking about, and avoid the wide of area of generalization that has been used here. That is why I wanted to take the time to bring us back into an informative dialog instead of continuing in an adversary position, so that we are in the position of trying to accomplish what is in the best interest of the people of this country.

Mr. STROUP. Mr. Wolff, I certainly concede that. In fact, I find most of the people who oppose reform of the marihuana laws do so out of an honest concern. It is not generally that they are trying to hurt those of us who smoke.

However, the result of the continuing policy is a great deal of damage to those of us who smoke. Some 400,000 of us get dragged into the criminal justice system each year.

But I'm willing to concede that those who oppose our position generally reflect earnest concerns. Their fear often is that there will be a significant increase in usage. I think that's what most people are concerned about. If we can demonstrate that this is not the case in the States that have done it, I think most of the opposition disappears.

Mr. RANGEL. Mr. Scheuer.

Mr. SCHEUER. I am interested in your testimony, Mr. Stroup. I'm impressed by many of the things that you said.

You said a few minutes ago that abuse, to you, would be a chap who could not relate to his family and hold it together, and a chap who could not hold down a job. How about an individual, who because of the intensity and frequency of his use of marihuana, functions at far less than his or her potential on the job, on a professional level or management level, or works in a university at a far lesser level of academic achievement? Should we, as legislators, and should we, as society, be interested in that as part of the criteria of what constitutes abuse?

Mr. STROUP. Well, I think we absolutely have responsibility to be concerned about it, but I think it is not a problem that can be addressed by the criminal justice system.

I see young people in the drug culture who seem to me to be damaged significantly by the use of drugs. They are people who seem to be very burned out. So I'm not suggesting that there is no such thing as individuals who are casualties of the drug culture. In fact, I think there are.

Mr. SCHEUER. I think there is no clear evidence that they are casualties of any one drug. You wonder if the particular drug that they were abusing weren't there, whether they wouldn't be abusing something else.

Mr. STROUP. I would argue that in most cases the people who use marihuana heavily—and the Marihuana Commission found it was somewhere between 2 and 6 percent—those are the people who would be in the high-risk category—would otherwise use a more damaging drug heavily. Even those people who get up every morning and smoke marihuana all day long in most cases are people who would probably have been hurt much worse had they begun using alcohol, because they probably would have become an alcoholic, or if they had been introduced to heroin, a heroin addict.

I don't think we should encourage people to use any drug, but I think we have to make relative judgments. Even the individual who "abuses" marihuana in most situations does not create the kind of social problem that someone who abuses many of the other drugs often does. I don't think you can respond to it by the legal system.

Mr. SCHEUER. Dr. Grinspoon, as a medical professional, can you tell us, of all of the known psychoactive, mind altering drugs which affect the central nervous system, how does marihuana by all of the medical and psychological criteria compare to them in physical addiction and psychological dependency?

In other words, what is the harm to the individual and to society of marihuana usage or marihuana abuse, both casual use and heavy use, what we call chronic or acute use, compared to the other mind altering alternatives?

Dr. GRINSPOON. Well, I think it would be difficult to answer the question as you put it, Mr. Scheuer, because nicotine is a mind altering substance, in certain societies more than ours, Valium is a mind altering substance, and so forth.

If by your question I understand you to mean, of the drugs that are commonly used for recreational purposes—cocaine, amphetamines, barbiturates, heroin, alcohol, marihuana, et cetera—I would certainly, while I would never attempt to make the point that marihuana is harmless—that cannot be said for any drug, quite obviously—I would certainly be quite clear that marihuana, of those drugs, is the least harmful or has the least potential for harm, certainly far less than the most commonly used, such drug; namely, alcohol.

And if I might add something to your previous question about abuse, as Keith mentioned, the National Commission found that 2 percent or about 500,000 people abused marihuana by their definition of abuse—that is, with very heavy use.

One of the reasons that the National Commission opted for decriminalization rather than legalization was that they felt that to legalize it would inevitably lead to more use of the drug, and more use of the drug would mean more abuse. I am not at all convinced that that

reasoning is sound, for the following reasons: I think that people abuse these kinds of drugs for a very specific reason, that they are suffering from some kind of internal pain, usually anxiety or depression, and this is a kind of home pharmacotherapy. They take a drug that relieves the pain, the anxiety, the depression, and this is the way they attempt to deal with it.

Unfortunately, the drug that they turn to most commonly is alcohol, and they abuse that. Some people turn to marihuana, and these are the marihuana abusers. However, I think the status of the law is of very little consequence to these people. They have a compelling reason to use marihuana, and they will use it regardless of the status of the law. More users will not necessarily lead to a proportional increase in the number of abusers.

And to get back to your second question, to the extent that what I say is correct, and we have two people who are abusers, two people who are depressed and have treated their depressions, one with alcohol and one with marihuana, I as a psychiatrist would feel much more confident about the treatment of the marihuana abuser because if I succeed in treating his underlying depression, he can give up the marihuana if he chooses to do so. In the case of the man who turned to the abuse of alcohol because of his underlying depression, that would be a different story. He would have a very difficult time. I have had clinical experiences with patients who fail to give up that drug, because it is addicting.

Mr. RANGEL. Mr. Burke.

Mr. BURKE. Let me ask, are there any other hallucinogenic plants other than marihuana?

Dr. GRINSPOON. Yes.

Mr. BURKE. Such as what?

Dr. GRINSPOON. There is, for instance—hallucinogenic is not a very good word, but let's say psychoactive plants.

Mr. BURKE. But that's the same as marihuana, in the same class.

Dr. GRINSPOON. It's a psychoactive drug. It's a more generic term. For example, cocaine comes from a plant which grows in South America. There are many psychedelic substances that come from plants. There is a mushroom that produces one, peyote.

Mr. BURKE. Well, let me ask you—if you say you should grow your own marihuana and be privileged to do your own thing—and I would like to ask you, Mr. Stroup—what about the mushrooms?

Dr. GRINSPOON. May I answer that first?

Mr. BURKE. Because, by the way, they are advertised in this magazine.

Dr. GRINSPOON. First of all, cannabis indica, the hemp plant can grow anyplace in the world where there is a summer. You cannot grow coca plants, for example, here. You cannot grow the psychedelic mushrooms.

Mr. BURKE. Yes, you can, because it says in this magazine you can, and it wouldn't be advertised.

Now, I want to know, if we go from marihuana, then to the mushrooms, or where do we go?

Mr. STROUP. I would hope that the lesson of marihuana decriminalization, assuming that proves to be a successful policy in other States

and the Federal Government does eventually follow, I would hope that we would begin to look less to the criminal justice system in response to all forms of drug use and drug abuse. I don't think we should immediately run out and legalize all drugs, but I think we should reflect the significant difference in the potential harm to the user. Some drugs are much more dangerous than others.

Mr. BURKE. Yes; let's look at alcohol, and what you are talking about, one is regulated by both the States and the Federal Government, both on its sale—and in many places it's licensed as an income-producing method, a good deal of which goes to schools and other things.

Now, how are you going to suggest, then, that marihuana should not come under some regulation similar to that, where there would be some value to the entire community?

Mr. STROUP. There are certainly very valid arguments why 10 years from now we may be back before a committee like this and we may be discussing the merits of a legally regulated market. And if that happens, I think that would be very much for the reasons you seem to suggest, which is, we could tax it, we could raise revenue, we could control dosage, we could have age limits, et cetera.

There are a couple of problems most of us have with institutionalizing that kind of a system. One is, we currently have an international treaty which precludes it, called the Single Convention of 1961, and unless and until that treaty is changed, you can decriminalize marihuana but you cannot legalize its sale for anything except therapeutic uses. There is a legal barrier.

Second, the alcohol system has not been a very successful one. We have a very high abuse rate, a 10-percent rate. We have a very exploitive system of distribution. From reading ads in magazines and watching television, you can hardly believe that you are a real American if you don't drink alcohol or smoke cigarettes. It's hard to imagine you can be happy or fall in love or be successful. That is because we have allowed Madison Avenue and the private corporations to exploit it.

I'm not anxious to see that happen to other drugs, so I would not want to rush into legalization.

Mr. BURKE. One other question, since you mentioned the international treaties. We can name many countries we have international treaties with, such as those that grow the poppies, or otherwise, that have legalized it in their own countries?

Mr. STROUP. Do you mean marihuana? Because poppies don't have much to do with marihuana.

Mr. BURKE. Well, Mexico, for instance, has a lot of it growing there, and they haven't legalized it.

Mr. STROUP. No; although they did, I believe in the last year, lower the penalties somewhat, as did Colombia.

Mr. BURKE. Well, lowering the penalties is one thing. Legalizing is what you're asking.

Mr. STROUP. I'm not asking for legalization. I oppose legalization. I favor decriminalization. The pressure for legalization is coming from the industry.

Mr. BURKE. Is that a start or an end?

Mr. STROUP. If we could develop a creative version of decriminalization—one that permitted the individual a legally accessible supply; to grow his own, for example—then I don't think that we have to go to legalization.

But it is going to require someone to stand up to the corporations. Because those are the people that want legalization. It is a \$4 billion industry today, and they would like to make money on it.

Mr. JOSEPH. Mr. Burke, if I may make one comment? I think that the society would benefit, generally, from decriminalization, because the money that is now being spent for the investigation and prosecution and incarceration of marihuana offenders could be used for schools, for crime reduction, for improvement of the criminal justice system in other areas.

So it is not only a question of taxing the industry for the benefit of the community. It's a question of saving money for something that should not really be handled by the criminal justice system.

Mr. Burke. Well that argument is not—it was used earlier by two other people who testified—

Mr. JOSEPH. I thought I thought it up all by myself.

Mr. BURKE. Well I won't argue that point with you; you're a pretty smart fellow.

It is a common argument, frankly, with those that want the decriminalization, or the reduction of penalties.

Mr. RANGEL. Mr. de la Garza?

Mr. DE LA GARZA. Thank you, Mr. Chairman.

Doctor—or any of the three gentlemen—if we decriminalize, how do we set age? Do we set a top age? Or a bottom age? Do you have any suggestions?

Mr. STROUP. Yes, Mr. de la Garza, I don't think an age limit is appropriate when you're talking about decriminalizing the user. I think it would be appropriate if we were talking about legalizing the sale, because what you're talking about there, of course, is the Government making marihuana available.

And, as with alcohol and with other legal drugs, we generally preclude their availability to minors. I think we should do that, if marihuana were eventually legalized; but right now, marihuana would not be legally available to anyone under the proposals pending in Congress.

All we're saying is that if someone does get their hands on it, if they insist on smoking despite the official advice to the contrary, whether they are a 15-year-old or a 33-year-old, they should not be arrested.

I would oppose putting an age limit on a decriminalization bill.

Mr. DE LA GARZA. I have a problem with that, because as the counselor can well understand, you have a distinction between "juvenile" and "adult." In some jurisdictions, they handle it differently. But if you decriminalize, and put a civil penalty—a \$25 fine if you have 1 ounce or less—now is it your intention that you go all the way down to 10 years, 12 years, 9 years?

Mr. JOSEPH. Mr. de la Garza, as an attorney who has frequently represented juveniles who have been arrested as a result of possessing marihuana, I think that the money it would take to prosecute them

would be much better spent in educating them as to the dangers of drug use and drug abuse.

I don't think the appropriate response to a 14-year-old person, in the possession of marihuana, is to put that person in the juvenile detention home. I think it is much better to use those funds to have educational programs in schools or other places, so as to discourage people from using drugs in the first instance.

The point is not that we should encourage their use, but: Is putting them in jail an appropriate response to that kind of social problem? And I think the answer to that is "No."

MR. DE LA GARZA. I think we agree there. But what I'm searching for—and I think that you almost touched it—you plan to treat everyone alike. The different jurisdictions now don't treat everyone alike.

You have a distinction for juveniles in different jurisdictions. You publish the names; in others, you don't publish their names. In others, a juvenile under a judge can declare him an adult for prosecution—now we're talking about very serious crimes, of course, but that's what I'm trying to reach.

MR. STROUP. It is a practical problem, Congressman. The only real answer is this: Every State is going to have to wrestle with that question individually, because in fact—as you know—the juvenile court system is a State-by-State patchwork system.

If States feel the need to maintain some sort of special penalties as to juveniles, they can do that. But I would certainly advise against the Federal Government maintaining that distinction.

MR. DE LA GARZA. Thank you.

Thank you, Mr. Chairman.

MR. RANGEL. Mr. Frey?

MR. FREY. Thank you, Mr. Chairman.

From your experiences, and all that I have read—and basically, the heroin addicts I have talked with, and I've had a little more experience with them than with the others—do you feel that there is a question of psychological addiction, psychological dependency to the drug culture?

DR. GRINSPOON. Now are you speaking specifically about marihuana?

MR. FREY. I'm really—well, let me put it this way. Let me state what I've listened to and what people have told me—and I'm really asking you if this is true or not.

Most of the people I have talked to who have been heroin addicts—and I've been, I guess, to most of the houses, in terms of the half-way houses in California, over a period of years—and I'm talking about the thing of always, whatever you do, don't just (a) legalize marihuana; or (b) most of them said about decriminalization, that the problem with that is getting too many people involved in it—not that most kids don't handle it, and handle it well, but there's a certain number who make a decision, drug or no drug, it doesn't matter what it is. And those are the ones that eventually end up as they did, with real problems.

I guess what's bothering me in these things is: How does decriminalization affect this bunch of kids? Does it get more of them into it? Does it throw more kids into it, where they have more problems down the line? Do you see my question?



Dr. GRINSPOON. Yes; I do, but I think you have to separate heroin—

Mr. FREY. Now—

Dr. GRINSPOON. Each of these drugs has to be treated separately. And, as far as marihuana is concerned, there is no question that there are people who do abuse it, as I mentioned before.

Mr. FREY. Why do people who are heroin addicts say this, then: Do they think I want to hear it?

Dr. GRINSPOON. I think that is part of it. And I think that they are seeking reasons to understand how they became involved in the addiction that they have acquired. And many of them have decided that prior drugs have played a part in it.

And why they pick marihuana more than, let's say, alcohol, or caffeine, or what have you, I don't know. The fact of the matter is: There is no demonstrated evidence at all that the use of marihuana leads to the use of heroin.

Mr. BEARD. Will the gentleman yield?

Mr. FREY. I'd be glad to yield.

Mr. BEARD. Could I just have a moment on that particular statement?

Are you familiar with the research that was done by the Biometrics Research-New York State Psychiatric Institute and School of Public Health, Columbia University?

Dr. GRINSPOON. Is that the Johnson study?

Mr. BEARD. No; it's not the Johnson study.

The article was written by Kandel. It states here: "Out of 5,468 students surveyed," this goes to say that "26 percent of marihuana users progressed to LSD, amphetamines, or heroin. Only 1 percent of nondrug marihuana users, and 4 percent of legal drug users do so."

Now, I'm not a scientist. I'm not a doctor. I'm not sitting here saying this is an absolutely totally accurate study. But it is apparently an in-depth study, and totally in contradiction to what you just said.

Dr. GRINSPOON. No; it's not in contradiction. You see, there's a prior study by a fellow by the name of Johnson that also came out of New York from Columbia, in which he had demonstrated that, yes, there are a certain number of people who've used marihuana and then used other kinds of substances.

Now the connection with heroin appears in his study, which in fact was presented as a large monograph and involved 4,000 subjects—some such thing—

Mr. FREY. Go fast, because this is on my time.

Dr. GRINSPOON. He concluded that, indeed, if marihuana were not illegal, there would not be the one connection which he could demonstrate statistically between the use of marihuana and heroin. And that is to say that the marihuana users had to traffic with people who pushed drugs—sometimes heroin pushers. There may be a progression to LSD or to psychedelic drugs.

I think more of a case can be made for that, because indeed the drug culture sees marihuana and the psychedelic drugs as closer than marihuana, and the opiates. But certainly as far as heroin is concerned, that does not contradict it at all.

We're simply talking about what is the variable. The determinant is the way we treat the marihuana, in terms of the law, socially.

Mr. BEARD. I would like to ask unanimous consent to put this in the record, at this point.

Mr. RANGEL. Without objection.

[The information referred to is in the committee files.]

Mr. RANGEL. Mr. Frey?

Mr. FREY. Yes; in the couple of minutes I've got left, let me go back to the question and see if I can phrase it a little better.

What I am concerned with is with the unequal justice that comes about in some of these things. But I'm also concerned about the problem of getting more kids more deeply involved in the drug problem.

And, from my experience—which is not just limited, but from a number of people—there seems to be some kind of a connection between it. Maybe not a physical one—but getting them involved in it; kids that can't handle it make the psychological question—drugs or no drugs. Once it's a drug, it doesn't make any difference. And there's only a minimum amount they can do it.

But you've got to weigh the "minimum amount" in terms of a society, and where they go, and what happens to them off against the problems that we face with the decriminalization. And I guess I would like some comments on that.

Mr. STROUP. One has to be very careful asking drug abusers for advice in this area—as I know you are, because I heard you ask a similar question yesterday. We should not assume that a heroin addict, or an ex heroin addict is the expert we want to base our drug policy on.

What I would prefer to do, instead of talking to those people, is to be sure to talk to some of us who have been smoking marihuana for 9 or 10 years, and I've never even seen heroin.

Mr. FREY. I'm sure that's true for the great majority.

Mr. STROUP. Those same heroin addicts, I believe, would verify this. If you'd say to them, "OK now, you believe that marihuana was the first drug you used. Tell me if you used alcohol before marihuana?" According to the NIDA statistics, most heroin users first used alcohol, not marihuana.

So if you're really talking about a threshold drug—as Dr. DuPont testified to yesterday—it is not marihuana. In the vast majority of the cases, the threshold drug used by illicit drug users is alcohol. It's all a part of the drug culture. I think that's the answer.

Mr. JOSEPH. If I might just briefly comment?

Mr. FREY. So anything that would restrict the drug culture would be good?

Mr. STROUP. That would not be my position.

Mr. JOSEPH. I remember in my college course in logic, the professor talked about the rain dance theory of logic; that sometimes after there's a rain dance it rains.

Mr. FREY. I can even remember his name.

Mr. JOSEPH. But the fact that something follows something else doesn't mean that the first thing caused it—the second thing. And that's where I think these studies all fall. Merely by showing the sequence does not show the cause and effect, because if you used that theory you will find that 100 percent of heroin users started out by

drinking milk. And it just doesn't follow. There's no scientific evidence that one causes the other.

Mr. FREY. Thank you, Mr. Chairman.

Mr. RANGEL. Let's go off the record.

[Off the record discussion.]

Mr. RANGEL. We're going to have a problem, after this, as relates to the continuation of this hearing. It will be possible for the witnesses that were scheduled for our last panel to stay after the members have to go to the floor, under our parliamentary situation, and to discuss their testimony with counsel and have this as part of our full record.

Or, the alternative, Chairman Wolff has agreed that the witnesses could appear tomorrow morning. It is against the House rules for our committee, or any committee, to be in hearings when we go into the 5-minute rule—which should be happening soon. So that determination can be made at a later time.

But, in order to have Mr. Gilman have a chance to inquire, we might take advantage of that now.

Mr. GILMAN. Thank you. Thank you, Mr. Chairman.

I would like to address, in my initial question, Dr. Grinspoon. I've only had an opportunity—I regret that we've been in prior hearings and I've not been able to listen to your testimony, but I've only had an opportunity to skim through your testimony here.

In your study of marihuana, do you find that there are any harmful effects at all in regard to the use of marihuana for a prolonged user? Can you tell us what your findings are?

Dr. GRINSPOON. Yes; there are some harmful effects—or “adverse” effects, as they're often called. They have to do with a small proportion of people who use marihuana who develop an anxiety reaction sometimes to the proportion of panic, accompanied by paranoid symptomatology sometimes.

Now the best data that we have on that indicates that it is very much related to dose, and to set, and to setting, and to the experience of the user.

Let me put it another way: An experienced user, who knows what he is smoking and knows how to use it, is extremely unlikely to have this kind of reaction. Or, conversely, an inexperienced user who has all sorts of fantasies—unrealistic fantasies about the drug—who takes in more drug than he should, is more at risk to this kind of reaction.

You see, street marihuana varies greatly in potency from something like .05 percent—or practically no tetrahydrocannabinol—to one sample that was reported at 11.7 percent.

If I were exposed to this kind of difference, let's say I could handle a glass of beer without any difficulty, but if the amount of alcohol in the glass of beer were 10 times what I ordinarily expect, that could get me into difficulty, at least social difficulty.

And that's a similar kind of risk that exists with marihuana in connection with the adverse effects.

Now, as far as long-term effects of really large doses, the recent studies—particularly the three that are known as the Jamaica study, the Greek study, and the Costa Rican study, are quite reassuring in that regard.

For example, in Jamaica, there is a sect called the Rastafarians who smoke a great deal of marihuana. And their marihuana was tested out and the mean content of the spliff, which is the equivalent to a joint, was 2.97 percent—which is pretty high.

The subjects that were studied had smoked it for something like 17 years and they were admitted to the hospital for a week with a control group—people matched for age, sex, socioeconomic class, and so forth—who had not used cannabis. And a large variety of tests were done, both psychological and physiological. And the only significant result of that study was that the smokers seemed to have some airway—some degree of airway obstruction, not nearly approaching that which someone who smoked a pack of cigarettes a day does. But that was the one area in which these two groups were different. And they had a slightly higher bicarbonate level—which meant that they were getting less air into their lungs.

Mr. GILMAN. But, Dr. Grinspoon, wasn't it the Greek study that found that there was some effect on the sperm cells, as a result of prolonged use?

Dr. GRINSPOON. No; the Stephanis study, I believe, did not do that. Kolodny suggested that this might be a consequence—and there is another study—I think it came out of UCLA—which suggested that there may be such a decrease.

In fact, it has been talked about even as a male contraceptive. But indeed there have been several studies since then which have not replicated that.

Mr. GILMAN. Aside from the anxiety complex, you find there is no physiological damage?

Dr. GRINSPOON. No; there are physiological changes. One gets an increase in heart rate, a decrease in systolic pressure, a slight decrease in temperature, a slight reddening of the eyes—but these are all dose-related and disappear when the drug disappears.

Mr. GILMAN. What about the effect of the learning ability on students? The committee has found that there has been some 15 percent of students involved with marihuana usage in some of our metropolitan schools. How does the use of marihuana affect their capability of learning?

Dr. GRINSPOON. It has not. For example, a study by Lessin, who is now here at NIDA, while she was at UCLA, did a prospective study on just that and was unable to determine that it significantly affected a student's capacity to learn.

Another study at UCLA, Hochman and Brill, compared grade averages of a large number of student nonusers, moderate users and heavy users, and was unable to demonstrate any difference in grade averages.

Mr. RANGEL. Let me thank each and every one of you on behalf of the chairman and the full committee for the contribution that you have been able to make to us and our committee today. Thank you very much.

Let me take this opportunity to call the next witnesses, Dr. John Baird, director of HAVEN, from my district, and Ramon Adame, director of Aliviane in El Paso. I want to thank both of these witnesses for their patience.

Dr. Baird, of course, is my constituent and working person from my congressional district, and I thank you for the contributions you've made over the years and especially in being available today.

Mr. WOLFF. Will the chairman yield?

Mr. RANGEL. Yes.

Mr. WOLFF. I think it might be in order to ask the witnesses whether they want to proceed under the recommendations that were made by counsel, proceed today with counsel, because after these bells go off we will be required to call this meeting to a halt.

Dr. BAIRD. Congressman Wolff and counselor, if tomorrow morning—is it possible to appear or would you have to then, after the Governors go on, do you then go to the end?

Mr. NELLIS. If you can be here at 10 tomorrow, we could put you on first, and then the Governor at 10:30. Are you able to?

Dr. BAIRD. Yes.

Mr. NELLIS. Can you stay over, Mr. Adame?

Mr. ADAME. I came a long way. I can stay 1 more day.

Mr. WOLFF. Speaking for myself, I would like to hear both of these gentlemen. I know Dr. Baird and I have visited his clinic, and I know of Mr. Adame's work, and therefore I think it would be important for the full committee to be able to hear both of these gentlemen. And I would recommend, then, under the circumstances, that we adjourn until 10 tomorrow morning.

Mr. RANGEL. With the apologies for the inconvenience, the committee stands adjourned until tomorrow morning at 10.

[Whereupon, at 4:10 p.m., the hearing was adjourned, to reconvene at 10 a.m., on Wednesday, March 16, 1977.]



## DECRIMINALIZATION OF MARIHUANA

WEDNESDAY, MARCH 16, 1977

HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,  
*Washington, D.C.*

The Select Committee met at 10:10 a.m., in room 2200 of the Rayburn House Office Building; Hon. Lester Wolff presiding.

Present: Representatives E (Kika) de la Garza, James R. Mann, Morgan F. Murphy, Charles B. Rangel, Louis Frey, Jr., Robin L. Beard, and Benjamin A. Gilman.

Staff present: Joseph L. Nellis, chief counsel; staff members Donna Alvarado, Sam Baptista, Rosemarie Brooks, Elliott Brown, Fred Flott, Paul Snyder, Tom Vogel, and Lou Williams.

Mr. WOLFF. The committee will come to order.

There is a Democratic caucus taking place now, and the Vice President of the United States is addressing that caucus. We rescheduled the hearing this morning to open approximately at 10 o'clock instead of 10:30 as was originally intended because the hearings yesterday ran over and, unfortunately, have inconvenienced two of the witnesses that we had scheduled for yesterday afternoon. Consequently, we are taking those witnesses this morning, Mr. Adame and Dr. Baird.

We are very appreciative of both Dr. Baird and Mr. Adame staying over an extra day in order to accommodate this committee.

We welcome all of you to the third and final day of hearings conducted by the Select Committee on Narcotics Abuse and Control on the question of Federal decriminalization of marihuana.

As I have frequently stated, the purpose of these hearings is to offer a national forum under the auspices of the U.S. Congress where witnesses from many diverse sectors of American society may have an opportunity to present their views.

Consequently, we have taken testimony from representatives of the executive branch who have presented a "view from the top," so to speak, a perspective gained through contact with the multitude of Federal forces involved with this issue. We have heard from a fine congressional panel directing testimony toward actual legislation on this issue that is presently before the Congress. We have listened to views expressed by law enforcement officials representing State as well as local police officers who have experienced the social and criminal effects of both criminalization and decriminalization of marihuana. We have taken testimony from individuals within the private sector whose organizations have had strong statements on the issue.

Now, before I make note of the witnesses this morning, I have received a telegram. One of the people we had asked to appear before this committee has sent us the following telegram:

Along with millions of concerned fellow Americans, I strongly urge utmost consideration and discretion in your deliberations of narcotics abuse and control. First off, I wish to go on record as strongly opposing the decriminalization of marihuana. I believe it is impossible to legalize even the possession of marihuana without paying the way for another illegal act, the vicious act of selling. Decriminalization of marihuana will be a boon to the nefarious pusher and seller. I am particularly concerned about America's teenagers as well as children under 12, too many of whom are already addicted to marijuana. It is self-evident that this age group would be in further peril and even easier prey to the pushers should there be decriminalization of marihuana.

Please feel free to use my aforementioned strong views against the decriminalization of marihuana in the official proceedings of the Select Committee on Narcotics Abuse and Control, or my direct quotes in any of your news releases.

Respectfully,

ROBERT BLAKE.

[The following telegram was received to clarify and supplement the previous telegram:]

[Telegram]

UNIVERSITY CITY STUDIOS,  
University City, Calif., March 16, 1977.

JOSEPH NELLIS,  
Chief Counsel, House Select Committee on Narcotics Abuse and Control,  
Washington, D.C.

DEAR MR. NELLIS: The brief statements which Congressman Wolff received from me was a summary by a secretary of a more lengthy and accurate statement which I gave to her on a tape recorder. After reading this brief statement, I find it absolutely necessary to send this additional letter and clarify my views for the record.

With regard to the decriminalization of the possession of marihuana, there is no way you can make holding a minimum amount of marihuana in your possession legal without encouraging the illegal acts of growing, importation and selling. Therefore, if this country has any notions about allowing its citizens to possess marihuana, it must be done in such a way that you eliminate the dangers, the illegalities, and the hypocrisies of the criminal reefer dealer.

There are several ways to do that. The worst way would be to legalize the selling of marihuana and open up the door to the commercial monsters of the tobacco industry, the liquor industry, etc. I feel that that should be avoided at almost any cost.

A better way would be to have the government, under strict controls and regulations, do the selling to licensed users. In this way, we know who is using, how much, and we maintain some sort of control. We also help the government—i.e. the taxpayers—by allowing them to make the money on the licensing fees and the purchasing fees.

A third and maybe the best way, if the country insists on going ahead with this—would be to license the individual users with the right to grow a certain minimal amount for their own personal use; and along with that, to stiffen the severity of the penalties for any violation of this privilege, including giving or selling to friends for children, or carrying any substantial amounts on their person. Once again, the taxpayers would benefit from the governmental sale of the licenses and you would be in control of who is using and how much.

As to the use of marihuana by children—and now we get to my real hate for the weed in the first place—I am dead set against their involvement with grass under any conditions until they are at least 18 years old. For the record, let me explain:

As a former juvenile delinquent, heavy narcotics user, dealer, grower, etc, I am familiar with the severe drawbacks of marihuana for the young people of America. For those who are fairly stable emotionally, there is no grave setback. But for the 60 to 70 percent of our young people in today's crazy world who have the beginnings of severe emotional problems, marihuana is devastating.



If a kid is having trouble with his parents, with school, with society in general, he is going to seek to escape his problems. And he'll try whatever is handy. If its booze, then booze has many wonderful drawbacks. It's difficult to get, it's very expensive, the hangovers and sickness it brings for the young user are very discouraging, and it takes a long, concerted effort to become an accomplished alcoholic. Everytime the kid gets drunk to try to avoid his problems, he wakes up sick, hungover, horribly sober, and keenly aware that his problems are still there. With a little luck, this kind of situation very often encourages him to seek help from counselors, guidance clinics, public facilities, private therapists, his parents, his religious leaders, or whatever. None of these conditions hold true with marihuana. The first time he smokes a joint he is able to successfully hide from his problems, and he is able to smoke all day and all night conveniently, secretively, and with no awareness on the part of his parents, the adults at school, or anyone else. He withdraws comfortably into his make believe world of grass and stays there from age 10 to age 20. He faces none of his emotional problems, and therefore seeks no help. By age 18 or 20, those emotional problems which in his early youth were recognizable and solvable have now become acute and traumatic. If he does come down from grass, what he sees is so horrible to him that he flees back into the fantasy world of harder drugs. As the neurosis becomes more acute and traumatic, the need for harder drugs to cope with the problem increase. Enter heroin, the junkie, and alternately another lost life.

I suppose it sounds funny for a person like me to encourage kids to drink instead of using drugs of any kind, but believe me, it's much better. For the adults who have made some kind of an adjustment to life, I suppose there is little difference between miltown, valium, sleeping pills, or grass. But for the lost, troubled youth of America, it is devastating. I strongly urge you—along with your hearings on the legalization problem—to focus heavily on ways to save the youth of America from becoming part of this vast drug culture; and let Washington be the leader in finding ways for the young people to recognize their problems and providing ways for them to get help in solving them. Please let that be your primary goal in considering the entire marihuana issue. Any way that I as a citizen can help would make me proud.

Sincerely,

ROBERT BLAKE.

Mr. Blake was originally scheduled to testify at this session here today.

This morning we are pleased to welcome spokesmen from the State level of our Nation. Our witnesses for this morning are Ramon Adame of El Paso, Tex., and Dr. Robert W. Baird of New York. In addition we will hear the testimony of the distinguished Governor of New Hampshire, Hon. Meldrim Thomson. Unfortunately Governor Thomson is unable to be with us today. We are pleased, however, to welcome Mr. Robert Whalen, who will speak on behalf of the Governor. We will then hear what we anticipate to be a very interesting presentation on what the effects of lowering the marihuana penalties have been in Oregon and California, two of the States that have initiated the decriminalization process. For the State of Oregon, we will have Mr. Richard Davis, Director of the Oregon Department of Human Resources, who will address the impact decriminalization has had on citizens in terms of health, levels of usage, and social behavior and attitudes. State Senator Stephen Kafoury, who assisted with the drafting of the original legislation on decriminalization, will speak to the legal and law enforcement issues. Representing the State of California, we welcome Mr. Eugene Hollingsworth, Chief of the Bureau of Investigations for Narcotics Enforcement of the California State Justice Department. Mr. Hollingsworth will address the consequences of decriminalization on law and order in California.

With him will be Mr. Charles Sevilla, public defender of California, who will present views on his experience with the California decriminalization law.

Concluding this morning's hearings we are pleased to have Mr. Mylio Kraja relating the views of many veterans of our Armed Forces who are members of the American Legion.

As you can see, we have an interesting and varied witness schedule for this morning.

I ask that each witness state his or her qualifications and position, either supporting or opposing Federal decriminalization in advance of his testimony. Each witness has been requested to provide copies of his or her prepared statements, and I would appreciate it if the witness could summarize the prepared statement with the understanding that the full text, without objection, will appear in the record.

Therefore, I should like to ask Mr. Adame and Dr. Baird to come forward as a panel this morning.

Mr. GILMAN. Mr. Chairman, we have had several requests to add some additional testimony to this record. Will we be able to submit statements by other interested witnesses who requested the opportunity to have their views made part of the record?

Mr. WOLFF. The Chair has stated at the outset of the meeting that any and all statements that one may wish to insert into the record will be so inserted. We have unanimous consent to have those positions placed in the record at any point that the gentleman or anyone else has any further statements they would like to insert into the record; they will be entertained.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. WOLFF. Could we have Dr. Baird and Mr. Adame come forward?

[Witnesses sworn.]

Mr. ADAME. I don't know.

Mr. WOLFF. Are you offering these statements on your behalf or someone else's behalf?

Mr. ADAME. On my behalf.

Mr. WOLFF. Then you are the sole judge of whether they are true or not true.

Mr. ADAME. Then I do.

Mr. RANGEL. That type of honesty, Mr. Chairman, has been lost in the Congress for many years.

Mr. WOLFF. Mr. Adame, would you proceed, please.

#### TESTIMONY OF RAMON ADAME, DIRECTOR, ALIVIANE, EL PASO, TEX.

Mr. ADAME. My name is Ramon Adame, and I am president of the Chicano Alliance of Drug Abuse Programs, a national organization of drug treatment programs providing services to Chicanos; and the executive director of Aliviane, a drug treatment program in El Paso, Tex., which is in very deep trouble due to the lack of Federal funds.

I appreciate the opportunity to be here today before such an honorable group.

I am speaking today with ambivalent feelings in favor of decriminalization of marihuana. This is such a controversial and difficult issue to make a public issue on because of the possible conflict of interest. My background, as an illegal drug user, and now, as a director of a treatment program, puts me in a contradictory position and vulnerable to jeopardizing my position as a rehabilitator. Yet I am in favor of the issue being discussed because I am very concerned over the irrational expenditure we are making and not doing justice and ruining people's lives with criminal records, and we are putting the stigma of a criminal on them.

Please excuse what might appear to be a derogatory statement, but if it is without substance, then why are we here?

I in no way condone or condemn the usage of marihuana, but I cannot condone the present law and its effects on people.

In my statement for the record, I must admit I am extremely brief and, to some extent, if I might add, even abbreviated. Because of my lack of educational background I am against the necessary elaboration. It may produce a duplication of some of the testimony already given.

My 40 years of experience and involvement in many areas of drug abuse addiction has given me some life knowledge that I hope will be of assistance to you concerning the issue for which we are meeting.

We are here to discuss the decriminalizing of the personal consumption of marihuana, which is a relatively safe position these days with the developing consensus being pro this issue. I believe, however, that this safe position has in itself an inherent dishonesty, so I must also speak of some considerations that are seen as dangerous to make publicly. At any rate, let me begin with the obvious.

I am speaking in favor of decriminalizing the personal consumption of marihuana if that is the best we can do. I take this position with ambivalent feelings, but take this position nonetheless because I believe the current criminality of personal consumption is causing society problems that are worse than the act committed. I say this because the current penalties place a person when purchasing, upon arrest, into the criminal environment, an environment that teaches skills that later become society's penalty. This first encounter with the stigma of criminal is impressionable when you see that the majority of people arrested for smoking marihuana are below 21 years of age. These people, from their lack of experience, are influenced significantly by their associations. It is this youthful association with the criminal environment that concerns me.

It is this criminal environment which one must interact with and become a part of in smoking marihuana that is the source of our present problems. Our current policy, created to deter the use of marihuana, is a failure because it doesn't seem to be causing less use. Its greatest creation in fact is a new generation of outlaws and criminals who see themselves as victims of what to them is irrational public policy. Now, if this group was small we could pass it off as reactionary rabble, but the size of the marihuana-using population, according to studies, is near 15 million people. The makeup of this group includes a range of people from all social and economic categories.

Mr. WOLFF. Mr. Adame, can I ask you to summarize your statement? Your full statement will be included in the record.

Mr. ADAME. If I summarize it, I would not be saying too much, Mr. Chairman. But I don't think it will take me over 5 minutes to read my statement.

Mr. WOLFF. Please proceed.

Mr. ADAME. Many people in this group are closet marihuanos because of their professional standing and status among their peers. This group makeup causes additional feelings of hypocrisy because under the law they are all equally criminal, yet the penalties are not the same when judged in court. It brings up the saying involving the use of alcohol: the poor person gets drunk and rowdy, but the economically advantaged are merely enjoying themselves.

So in believing that we are here to arrive at a more equitable position for everyone regarding marihuana, I again say that we are going to have to move from our safe position and look at some positions that we seem reluctant to do publicly.

What I am doing then is looking at what I believe will benefit the majority, knowing that our efforts are not and never will be perfect, and that the human experience always involves casualties of some sort, but that we go forward with the belief that we are keeping these casualties to a minimum. But I return to that transaction where my impasse of logic occurs. Decriminalization in our safe position says that personal consumption is quasi-prohibited but sale is prohibited. I cannot grasp the logic of the radical change of consequences between the buyer and seller in a marihuana transaction. It is the interface of the consumer, with a possible misdemeanor, and the seller, with a possible felony, both meeting in a criminal environment but with radically different possibilities of consequence involving the same substance that causes my feelings of dishonesty and ambivalence toward the decriminalization. We are not dealing with the substance itself with this possible change of policy but merely with the intent of the person possessing it. We are not altering in any way the source of marihuana, with its environment of criminality. We are not gaining any control of the source, either.

This statement may be seen as a harsh view, but the thought comes out that in a way we are providing, with this method of decriminalization, a quasi-subsidy for the black market. The source of supply is going to remain as it is now, the criminal environment, except for those, I guess, who think they have a green thumb. Cultivation for personal use would be quasi-prohibited with decriminalization.

Now, how do we realistically define the amount a personal stash can weigh before we become suspicious of production for sale? I do not know how these situations can be defined, but I do know one thing: we're damned if we do and we're damned if we don't. And any radical change in policy made at this time will be condemned as irrational public policy by the majority of Americans who do not use drugs.

So when I'm in a position where there are so many doubts, as I now have, I look at the black and white of the situation and decide either yes or no. I believe, therefore, that we have to be willing to look at the entire situation from sale through consumption and live

with the consequences, or we have to leave the situation as it is and live with those consequences.

If decriminalization of personal use is the best we can do, then I support it as a step forward. I will remain frustrated by the fact that the environment where the access to the substance is will remain the same. The drug connection will remain the source for harder drugs and will remain the source of corruption as marihuana buyers will associate with professional criminals and hard drug users. This, again, is the cause of our current major problems with marihuana use. My question remains, who is going to control the source of the substance? An answer to this question would probably help convince me that we are doing something meaningful here today.

I will close my presentation now, gentlemen, with some thoughts for the future. They are listed in my statement for the record. I hope you understand the briefness of my statement as my intent is to be concise and to the point.

Mr. WOLFF. Thank you, Mr. Adame.

[Mr. Adame's prepared statement follows:]

#### PREPARED STATEMENT OF RAMON ADAME

My name is Ramon (Monchi) Adame. I am the president of the Chicano Alliance of Drug Abuse Programs, a national organization of drug treatment programs providing services to Chicanos; and the Executive Director of Aliviane, a drug treatment program in El Paso, Texas. My forty years of experience and involvement in many areas of drug abuse/addiction has given me some life knowledge that I hope will be of assistance to you concerning the issue for which we are meeting. We are here to discuss the decriminalizing of the personal consumption of marihuana which is a relatively safe position these days with the developing consensus being pro this issue. I believe however, that this safe position has in itself an inherent dishonesty, so I must also speak of some considerations that are seen as dangerous to make publicly. At any rate let me begin with the obvious.

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It is this "criminal environment" which one must interact with and become a part of in smoking marihuana that is the source of our present problems. Our current policy, created to deter the use of marihuana is a failure because it doesn't seem to be causing less use. Its greatest creation in fact is a new generation of "outlaws" and criminals who see themselves as victims of what to them is "irrational public policy." Now if this group was small we could pass it off as "reactionary rabble," but the size of the marihuana using population according to studies is near 15 million people. The makeup of this group includes a range of people from all social and economic categories. Many people in this group are "closet marihuanos" because of their professional standing and status among their peers. This group makeup causes additional feelings of hypocrisy because under the law they are all equally criminal, yet the penalties are not the same when judged in court. It brings up the saying involving the use of alcohol "the poor person gets drunk and rowdy, but the economically advantaged are merely enjoying themselves." So in believing that we are here to arrive at a more equitable position for everyone regarding marihuana, I

again say that we are going to have to move from our "safe" position and look at some positions that we seem reluctant to do publicly.

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#### SOME THOUGHTS FOR THE FUTURE

I. If your decision is to change the law on marihuana, I ask that you do us all a favor when rewriting the law. Word the law as clear as possible because when you leave any area vague, the bureaucracy will interpret and re-interpret the vagueness at every level they have. Any vagueness is going to increase judicial confusion in the courts and would negate our intent of relieving judges of their present burden with many marihuana cases. Vagueness could even create a situation of increased victimization. So the clearer you word your honorable intentions when making the law, the more chance it will have of being as you intended it when it reaches us.

II. If you change the law on marihuana I want you to look at some other things that need to be done. The public has never had enough information on drugs and their effects. My view is that a change in the law requires us to provide a national media campaign to inform the public of the changed situation with this substance. As a matter of fact we have never had real media capability to inform and educate the public on the variety of substances that we are having problems with. The use of media as one aspect of our drug abuse prevention efforts needs support.

Congress to date has been reluctant to support Drug Abuse Prevention programming, and I ask you to consider re-evaluating this situation. We must have prevention programming to minimize the casualties of drug abuse, just like we must have treatment programming to care for the casualties that exist. The only care for the casualties that exist. The only hope we have to minimize drug abuse nationally is with this broad-based combination of prevention programming at one end, and treatment programs at the other end.

Mr. Wolff. Dr. Baird, if you will please proceed.

**TESTIMONY OF ROBERT W. BAIRD, M.D., DIRECTOR OF THE HAVEN CLINIC, NEW YORK CITY**

Dr. BAIRD. As a doctor practicing in Harlem for 30 years, directing a narcotics rehabilitation center in the evening, and also as a professor of medicine at New York Medical College, I feel I have some kind of experience and that we can try to relay the facts to this committee.

It is a rather sad commentary, I feel, upon myself, having been down through these halls close to 18 to 20 years trying to alert many of our people in Congress about the dangers of drugs and even being chastised by some of them, as yesterday, we had Senator Javits.

You will all recall in the New York Times back in 1966 when I appeared before the Senate hearings on juvenile delinquency I told them about the problem in Vietnam. At that time I was roundly criticized by Javits, telling me I didn't know what the hell I was talking about when I said a problem with drug addiction in the armed services—and I quote from the New York Times from that time.

They said they disagreed with Dr. Baird, the director of the drug rehabilitation center, that there was not one kid in the armed services on drug addiction.

So I have to take this slap in the face in the newspaper, being told by Javits that I didn't know what I was talking about.

I also told them about the initiation of the methadone treatment centers, that we would start a black market, because in Harlem—this is when we started, in 1964—in Harlem we had been using methadone, but we had affectionately called it "dollies," and the kids had been strung out on that and they had a black market.

And I also told the investigators that we were going to have newborn kids addicted to methadone. At that time I was roundly chastised by the medical profession that there is no addiction to methadone. Now we have seen that newborn babies are hooked on it.

We also pushed for legislation in 1964 to take barbiturates and amphetamines off the market because they were doing a hell of a dangerous job, and finally we got through in triplicate notarization that doctors could not give this out.

So I almost feel that today it will be like an exercise in futility. But I hope to God that at least a couple of seeds will fall upon some minds before we rush into decriminalization and say, well, let's give it a thought, because I would hate like hell in 10 years from now to see what happens when we do decriminalize it, because to me, listening to some of your speakers here saying that cutting down on the expense of police—it is such a naive remark to say this when you fail to realize that, if you look at the statistics, we have gotten more and

more marihuana coming in every single day in the country, and who is apprehending it but the police departments of the various States and our Customs Bureau. Therefore we are expending more money and instead of getting a half a pound of marihuana we are now coming into tons of marihuana being sent to our country through planes and ships. And in fact, even in "High Times," a magazine that tells you where to buy cheap secondhand airplanes for \$35,000, that you can get a plane and then maybe deliver a ton-and-a-half of marihuana, and then dispose—crash the plane into an area in the desert in America and unload your goods, and you have made a capital gains. This is in "High Times."

So it disturbs me, particularly as a physician—I don't have the press to get to. If NORML has the ability to have the Playboy Foundation back them up and to run articles, full commercial articles about the lack of dangers of marihuana, and if "High Times" contributes to their symposium, and then when you have the board, the advisory board of NORML to have a Dr. Grinspoon here who talks that marihuana is probably not that dangerous, and he is on the board of NORML—and then you have the American Civil Liberties Union, which you had here yesterday, talking about decriminalizing. They are on the board of NORML. When you have Zinberg, another man from Harvard—he's on the board of NORML. And when you have Dr. Bryant, who is head of the Drug Abuse Council, who puts an input on the Oregon story saying that there has been no increase—and this comes out of DAC—this disturbs me because now we have got a vested interest going for us. When you have Dr. Bourne, who is the possible future head to head up the whole problem of drug addiction, coming out of Emory University with Dr. Bryant, both in the same class of 1962, with the other head as DuPont, out of the class of 1958 out of Emory, you have got the input, the intellectual input on drug addiction out of one university.

We've got—the biggest problem is in New York City. Let's get at least one doctor, not on a paying basis, but get one volunteer to say, now, wait a minute, you three chaps—DuPont, you said you don't find any harm. Now, what in the hell is a kid taking marihuana for? He's taking it to get stoned. Dr. Bryant, why is a kid taking it? You say there is no harm to it. He wants to get stoned. And Dr. Bourne, why are you saying there is no harm? There are definite reactions to it. You may not have the health reactions to have marked changes in kidneys. You do have some changes made. And Dr. Nahas will explain it to you, about maybe a decreased amount will have the lowered testosterone or liver or brain damage.

But I'm not primarily interested in that as a practicing clinician. I'm interested in what happens to the physiologic reactions on the kid's brain; psychologically. If the kid takes it for getting stoned and he has alteration of depth perception driving a car—he feels his foot isn't all the way down on the accelerator—and we've got on thing going for us for an accident.

I'm concerned about that. If distance perception—if the kid thinks that car ahead of him might be where your venetian blinds are, and it's just at the end of this table, there is alteration of perception of distance. I'm concerned about this.



If the motivation of the kid—when he is on pot, he wants to spend 3 or 4 hours on that Saturday afternoon instead of perhaps reading and studying he wants to just sit and blow 4 hours when he should be studying—we've got a particular thing of dropouts, and Congressman Rangel is aware of this. In our area in New York City, on any one day we have only 80 percent of our kids in attendance. We have 65 percent of our kids are below the national reading level in the United States, and 40 percent dropouts, of which, I would dare say, a tremendous percentage is due directly to drug addiction because the kid loses the motivation of school.

Now, what is the significance of that? If the kid can't graduate from high school—now he had to get a job and he goes before the employer and says, produce your high school diploma, the kid has got no high school diploma. That means job opportunities are cut. Therefore that means, how is this kid going to be able to survive? Either we put him on the welfare rolls or he goes into the area of crime. And that is why we are seeing every day—New York City has got the highest rate of juvenile crime, delinquency. And you find so many of these young kids who have got the macho image by smoking a little grass, and they feel they can go out and knock the hell out of anyone. And just the other day we had a 12-year-old child and a 15-year-old kid mugging an 84-year-old man and an 82-year-old woman. One day he knocks off the husband; the next day he knocks off the wife. And both are dying in the hospital.

Mr. WOLFE. Dr. Baird, if I might interrupt you for just a moment, I have taken no position regarding this, and yet as you talk here now I start to give consideration to the fact that New York has the toughest drug laws in the country and these situations are apparent today.

Dr. BAIRD. Unfortunately, and I have worked with Rockefeller on this thing, but the thing that bothers me is with what happens with the implementation. You get 500 narcotic busts—those are arrests. Then you start to find out you wind up with 300 convictions and then find out what these judges mete out as convictions, you've got out of that 300 you've got 4—4 going to the can for 14, 15 years. The rest—nothing. They either cop out to a plea in which they get 3 years and then they are out.

Now, I'm in the unique position of having treated patients from organized crime. The top echelon of organized crime in New York—you've got the new book called "Pleasant Avenue Connection"—these are patients of mine. I don't treat them for drug addiction. I treat these oldtimers for heart disease, high blood pressure. I asked several of them, what would you do to stem the tide of drug addiction. Doc, there's only one way; put me in the can for life and I'm never going to deal with it; put me in the can now for 3 or 4 years, I'm going to come out; I've got \$3 million waiting for me so that means each year I'm in the can I've got a million dollars going for me.

I am primarily interested in marihuana being the steppingstone. It bothered me when you heard yesterday Mr. Stroup talk about that it wasn't a steppingstone. But if I were to read here that a young man had started with pot, then he also made it with pep pills, made it with barbiturates, quaaludes, cocaine, LSD.

Now, who is this the autobiography of? It's not the autobiography of a drug addict in the street. It happens to be the autobiography of Stroup in his interview.

Mr. GILMAN. What are you referring to?

Dr. BAIRD. This is from the "Playboy" magazine in which they have asked him these questions. So if it is just relegated to the fact that he is going to stay with pot—and in God's world, man, there's a young 33-year-old man. Why have you made these other areas of investigation? On academic grounds? No. You wanted to get simply what the kid does when he starts experimenting with drugs. Yeah, Jesus, man, that's not a bad high, but if you make it with hash oil, it's real great.

Now, you get "High Times." They show you how to distill for \$350 to buy equipment to make hashish oil so you can increase your profits.

Now, is this what we're letting the kids have?

Mr. WOLFF. The point that I made before, Dr. Baird, is the fact that we do have the laws on the books today, and it is not a question of the law itself. It's a question of the administration of these laws.

Dr. BAIRD. Right. And the judges, Congressman.

Mr. WOLFF. Now, the point is made here is that with the laws on the books, all of these situations are still occurring. Is it advisable for us to continue these tough laws, or is it advisable to let the punishment fit the crime?

Dr. BAIRD. What I would like to do if it were ever possible, we've got a bunch of lawyers on the panel here. I can get hit with malpractice as a doctor. I don't know in God's world judges can't get hit with a maljudgment suit. When in their own judgment they have done something that's bad, they should be held liable for this. A judge also ought to serve at least a year internship with a cop on the street to understand what the problem of drug addiction is so that he can deal with a certain amount of sagacity when he sits on that bench looking at these organized criminals and not to let them cop out a plea.

Now, we just got a guy in New York from Harlem, one of our big boys. He copped out 3 years with heroin. That's not fair.

But—so my point is, if we are going to start to decriminalize marihuana, you are going to increase the smuggling. Now, how does a kid get the marihuana into his apartment? How do you get the marihuana into your apartment? You have to surreptitiously smuggle it in. We are asking the kids to outfox the policeman so he can get that less than an ounce. We're going to have the kid have to weigh the less than an ounce, and by the way, I would like to show the audience and I would like show you men, where do you think an ounce of grass is in this bottle?

Mr. NELLIS. Is that oregano?

Dr. BAIRD. Y's. You don't think I'd be here if it weren't. [Laughter.]

Dr. BAIRD. Do you know where an ounce is on that?

Mr. NELLIS. I think it's the total bottle.

Dr. BAIRD. That's right. This represents an ounce, the whole bottle. That represents 75 cigarettes. I don't want them to have that much.

And when they said 3½ ounces, I don't want them having this. I'm going to make you cop one joint a day. That's it. And force you to take your chance of going out. I don't want them to cop this. This is too much.

Mr. WOLFF. Would you agree to the one a day?

Dr. BAIRD. I would force the kid to think twice. But this way, if he lights up, Congressman Wolff, there's a chance that he will start maybe smoking 3 or 4 and the nonsense that when you are on pot that you don't have a physical addiction—if this were true, explain to me why I see kids that smoke as many as 26 and 28 a day in Harlem.

It is true it's not that many. But the fact that you do have kids going up that much and when they are abruptly stopped or put in a can on arrest, the kid can't sleep properly, he's very irritable, he is short tempered, he blows his stack.

All right. There may not be the tremendous withdrawals that you see with heroin that people want, but what is an allergic reaction to penicillin. Maybe he gets a rash, maybe he gets kidney dysfunction, and maybe you get asthma, and maybe the chap in the corner dies from an allergic reaction. There are various degrees of withdrawal from these drugs because barbiturates are different from amphetamines which are different from heroin.

We are in one hell of a big fix, and if you say there are 35 million potheads, which I don't agree with there being 35 million potheads, I think there are considerably less but even if you only have 2 or 3 percent going onto hard drugs, where are we going to get the facilities. We don't even have the facilities in New York City to take care of the heroin addicts.

What do you do when you have "Playboy" magazine just recently come out with a statement about Bourne, which bothered me, saying that they were talking about the recent changes, what was happening with drug addiction and pot. And they got disturbed by the fact that someone said nothing was being done and then in the same crowd, Bourne and some other people, allegedly, were in the group smoking pot—when you get Mr. Finlater who was our second in charge who supposedly was with Stroup one day, they were at a convention. Now this was in "Playboy" magazine stating this, that while they could not get drugs, the sweet old gal, Dr. Dorothy Whipple, who is on their board, 76 years old, she complained about not being able to get any booze. And what did they do? Well, they went up to his room—here it is. There was a time in January 1974 when I arrived in Pierre, S.D., with some of our expert witnesses. One was Finlater.

Mr. GILMAN. Dr. Baird, what are you referring to? What article?

Dr. BAIRD. This is the "Playboy," February of this year, saying that one was Finlater, the country's No. 2 narco. John enjoyed a few drinks. Another was Dr. Whipple, a lovely woman 76 years of age, who continued a full pediatric practice while lecturing as a clinical professor of pediatrics at Georgetown University.

It was a Sunday night and about 20° below zero. And as soon as we checked into our rooms, John and Dorothy said they were going down to the bar. John then calls up from the bar and said, there's no bar, dammit. This is a dry town.

Well, my friend, we don't have a problem, he said. So they came up to my room. We all smoked grass.

Now, this is significant to me. Finlater, the No. 2 narco man in the country—and he resigned—is on the board of NORML.

Dorothy Whipple, a 76-year-old venerable pediatrician, smoking grass.

Mr. NELLIS. That is only alleged.

Dr. BAIRD. I agree with what you say. I agree with you, but if Stroup is going to be able to testify here, sir, and you are allowing for him not to withdraw this, something should be withdrawn because if this is presented as evidence I'm disturbed that we have people like this who can get up here and get the input like yesterday's input you had here.

And as a physician listening, you had three people all on the same board who are all on NORML. And I as a doctor am sitting back and having to cancel out. For me it's a very expensive deal for me to come. I'm a practicing doctor. I had to blow 3 days to come here. I run a free clinic. I don't get paid. You gentlemen, counsel, you will get paid for your 3 days here. I don't get paid. I have to blow my practice. I have to call up my office every 2 hours to make sure I don't have anyone severely sick. So, be fair with me.

Mr. WOLFF. We are very appreciative of your coming here, Dr. Baird. You perform a public service by coming forward.

However, I think it is important to understand that you are testifying here just as we permitted other witnesses to testify. This is a balanced hearing, and we intend to see to it that each person has an opportunity of speaking before this panel.

Yesterday we had Mr. Stroup, who came here and criticized us for having witnesses opposing decriminalization. So, obviously, we're doing pretty good because here you criticize us for having people who are prodecriminalization. So, basically, I think this is a balanced panel. What we are not interested in is the criticism of the other witnesses but the individual position of each witness who appears before us.

Dr. BAIRD. It's very important, sir, to criticize the other witnesses, because if they are going to head up the whole program—

Mr. WOLFF. This is not the forum for criticism of the other witnesses. The criticism of other witnesses should take place when those people are before the Senate for a particular confirmation or for their position itself.

We have been very careful in the selection of witnesses for this committee, and I took exception to the statements that Mr. Stroup made yesterday saying we on the panel should be taking drugs.

I take exception as well to your statements that the panel has been stacked by the committee.

Dr. BAIRD. I never made that remark. You never got that from me, Congressman Wolff. I never said that you loaded—

Mr. WOLFF. Well, perhaps I am inferring it. The important element, I think—

Dr. BAIRD. The fact that you gave me an opportunity to appear here, I appreciate it very much. I never said that to you and I don't think you can—if you have your stenographer go back, I never once

said that to you. I just took exception to the fact that what the counsel said about the report in the paper, and I said I'm just reading it from the report that we got in the newspaper, that's all.

Mr. WOLFF. I as one do not think that "Playboy" is a professional journal on the question of criminalization or noncriminalization.

But the important thing is, I think, that one of the reasons we have asked you to come here is to state your own personal experience. And I know from my personal experience, having visited your clinic, of the excellent work that you have done and I hope it will continue in the future.

I think that we on the committee profit by the experience of people who are in the field and talk to this particular panel about the grass-roots. [Laughter.]

Dr. BAIRD. There is a report here that I think that, since some of you want some real medical evidence, of some people that had done work on pilots. They had 6 pilots take marihuana, and they did a placebo of having them on marihuana and having them without marihuana and they tried to see what the results were. And just to give you the final conclusion very shortly, they said, for the entire group 30 minutes after smoking in a social setting an amount of pot, this is what the results were: For the entire pilot group an increase in major errors which in actual flight situations would have caused dire consequences such as navigational errors, altitude elevations, fuel exhaustion, stalling. There were 13 major errors with those who used pot; and those that used a placebo, only one. With the minor errors, that of deviation heading, there were 33 errors with marihuana and only 6 with placebo.

So, on a simple test which they used as an airplane simulator, we do see there are changes in muscle coordination, depth perception, distance perception, the ability to concentrate. These are all that have just been simply overlooked by so many of the witnesses.

Everybody is asking for the physiologic impact on the physical being. But I would ask you, what is the physiologic effect on tissue with LSD? We can't find it, but everyone knows the psychologic impact with LSD on the brain of the kid going into severe psychosis. Yet, on autopsy, we can't find anything.

So, we are overlooking the dangers of what marihuana can do, what the increased strength—how are we going to delineate now between the stronger hashish which might be spiked?

So, I plead with you gentlemen, as a doctor coming out of Harlem working with these kids for many years, please tread very lightly and think about it very cautiously. Because the fact that Carter's youngster may have been involved with it or Senator Cranston's boy, who is the majority whip—his son got busted in 1968—or Hollings from South Carolina's kid got busted or McGovern's or Hugh Scott or the Kennedy's. Don't let that, because their kids are involved with drugs, that they have got a vested interest to decrease the penalties—let's see what is the overall benefit for this Nation. Are we to have the kids drop out of school? Are we to have increased traffic accidents in Oregon? Has Oregon checked out how many kids are dropping out of school? Is there an increase in moving violations in Oregon despite the fact that we have dropped the speed limit down to 55 miles an hour?

When these gentlemen come from Oregon this morning, I want you to ask them, have you people checked up? Has there been an increased dropout in high school? Has there been a decrease in school attendance? Has there been an increase in auto accidents with the younger kids? An increase in moving violations with the younger kids?

This is what it is. Don't ask how many kids are buying it on the street. That isn't it. Just ask, why is so much illegal contraband coming into our country? It is because the demand is so great.

And I plead with you because I think the most poignant story I can give is the mother whose two kids I worked with. One was a 19-year-old blonde. And, Congressman Rangel, you may remember this little girl was found chopped up in a box in the trunk. And they caught her being pushed into the bus on 116th Street. And her brother—she died and her brother died a year later. And I said, Sylvia, I feel so sorry for you. She said, Doc, don't feel so sorry for me. I know where to visit my kids on the weekend.

I plead with you gentlemen. Wisdom. These guys back there, they might laugh and think it's a joke. But when you've got 1,200 kids to die with an overdose in New York City, that is 1,200 broken homes. So, don't treat it so lightly.

I want to thank you so very much. And if there are any questions, I'll be glad to answer them.

[Dr. Baird's prepared statement follows:]

PREPARED STATEMENT OF ROBERT W. BAIRD, M.D., DIRECTOR OF THE HAVEN CLINIC,  
NEW YORK CITY

It is a pleasure to be here this morning. I would like to treat this presentation as though you were parents of a youngster who was first starting to use marihuana.

Too often a blue panel commission becomes too erudite and philosophic and the important story is completely lost. I am a practicing physician in New York City, with a regular practice in endocrinology during the daytime and at night I operate a clinic for drug addicts.

My remarks are qualified in that I am prejudicial in my opinions, which are gleaned from 30 years of living in Harlem and having daily contacts in working with drug addicts since 1950. I believe this gives me a modest degree of first-hand knowledge of the problem of drug addiction and all of its ramifications. From airplane glue, to marihuana, to cough medicine, to sleeping preparations, pep pills, LSD, mescaline, mace, the various plastics, THC, and STP, and even just taking capsules for the sake of swallowing them without regard to content.

I have watched with marked astonishment some of the very loose fables and myths that have been detailed to this committee in the past few weeks. I am particularly chagrined at remarks made by my fellow colleagues, et al., who all seem to be of the opinion that the penalties for use and possession of marihuana are too severe.

I am sure that the age of these physicians plays no relevant role, because we will all be 65 someday, but somehow I feel there has been a loss of contact with today's youth and with the experiences they are going through. Many of our doctor friends who take the liberal attitude about marihuana are administrators of either Federal, State, or city institutions and the use of the stethoscope and daily personal contact with daily followup has been completely lost. This is not a criticism of a doctor but, rather, a criticism of the work he has to do which results in the unfortunate loss of contact with what is happening on the street in relation to drug addiction.

Many panelists have been chosen for political expediency, reinforcing the vested interests of those who want to see the penalties for marihuana use decreased. Many of these proponents have never worked with drug addicts and,

what's more, have never even bothered to go into the endemic area where drug addiction is running rampant.

Neither have some of these so-called narcotic experts gone into the streets of Harlem and Bedford-Stuyvesant and asked the addicts themselves if there are any dangerous effects from use of marihuana. The disillusioning facts that I have to listen to is that many of these committees are composed of non-medical people who have been called to testify before various Senate and congressional committees and end up reflecting the same line of reasoning as the individuals who invited them.

#### ADVERSE REACTIONS OF MARIHUANA

I will not discuss the physiologic effects on the physical aspect such as lowered testosterone levels, possible effect on sperm and DNA and RNA, liver and brain storage, lung pathology, immune response but the psychologic-mind altering effects.

1. There is distortion of time.
2. Distortion of distance.
3. Distortion of depth perception.
4. Sensation of touch is altered and decreased.
5. Decreased attention to what is going on about oneself and this had originally started with the thought of total relaxation. This is important in driving a car, piloting a plane, driving buses & trains.
6. Decreased motivation with many to remain in school. This is more a problem with high school students than in college but it is growing every day. If it were not for the draft and fear of service, many would have dropped out of school earlier than is now happening.
7. Decreased motivation to follow new ideas and endeavors.
8. There is marked paranoia with many with physical outbursts. True it may not be homicide 100 percent, but I'm sure some of these doctors and administrators were on the receiving end of a marihuana blow, they would appreciate the violence of the physical outburst.
9. There is uncontrollable laughter which is completely out of contact with reality. To cite an example, the mother of a patient of mine died with a heart attack. When I confronted him with this news, he laughed and said it was funny. I asked him if he knew what was happening. He said he was aware that his mother was dead but could not stop laughing because he could not control himself. This was the result of just one cigarette.
10. Another symptom is uncontrollable hunger which these individuals can't master.
11. Tolerance develops with marihuana-hashish as frequency and quantity is increased. It may not be as classic or as rapid as heroin but nevertheless it develops. So if a patient works himself up to 15 to 20 cigarettes a day and you abruptly stop this, the individual, he will have a very mild withdrawal. What is a withdrawal? Marked inability to concentrate, change in personality, restlessness, loss of appetite, vague nausea, insomnia. As a clinician, this is enough for me to believe that it has addictive qualities. The NIMH which has no peer, will dispute this argument with me. As far as I'm concerned it's along their own philosophical line and not medical reasoning to give you a simple analogy, what is an allergic reaction to penicillin? One patient may develop a runny nose, another patient develops asthma, another skin rash, another may vomit, and in most severe cases, even death may ensue.
- The ability to concentrate is definitely altered so that people that are reading a book may go over the same line over and over again without being able to grasp what they are reading.
- The problem of drugs plays an important role in education. In N.Y. City there are only 75-80% students attending class any one day. There is also a 40% dropout rate and 65% of students are below the national reading level. This all will be reflected in lack of job opportunities, increased unemployment and increased welfare costs.
12. Muscle coordination is altered so that in simple tests like inserting a pencil into a pencil sharpener or reaching out for a glass, the object in pursuit is missed.
13. The sexual overtones; the fact is that with marihuana inhibitions are cast off and latent sexual overtures are released and become rather overt.

In some of the statements made by other doctors concerning the innocuous nature of marihuana to sex, reference is made to the La Guardia report which the NIH and some officials of HEW have referred to this monograph. What they fail to realize, however, is that this piece of marihuana research was done on 72 patients who were incarcerated in prison. In their report, they make remarks that "sexual involvement with staff wasn't manifest with those who were taking marihuana." Gentlemen, commonsense will tell you that if you are in jail you're not going to attack the nurse, even if you are on grass. So many of these people who relate their arguments to the La Guardia report failed to talk of the 11 psychotic episodes out of the 72 or the various other reactions of lack of concentration, paranoia, lack of muscle coordination, or the hangover which persisted hours after having taken marihuana.

14. The internal search for happiness, relaxation, or euphoria. A time is reached with marihuana when many feel that their kicks or their relaxation isn't quite good enough and on to other drug horizons. Heroin, LSD, barbiturates, speed, and so forth. This will be borne out by the Oregon failure.

Can you devise a test that will tell you what youngster would have the bad reaction from marihuana? Many youngsters will start on marihuana and feel that they can handle it. We see this every day and I wish some of these doctors in all the Government agencies would look at our own medical profession and observe the high rate of drug addiction which is now on the upswing since so many of the young people have made it with grass and are going on to medical school and feel they can handle drugs. You cannot master these, and they become your master. There is an old cliché in the drug addict world, one shot or one joint is too much, a thousand reefers, a thousand shots aren't enough.

15. Hallucination. The hallucinatory manifestation of marihuana depends on the psychological background of the individual and the potency of the preparation. If the individual gets hashish, then hallucinations are more apt to occur. And these can be very serious. Many of them high on grass, more so with hashish, and will not pay attention to the cigarette that is burning their fingertips. In fact, in many areas of the Orient, India, China, Morocco, hashish is used for minor surgery.

16. The sleeping effects of marihuana. Many marihuana smokers become very sleepy and nod off. However, with hashish, this is more pronounced and more noticeable.

17. Detoxification rate. The rate of detoxification of marihuana depends on the quality and quantity. It can range from 8 to 36 hours. That is from one joint of hashish, but 1 ounce of alcohol is detoxified in 1 hour.

18. Psychologic maturation of individuals. Many doctors have made inquiries as to relationship of marihuana to maturation to individuals, preadolescence, adolescence, and adulthood. There is a complete loss of emotional maturation and maturing so that an individual cannot cope with everyday situations without developing antisocial behavioral patterns. The longer one smokes grass, or marihuana, the more conditioned this way of living becomes and the more selfish and introverted the individual becomes, seeking those things that make him most happy regardless of those about him who may have to suffer. I fear if the penalties were to ever be lessened, the damage would be irreversible. There definitely would be a generation gap. That generation gap would be the loss of a generation of young, productive people who would become destroyed by the hedonism, pleasure-seeking syndrome of getting high. I believe that if penalties were to be removed now, that by the year 1980, these youngsters and adults would escalate to other drugs. I have no doubt we would have 2 to 2.5 million heroin users in the United States and the demise of a great nation.

In my work with close to 6 thousand addicts, I found that 95 percent of them had started with marihuana. The absurd remark that they also started with milk, doesn't hold any water because of the pleasure-seeking syndrome. I believe that these young people are quite aware of what the penalty means if they are caught with one cigarette. I would still recommend that the individual face 1 year in jail and probation of 5 years. If the judge feels that extenuating circumstances are involved, then the individual could be remanded for daily visits to a probation officer or medical facility to verify that he is not using marihuana or any other drug. It is nonsense to say that a poor college youngster's life is wrecked because he is caught with five marihuana cigarettes. More than one cigarette constitutes the intention to sell. You and I are quite



aware of the fact that if you drive a car 85 miles an hour down Pennsylvania Avenue at 2 o'clock in the morning because you see no policeman, you take a chance. You are prepared to take the penalty for knowing you have violated the law. This state of permissiveness, overindulgence, and being intimidated by the marihuana lobbyists can compromise our basic concepts of what is right and wrong.

I believe, gentlemen, that my attitude may seem tough but it is fair. Having worked in Harlem for nearly 30 years, I'm convinced that some of our speakers who have addressed your body ought to serve a residency in the streets of Harlem and walk there in the dark lonely nights and see what I see rather than pontificate as they walk along the nice clean ivory castle walls of institutions where drug addicts are in a completely different environment and one that is not real. I am concerned about the close relationship of NORML, Drug Abuse Council, Playboy Foundation with Doctors DuPont, Bryant, Bourne all graduates of Emory Univ. There are too many conferences with all in same view.

I believe, gentlemen, if we are ever to stem this tide of drug addiction there must be a multifaceted approach. I would recommend—

1. A Federal drug-abuse hospital must be established in New York City with followup clinics.

2. Development of teenage hospitals divorced of adult addicts so they don't learn further tricks.

3. Compulsory hospitalization of addicts who can't make it on an ambulatory basis.

4. Compulsory examination of all students—high school, elementary, junior high, and to search for evidence of drug use.

5. Periodic exams of all Armed Forces personnel in the United States and overseas.

6. Development of narcotic specialists with probationary commitment powers.

7. Drug seminars for schoolteachers, principals, judges, superintendents, legislators, and all people connected with youth and the young people themselves.

8. Utilization of more male teachers for students between 6 and 14 because this time when psychologic molding of disturbed youngsters develops, the female identification is too powerful in many of these homes.

9. Punishment for professional nonaddict pusher should be a minimum of 25 years in prison.

I may have incurred wrath of some of you gentlemen and the antagonism of others, but I have worked 23 years as late as three and four in the morning. I have seen kids die and I wonder, while the city is sleeping, when will this slaughter of young people stop.

We ought to look at the example set by Turkey, Morocco, India, Iran and Egypt where marihuana is now prohibited. The former use of this has contributed to the moral, social, and economic decay so that these leaders have taken stringent measures to stop the use.

To decriminalize means more massive smuggling & increased monies for policing.

There is a little phrase with which I always close: never has so much been spoken by so many who know so little about a subject so big as drug addiction.

Mr. WOLFF. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Dr. Baird, we welcome your testimony. We welcome having some of the balance of thinking here on this panel.

What specifically do you recommend by way of a change in legislation to try to offset the growing usage and the attempt to correct this problem?

Dr. BAIRD. It's very hard to get through to the media. The media is composed of lots of young people. They themselves, you take the average group of media people, you've got them under 35 and they've been in the environment of pot. And they've known many of their friends—and they make the association that it would be a hell of a thing to have John busted and sent to the can.

I think we should have at least a year——

Mr. GILMAN. Excuse me.

Mr. Chairman, could we have order, please?

Mr. WOLFF. The gentleman's point is well taken.

Mr. GILMAN. Thank you.

Dr. BAIRD. I think a year, if the kid can be put on probation if he's caught with grass and you say, son, you're going to get a year probation and if you're going to violate this then you're either going to have to be put in a rehabilitation center, we're going to take you off the street.

But I want to cut this dosage down. And I wouldn't want them to have any more than one joint. Two joints, I'm going to say the kid wants to sell it.

The reason is to make this kid to go through a hassle to have to go out in the street. I don't want to encourage him to smoke that amount. That 1 ounce—it's absurd to give that to a kid, 75 joints to come out of that. Where do they get the arbitrary cutoff at 1 ounce? This is what disturbs me about so many of the people.

Mr. GILMAN. Well, most of our witnesses seem to agree we should adopt the policy of discouragement of use.

Dr. BAIRD. I haven't heard one of your speakers give the ill effects of marihuana. That is the part that disturbs me, whether it be DuPont or whether it be Dr. Bourne. I did not hear that.

You've got to take it out of the political area of expediency.

Mr. GILMAN. Well, what I want to explore with you is, while everyone agrees to the need for discouraging—or most of the speakers have agreed to that—we have not heard some constructive suggestions of how best to discourage the use. And what sort of penalties would you advocate for the two or three joints over and above your one?

Dr. BAIRD. It should be a 1 year, that a kid have a chance of even getting a \$1,000 fine or going to the can. But the extenuating circumstances must be left up to the judge, so that if he sees this is the first time a kid is apprehended, that he says, all right, you're going to go to a center or you're going to have to go to a probation officer once a week at least to keep him honest.

Now, my clinic—the reason I have a fair degree of success, I see these kids every single night for a year. A drug addict didn't become a drug addict overnight. He became a drug addict after 15 or 16 years of sick, sociopathic thinking. It becomes a minimum of a year to undo this thing and try to set up values in this kid, not that he can go and say, well, Mr. Ginsberg, he's a great poet, he smokes grass, Doc, he's doing well. Or Timothy Leary, he's on the lecture tour; he's making a lot of money.

No. You've got to give them values. But you are not Timothy Leary, you're not a Ginsberg. You've got to point out that we all have to work hard; to achieve success you've got to have a hell of a lot of pain, kid, and that is the way it is.

But the way we've got it, that Utopia is behind the not joint, Utopia is behind the snort of cocaine, that is not it. That's not the way you work. You have to work through—like you men, the toughest thing before you got elected was to campaign and your success

was when you achieved it and now you're thinking of the future, the future campaign.

It is a tough thing. But we have got to get more education, but we don't have the education because when I get on TV I don't get the exposure on TV. But you had Bourne with plenty of time the other day. I'm damned sure that television won't cover me in New York City tonight.

Mr. GILMAN. Do you advocate civil penalties for the casual user?

Dr. BAIRD. I would advocate civil penalties for the first time around so the kid supposedly doesn't get it on the record. But I have to confess in New York I don't see kids going to jail for a joint, neither the 400,000 that has been bantered around here like mad and no one has ever even checked it out. It is a lot of nonsense.

Mr. GILMAN. What's the 400,000?

Dr. BAIRD. The 400,000 arrests they are talking about for marihuana. How many of those represent convictions? There's a hell of a lot of difference between being arrested and convicted.

Mr. WOLFF. The gentleman's time has expired.

Mr. Rangel?

Mr. RANGEL. Thank you, Mr. Chairman.

Doctor, we thank you for your patience and in being with us for so many days in order to have this opportunity. And I don't think you will have too much of a problem getting media coverage back home because over the years you have established a credibility in our community of concern and working with drug addicts. And with all of the things that you stated, especially taking advantage of your medical background, there's hardly anyone on this committee that is prepared to dispute any of it. And the few differences that we have had over the years, in over half of those you have convinced me that I was wrong. So, I rely heavily on your expertise.

But, in reply to Congressman Gilman, I heard you say that you could live with them having one stick, and then I heard you say something later about not having a conviction in the first instance. And knowing you and believing I know something of your personality, Doctor, I believe that you are more concerned about the attitude about drugs generally, including marihuana, than you are today about the casual marihuana user. I mean, do you have a fear that this is merely an opening of the door to start legalizing marihuana, cocaine, and heroin as so many of the supporters of relaxing the laws of marihuana, or do you really think that marihuana in and of itself is a danger to our youth?

Dr. BAIRD. Yes. I really feel that marihuana with a certain group of kids which we have no way to psychologically test them to know which is the kid that is going to flip out and go on to harder drugs, that I don't want this kid in that one moment maybe being depressed or despair, under the influence, and say, well, what the hell, I will pop a pill, I feel down in the dumps and I'll make it with amphetamines.

I am concerned about the front part of your question, about this being the opening of the box for cocaine and heroin, because then, once we do that, we blow the top off our American youth.

Mr. RANGEL. But you are not really going to say that the threat of becoming a felon is going to deter the youngsters, that you would

suggest that it should be a deterrent for the youngsters in our community or any other community?

Dr. BAIRD. You know, it is a very difficult thing. It is like both you and I, perhaps maybe when I'm driving in the street in Harlem at 3 in the morning and where it says a full stop sign, at that particular moment I'm going to obey the law and I'm going to stop. Sometime, if my mood is proper, I might go through that stop sign. But the stop sign is there for a deterrent for me in the daytime not to go through it.

Now, I might make the mistake and go through it. So, during the daytime it does act as a deterrent. At other times it may not. So, it depends on the psychological framework and the setting for these kids at that particular time.

Most kids don't think of it at the time that they are in with a group of kids when a kid will say, are you going to be chicken, you're not going to take it?

Now, the kid is going to take it because he doesn't want to be set apart from the other youngsters. But perhaps if he were just by himself he might not want to go out and cop and get that one fix, that one joint.

So, I am concerned about anything where it looks like the Federal Government is giving sanction. I think marihuana is dangerous. Son, I want you to know I don't want you to smoke it.

I asked a cabdriver—fortunately two mornings in a row I had two Nigerian cabdrivers and I asked them, what is the penalty in your country for smoking grass?

Doc, if you're caught smoking grass—I told them who I was—they put you 20 years in the can.

Mr. RANGEL. That's not right, Doctor.

Dr. BAIRD. No. No. I asked them why. They—our country is a new, young nation. Our leaders don't want it to be destroyed.

Well, I didn't go and question them about the 20 years. The fact is, he thought about it.

Mr. RANGEL. Well, let me congratulate you for your commitment, Doctor, and see if we can help you in talking about the dangers and then perhaps we can work a little more closely together to keep them out of jail, too, as relates to the casual marihuana smoker.

Mr. WOLFF. I might say, on that score, if you spoke to one of the Turks, you would find that they have the toughest drug laws in the world, and yet they have shipped more opium to this country than any other country in the world.

Dr. BAIRD. Except Red China. We will find out later, Mr. Congressman, but when I appeared before the testimony again on the U.N. acceptance of Red China, that the southern provinces are sending into Hong Kong, and like dopes we are waiting a little bit and we think it's coming out of the "golden triangle." We're a little bit behind times, but it will catch up with us.

Mr. WOLFF. Dr. Baird, if you have any information on that, I don't want you to wait for the time of the hearings. I would ask you to present that to us, because it represents a very serious threat to this Nation. And having been Chairman of the ad hoc International Narcotics Committee for the past 4 years, we have never been able

to prove that. And if you have any proof, I would ask you to come forward with that.

Dr. BAIRD. Well, you know, it's very difficult for me to go over and get through the Communist area.

Mr. WOLFF. I'm not asking you to do that, but you have made a statement and I think it should be followed up, because this is a very serious problem.

Dr. BAIRD. This is the same thing which Javits asked me. When I told him we had the problem with drug addiction in the armed services, he said, "Give me the statistics of how you know you've got the problem."

I can't do that. I can't go over.

Mr. WOLFF. How do you make that statement, then?

Dr. BAIRD. Because all you have to do is check out the ships that are leaving from Hong Kong, see where their ports of entry are in Holland, Antwerp, Sweden, Cuba, and find out the confiscation of raw opium coming out of China.

Now, if you want to do it, we can do it. But you know, with the Nixon policy, it's a very tough thing to cross swords with the new policy of recognizing Red China.

Mr. WOLFF. Let me just say this to you. The fact is, I have checked with the CIA, I have checked with our State Department, the Defense Intelligence Agency, and every agency of Government, and I have never been able to get any information on that. I have been following that story for many years. If you do have any information, I would appreciate it very sincerely if you would bring it to our attention.

Mr. Beard?

Mr. BEARD. Yes, thank you, Mr. Chairman.

To my colleague from New York, Mr. Rangel, a point that was lost in testimony when Dr. DuPont—I just would like to reemphasize this. Dr. DuPont mentioned that the law on the books now acted as the third in ranking as far as a deterrent. Dr. DuPont failed to mention at that time, though, that the No. 1 deterrent as to stopping those individuals from smoking marihuana was the fear of being arrested. So I did want to reinstate that into the record, as far as their study. Dr. DuPont's study, comprehensive study, did show that the law had acted as a great deterrent to help those stop smoking marihuana.

Dr. Baird, several witnesses yesterday—and I would just like to get your opinion on this since you are the first one that has—operates in a clinic and everything. And the thing that kind of concerns me—and not being a doctor and not being an attorney and whatever—I hear people say that marihuana can lead to harder drugs, and then I hear people say that it can't.

I hear Dr. Grinspoon state that there is no relationship, and yet I have a study that has been submitted to me that was handled—that involved over 5,400 high school kids, and that study showed that 26 percent of marihuana users went on to harder drugs.

I go one way, I can get a report to justify one stand; I can get another report to justify another stand.

What is your professional feeling, and what is your feeling, having run a clinic?

Dr. BAIRD. I guess, after working with about 6,000 addicts, there is an increased rate of people experimenting with drugs when they are introduced at all into the drug culture. And with pot, there is this cutting off or saying, well, I really don't care what happens. And they can experiment. Now, whether a guy who is an executive of big business smokes grass on a weekend and then maybe after 7 or 8 years he decides to make it with cocaine, we start to run into problems. That edge is already taken off by the introduction to marihuana, and there is no doubt in my mind that if you were to compare the two groups, you will find out that there is an increased amount of youngsters going on to other drugs, whether it be amphetamines, quaaludes, barbiturates, hashish oil, LSD.

The best thing is, don't interview heavyweights like me. Don't interview Grinspoon, no DuPont, or Bryant. Drag in 20 or 30 kids. Be fair. Go through the whole geographic area. Take them out of Detroit. Take them out of Miami, Fla. Take them out of San Francisco. Pay them money; gets these kids up here. And then ask these kids. Out of their mouths will come the truth then. Because there is one hell of a difference between a guy like me, practicing in Harlem, and Grinspoon in the ivory castles of Harvard. Those kids are completely different from the kids of Harlem. The old man is paying the freight for food, board, education. These kids in Harlem have to hustle. I don't want to see what has happened to my community of Harlem—it has gone down the drain. That's why we've got dropouts.

Mr. BEARD. Mr. Adame, in your testimony, does this not concern you? Do you see this as a concern in your community? Do you feel that through decriminalization there would be an increased use, there could be a reflection as to the use of heavier, harder drugs?

Mr. ADAME. Well, that is two questions in one, Mr. Beard. But to answer the last one, 90 percent—that is, to my knowledge—and I'm not a statistical researcher or whatever. In my knowledge, 90 percent of the hardcore addicts, heroin addicts, have smoked marihuana. That doesn't mean that 90 percent of the people that smoke marihuana will go on to harder drugs.

But I don't think that decriminalization would help any in my area or to my people in the Southwest. We have a 2,000-mile border. And I am concerned about the one thing, that this is the reason why I say that I take a standup, either yes or no, because of the fact that most of the people I know, including myself, went into this for a reputation of fame, a name, and it was a false image we were trying to project. Beside the problem of poverty that we have, the lack of opportunity, the discrimination—and these are the things that bother me, because I don't think that the decriminalization of the substance will benefit our minorities or the disadvantaged groups. It will affect only the privileged groups, the professionals.

I don't know if I'm answering your question.

Mr. BEARD. Let me just ask one more question briefly.

The thing that as we were hit yesterday by Mr. Stroup—and I would like to ask the doctor. I keep getting—every time when I talk to the young people or whatever, and I say, well, I kind of feel—I don't think I could go that route. I feel it might not be the right route to take. And they come back to me and they say, well, alcohol.

and cigarettes are worse than marihuana. And we've had people come out and say, well, the inconsistency of it—

Dr. BAIRD. Just remember, to become an alcoholic, you generally have to be on the thing at least 10 years to start to get the adverse reaction of diabetes, hardening of the arteries, cirrhosis of the liver. But the capacity of one joint to intoxicate you versus 1 ounce of booze is entirely different. You can relax with your 1 ounce of booze which is detoxified in 1 hour, but your one joint takes 8 hours for that reaction to wear off. And the kid happens to be unfortunate to get real hashish. This youngster can be stoned for anywhere from 12 to 14 hours.

Also, when the kid is on pot, he's the greatest guy to tell another kid, come on, let's make it with a joint together. He is the one who tries to initiate the reaction of other kids. He doesn't want to smoke grass by himself.

So this is the thing you've got to remember. These kids pal around in school. It's not the druggpusher on the outside of school. It's the other kid in class.

I want to thank you gentlemen so very much for being indulgent, and if I seem to harass you, it is just in sheer frustration in seeing this problem getting worse and worse.

Mr. WOLFF. Mr. Murphy.

Mr. MORGAN MURPHY. Thank you, Mr. Chairman.

I don't have any questions. I just want to thank the doctor for coming down to testify today. I have followed your work and Mr. Rangel has given me a detailed description of your commitment to your community. I congratulate you for that.

Mr. WOLFF. I would just like to ask Mr. Adame one further question.

Have you noticed any increased strength of marihuana being used now in your community?

Mr. ADAME. Do you mean strength in quality?

Mr. WOLFF. Yes.

Mr. ADAME. No. We are not having the same quality of marihuana that we used to have before the Drug Enforcement Administration hit so hard in Mexico.

Mr. WOLFF. Well, the Drug Enforcement Administration has not hit on marihuana very hard. They have focused on opium, primarily, in Mexico.

Mr. ADAME. They are hitting all over.

Mr. BEARD. May I ask something on that?

Mr. WOLFF. Sure.

Mr. BEARD. Do the same people sell marihuana that sell the heroin? Is it the same guy you go to buy marihuana from? Does he have heroin?

Mr. ADAME. A pretty good percentage. You cannot say totally that everyone who sells marihuana sells other drugs, but I would say that 30 percent of the sellers—where you find marihuana, you will find other drugs.

Mr. BEARD. So, in other words, the decriminalization aspect might just make it easier to throw kids into contact, or make it seem less wrong to start with marihuana and then be dealing with a guy that is selling heroin or cocaine out of the other pocket.

Mr. ADAME. That's right.

And what I don't agree with is civil fines of \$100 would deter an individual, because I have seen and I know of people doing 12 or 15 years in the penitentiary, that it did not deter them from stopping the use.

Mr. RANGEL. Mr. Chairman?

Mr. WOLFF. Yes.

Mr. RANGEL. Doctor, based on your lifelong experience in the Harlem community, could you respond to Mr. Adame's observation that strict enforcement of existing law would be a heavier burden for poor people than it would be for the wealthy? And I guess he meant a double standard.

Dr. BAIRD. Yes, that's true. You're absolutely right, Mr. Rangel, there is a damn double standard. The wealthy—the white, upper middleclass, now that their kids have been busted going to Harvard and Yale, now the folks are getting uptight about it, whereas in the Harlem community we used to pop the kid in the joint and send him over to Rikers Island and let him rot over there. But now with the white middleclass getting banged with it, they think we are wrong.

You know, we had all the experts here. It took over 200 years before they realized that the black guy has got just the same amount of rights as the white guy, and yet there were judges, Presidents, Congressmen, who were supposed to have the most intellectualism—education is going to be the answer—and probably 10 years from now, when I'm over that age of 65 and I can come down here, I will say to you, "Remember when?" And if God have it that we are all alive, we will have seen the problem of drug addiction escalate to such heights that you will say, God, we had in great in 1977.

Mr. ADAME. Let me add a little bit to that.

Our people, we would not be having parties of 25, 26 kids enjoying marihuana, but we would have them in the middleclass and upper classes. When the police break into a party where there is usage of drugs, and they find 26 kids there, and they find a pound of marihuana, they attribute a pound to the 26 kids, but they divide it into less than an ounce apiece. So they are in the legal situation of having a pound of marihuana among 26 kids.

Mr. WOLFF. Mr. Nellis.

Mr. NELLIS. Mr. Adame, you operate a private community treatment clinic for adults and juveniles in El Paso, Tex.

Mr. ADAME. For adults only because my youth program had to close down because of a lack of funds.

Mr. NELLIS. How many youngsters did you have in that program?

Mr. ADAME. I had a capacity of 45. But I could only handle 25, because that is how much I could allow financially to help.

Mr. NELLIS. How was that youth clinic funded? The Federal Government? The community?

Mr. ADAME. I took it upon myself to take some of the Federal money and start this house instead of breaking my guidelines and regulations, and I promised the Federal Government that I would get State support, which I never did.

Mr. NELLIS. Let me ask you this, Mr. Adame—these are heroin addicts you are talking about, are you not?



Mr. ADAME. It is a mixture, because anywhere from 12 to 18 years of age we had them in the house, and we had a mixture of drug users, drug abusers, and drug addicts.

Mr. NELLIS. Tell me this, how many of the addicts in the juvenile range that you had in your juvenile treatment program were smoking marihuana and nothing else?

Mr. ADAME. I would say 10 percent, very, very minimal.

Mr. NELLIS. Is there anything to the theory, from your own experience—and I understand you are an ex-addict Mr. Adame—is there anything in the use of marihuana that acts as a gateway to the use of harder drugs?

Mr. ADAME. Well, very definitely, especially when kids are experimenting and, like I say, they are trying to enhance their image, their false image. So when we decriminalize marihuana, it is not going to help too much, because probably they will not fool around with marihuana because it will not give them an ego trip. They will go into other drugs.

Mr. NELLIS. But what happens in the community you are talking about where you have a stringent law, a criminal penalty against the smoking of marihuana that is not enforced? What happens in your Hispanic community when that situation obtains?

Mr. ADAME. I wish you could clarify the question.

Mr. NELLIS. Let me put it another way.

Is there any result in your own community when there is a law on the books that prohibits the smoking of marihuana, the possession of marihuana, but nobody gets arrested for doing it? Does that have any effect on your people? Do they care one way or the other?

Mr. ADAME. No.

Mr. NELLIS. They don't care whether there is a law on the books or not?

Mr. ADAME. They are not even interested or concerned about laws. They are just concerned about their own problems.

Mr. NELLIS. What would you estimate is the percentage of people in your community that are smoking marihuana? And I'm talking about the Hispanic community in El Paso, that you know about.

Mr. ADAME. I would say, according to our population, which is 370,000, I can say it is very well around 10 to 15 percent in the Spanish community.

Mr. NELLIS. Thank you, Mr. Chairman.

Mr. WOLFF. Thank you both, gentlemen, for appearing here today.

Mr. FREY. Lester, could I ask one question?

Mr. WOLFF. Sure.

Mr. FREY. I read the doctor's testimony ahead of time, and I have been asking several questions the last several days. My experience is very little in this area but most of it has been with heroin addicts. I have been to New York and the California program and all around. And I asked the question yesterday—most of the people and the addicts I deal with say that though there is no physical addiction, there are some people who can't handle the psychological question of drug or no drug, and I guess I have seen 2,000 or 3,000 addicts who have all said no. I was told yesterday when I asked the question to disregard the no from the people who were the addicts because ("

they weren't telling me the truth, (b) they thought I wanted to hear it, and (c) they didn't really have any feel for the problem.

I would just like maybe to get your comments on that.

Dr. BAIRD. If there was any reaction from the marihuana?

Mr. FREY. No. Just the question of the entire drug problem. Most of the heroin addicts that I have talked to said don't (a) legalize and don't (b) decriminalize. And I just wonder, should we give any validity to what those people say?

Dr. BAIRD. Absolutely, because they are the front foot soldiers in the problem of drug addiction. They know what the story is.

You weren't here when I made the remark, but the kids when they start, they are set into this milieu, and they may not be very happy with the high on grass, so there is that eternal search. If you had one of your witnesses yesterday who made it first with the grass and then in the whole thing he has gone to other drugs—

Mr. FREY. But you are saying then, if I understand you, that there are some kids that can handle it and do it or not do it and don't have a problem with it and there are others who, once they start and make a conscious decision of drug or no drug, and after that it doesn't really make a heck of a lot of difference.

Dr. BAIRD. There is a marked increased psychologic liability to go on to other drugs.

Mr. FREY. Then in your opinion, if you increase the use of the drug—marihuana, alcohol, I don't care which one—if you increase the use of a drug or the availability of it, then there is in the long run an increased risk in getting more people to end up in terms of heroin addiction or something that everybody agrees is wrong?

Dr. BAIRD. I think all you have to do right now is—why don't you take for 10 years, take the statistics of New York City from the time we had—with the pot—and just see the increase in drug addiction, the increase of dropouts, the increase of juvenile crime, and the increased lack of job opportunities because of no education, and there it is, already there. But you can't get anyone to try to make this correlation. You've got to just try to point it out to someone, get knowledgeable people up here, at least people that have had a little bit more clinical experience outside of just being administrators. That's the big thing that I find a little disappointing, is that the clinicians aren't here, but you've got many administrators. There's a hell of a lot of difference.

I used to be a former professional boxer. I couldn't read a book by Nureyev on how to fight. You have to have a guy who knows how to box. That's the guy I'm going to listen to, someone who's had the experience, not a guy who is an administrator.

Mr. FREY. Thank you.

Thank you, Mr. Chairman.

Mr. WOLFF. Thank you gentlemen.

Our next panel—will be Governor Thomson's representative, Mr. Robert E. Whalen, commissioner of health and welfare of the State of New Hampshire; Mr. Richard Davis, director of the department of human resources in Oregon; Senator Stephen Kafoury of the State of Oregon; Mr. Charles Sevilla, public defender of California; and Mr. Hollingsworth of the bureau of investigations in California.

The reason we are taking a panel such as this is because we have a great number of witnesses. We want to get all of their testimony before this committee. And therefore we are going to ask each of these witnesses if at all possible, to summarize their statements.

Mr. Whalen, I understand you have a statement from Governor Thomson that you would like to read, and if you would proceed first, please.

**TESTIMONY OF ROBERT WHALEN, ON BEHALF OF HON. MELDRIM THOMSON, JR., GOVERNOR OF THE STATE OF NEW HAMPSHIRE**

Mr. WHALEN. Thank you, Mr. Chairman and members of the committee.

Governor Thomson asked me to apologize and read this prepared statement:

My name is Meldrim Thomson, Jr., and I presently serve as Governor of the sovereign State of New Hampshire.

I have come here today to speak in opposition to proposals for the decriminalization of marihuana.

In mid-February the citizens of my State were shocked to learn of the confiscation of 4 tons of marihuana valued at some \$3.4 million which was discovered in the small and peaceful village of Gilmanton.

This discovery was further complicated and aggravated by the presence of the dead body of a young man in a nearby room.

Later that same week in the community of Sandown, 12 men and women were arrested and an additional 800 pounds of marihuana and \$80,000 in cash were seized.

The following day, seven adults and one juvenile in the city of Franklin were arrested on charges involving hashish.

The week prior to these occurrences, a shooting death occurred in the town of Epping, and upon investigation sizable quantities of cocaine and marihuana were found at the shooting site.

Two deaths in 1 week under suspicious circumstances which involved the presence of enormous quantities of marihuana and other drugs give rise to deep concern in New Hampshire which has heretofore been relatively secure from crimes of violence.

Incidents and rumors continue to be prevalent concerning marihuana and other drugs filtering through our Canadian border immigration stations and smuggling by boat in Maine and New Hampshire coastal areas.

I enumerate the above incidents in order to point up the heavy costs of our national drug problem in America's rural areas as well as in our large cities and urban areas.

Recent statistics released by Dr. Robert L. DuPont, Director of the National Institute on Drug Abuse, indicates that 53 percent of the high school graduates last spring had smoked marihuana compared to 47 percent in the previous year.

Dr. DuPont has also concluded that 1 out of every 10 men between the ages of 20 and 24 use marihuana daily.

Dr. DuPont, in his report, concluded that, "marihuana is not safe. The idea that it is safe, although acceptable to some of the public, is clearly not endorsed by the research community."

He stated that marihuana could affect personality, metabolism, and heartbeat rates.

In spite of evidence offered by the scientific community indicating the harmful and lasting effects of marihuana, we continue to find many of our citizens including environmentalists, ecologists, and other self-appointed saviors of mankind who regularly insist upon the last vestiges of doubt being removed prior to this Nation embarking upon projects of great magnitude which would protect our economy, the health of our citizens, and their livelihoods, blithely ignoring the warnings produced by years of research.

Thus, all too often we find that those who would protect the furbish louseworts, daffodils, clam larvae, and snail darters are either ignorant of, or purposely unmindful of, the toll to human existence produced by the rampant use of marihuana.

Such denigration of this existent human travail defies the logic of their pleas for improvement of the quality of life.

It is small wonder that our law enforcement agencies at the local, State, and national levels have, on too many occasions and in utter frustration, opted to ignore our drug enforcement statutes and that a minority of them have supported the decriminalization of marihuana, pointing to the difficulties involved in enforcement.

Errors of omission by enforcement agencies and others which lead to acquiescence of the use of marihuana can only lead toward a controllable problem today being converted to an irreversible epidemic of major proportions tomorrow.

We cannot either ethically or realistically condone the psychological and physical impairment which our researchers tell us is associated with the use of marihuana.

Given our knowledge of the harm without certain knowledge as to the full extent of that harm, we must exercise prudence and caution prior to abandoning criminal deterrents designed to protect society from destroying itself.

Indeed, if we as a Nation can enjoy the questionable luxury in the face of national economic disaster or protecting the furbish louseworts, daffodils, clam larvae, and snail darters, then is it unreasonable to suggest that we should do at least as much for our people?

And that's the end of the statement, Mr. Chairman, submitted by Governor Thomson.

Mr. WOLFF. Thank you, Mr. Whalen. I did neglect to swear the witness, so if you don't mind the oath will now be administered.

[Witnesses sworn.]

Mr. WOLFF. We will now proceed with the witnesses' statements before the committee begins questioning.

Senator Stephen Kafoury, of the State of Oregon.

#### TESTIMONY OF HON. STEPHEN KAFOURY, A SENATOR FROM THE STATE OF OREGON

Senator KAFOURY. Thank you.

We have a lot of people here this morning and not much time. Let me very briefly summarize.

In 1973, I was chairman of the Committee on Alcohol and Drugs, which, if I may interject a little humor, was a joint committee.

Mr. FREY. We badly need that. [Laughter.]

Senator KAFOURY. Senator Potts was one of the committee people. I was a freshman representative at the time. I was asked to chair this committee because I came from an urban, safe district, and I could get reelected by taking a look at marihuana laws.

There had been an interim committee previously, which, I may add, was comprised of rather conservative, older men, Republicans, who had gone into the question of marihuana in depth. And they concluded that we ought to do something in terms of liberalizing the laws.

So, I looked at legalization, and we ran a bill out of committee on legalization, but it did not pass. I went around and talked with legislators, and they said the reason they couldn't buy it was political. They were afraid they would not be reelected if they did legalize marihuana.

I said, what could you accept? And they said, how about lowering the penalties?

So, I took a look at what penalties actually were being given around the State of Oregon for possession of small amounts and I found out that almost no one was going to jail.

What mostly happened was a year's probation with a misdemeanor. The law said the judge had an opportunity to give misdemeanors rather than a felony. A misdemeanor was given, a year's suspended sentence, and a small fine, roughly \$100.

I said, that sounds fine. Let's put \$100 in there. I went to the statutes and found in Oregon we have a violation which is a civil offense.

It is quoted in the testimony here, but the important part of it says that conviction of a violation does not give rise to any disabilities or legal disadvantages based on a conviction of a crime. It's a fine situation, only similar to a traffic offense. And this is basically what it was designed for.

So, I thought, here was a situation where we thought a person could still have a State saying, this is a no-no, we are not condoning, we're saying it ought not to be done, but let's not stick someone in jail for doing it, let's not give them a criminal record.

A person convicted of a violation in Oregon can answer truthfully on employment applications: No, I've never been convicted of a crime.

We passed that bill, and I might add, almost without controversy.

You can read my testimony. I talk about the fact that I appeared on television, we had editorial support and a lot of media play on it. It seemed an issue that had passed in Oregon as an emotional issue. People realized that was a good thing to have happen. Nobody wrote in letters to the legislature. Nobody wrote to the Governor.

Since that time in 1973, in all the elections, both primary elections and general elections, there have only been two legislators that have ever had anyone challenge that vote in an election. I was one of them. And another Senator was the other one. Both of us beat our opponents by 2 to 1.

And it just has not had much political effect in the State of Oregon. I think what happened, the reason for this is that the hippie

scare was over. And I think marihuana in the 1960's was seen as a part of a big cultural problem of long hair and free love and dirty clothes and running away to San Francisco. Whereas I said in my testimony a lot of parents were worried that the kids wouldn't run away to San Francisco. [Laughter.]

Senator KAFOURY. But that hippie scare was over, and people saw construction workers were wearing long hair, the world was not coming to an end. Middle-class people were seeing that their kids were smoking marihuana. They didn't want them to go to jail, as was mentioned earlier. And the law has worked out marvelously in terms of public attitudes.

We have had some surveys done by Bardsley and Hashlacker, which is the respected poll in the State of Oregon, and they have shown that the attitudes of the public are very good. They like the bill the way it is. All segments like the law, from the Governor on down. People who work in mental health, the police departments have come to like the law. The court system likes the law. It has worked well.

[Senator Kafoury's prepared statement follows:]

PREPARED STATEMENT OF THE HONORABLE STEPHEN KAFOURY, SENATOR FROM THE  
STATE OF OREGON

In the 1973 Session of the Oregon Legislature, a Bill was passed making Oregon the first state to decriminalize possession of small quantities of marijuana. NEWSWEEK MAGAZINE described the law as being the most rational marijuana law in the United States. The Bill came from the Committee which I Chaired, and although it was the result of previous work and help by other Legislators, I made major decisions on its content and the tactics used to pass it. Because of my involvement in the creation of this Bill, I have been concerned about the effects the law has had since it was enacted in October of 1973 and I have followed its impacts carefully. These will be described to you, but first, I would like to spend some time discussing how the law developed.

As Mr. Davis explained, before 1971, possession of marijuana in Oregon was a felony carrying a maximum penalty of ten years in jail. The Legislature that year completely re-wrote the Criminal Code. One change gave judges the discretion to lower the felony charge for possession of a drug to a misdemeanor with a one year maximum jail term if the conviction was a first offense. This change was made without fanfare and little if any attention from the public.

The Oregon Legislature meets for approximately six months every other year. Between Sessions, Interim Committees are created to study problems and make recommendations for bills for the next Session. During the Interim between the 1971 and the 1973 Sessions, a Committee was established to look at the problem of alcohol and drug abuse. One of the directives to the Committee was "to investigate the extent of drug use and the methods by which it can be controlled and reduced." The Committee concluded that the law enforcement model for the control of drug abuse had not worked and that the social harms resulting from the prohibition of marijuana by the criminal justice system were worse than the dangers inherent in the drug.

Because of the uncertain political climate, the Committee did not recommend legalization although it anticipated this eventually. It did, however, recommend dropping, or at least reducing the criminal penalties.

In the 1973 Session, I, as a Freshman, was appointed House Chairman of a Special Committee on Alcohol and Drugs to review the Interim Committee recommendations.

A group of counter-culture young people who had worked on an unsuccessful attempt to secure enough signatures to put the legalization issue on the ballot, had drafted a bill to legalize possession of up to nine ounces or cultivation of two plants. Their theory was that this approach would separate the consuming from the criminal element involved in trafficking. Although I knew their Bill

would never pass the Legislature, I decided to push for it to raise the issue of legalization, reasoning that a majority of the Legislature secretly favored such a proposal but could not publicly vote for it. I felt this would allow a compromise Bill to pass at a later time. Therefore, I lined up editorial support from the major newspapers and television stations and a few big-name politicians, but as expected, the measure lost rather handily.

My Committee counsel and I immediately went to work on another Bill. I polled Legislative members on what they could support and they agreed to the lowering of penalties but not complete legalization of possession of any quantity. I was aware of a new provision in the 1971 Criminal Code that established that:

"An offense is a violation if it is so designated in the statutes defining the offense or if the offense is punishable only by a fine, forfeiture, fine and forfeiture or other civil penalty. Conviction of a violation does not give rise to any disabilities or legal disadvantages based on a conviction of a crime."

Here was the answer. It solved the political problem of my fellow House members and also solved, at least on a temporary basis, the main problem with the old law, the fact that use of a relatively mild drug could result in both a jail sentence and a criminal record. Nine ounces had sounded like a lot to the Legislators so I reduced the limit to less than one ounce, because this is the quantity in which marijuana is most often purchased by a consumer. Larger amounts could be presumed to be held by one involved in commercial activity.

The \$100 fine closely corresponded to the average fine that had been levied in Oregon, as few first offense violators had been imprisoned but were usually sentenced to probation. The high figure of \$100 was set to express a serious penalty, in contrast to a \$5 or \$10 figure. The Bill passed by a two-thirds majority in the House and, by nearly that margin in the Senate, after very little debate.

The essence of the Bill was: ORS 167.207

"(1) A person commits the crime of criminal activity in drugs if he knowingly and unlawfully manufactures, cultivates, transports, possesses, furnishes, prescribes, administers, dispenses or compounds a narcotic or dangerous drug . . ."

(3) *Notwithstanding Subsection (2) of this Section, if the conviction is for possession of less than one (avoirdupois) ounce of marijuana it is a violation punishable by a fine of not more than \$100.*

I wish to make a general statement about the impact of Oregon's marijuana law, before Mr. Davis goes into more detail.

First, the law has had very little effect politically. During the Legislative discussion, there was almost no input from the public in spite of an enormous amount of media publicity. Only a handful of citizens testified at the Legislative hearings and no Legislator received more than a half dozen letters on this issue.

Before the Governor publicly announced his decision not to veto the Bill, he ordered printed a large number of replies to anticipated letters criticizing his signing the Bill. He only received twelve responses, six in favor of the issue and six opposed.

A petition campaign to refer the passage of the new law to the voters received less than 5,000 signatures out of a needed 45,000.

In all of the Legislative races since 1973, both in the Primary and in the General elections, I have known of only two campaigns in which the marijuana issue was raised. One was my own election to the Senate this past fall where my opponent tried to label me as an enemy of youth. The other was a State Representative challenging an incumbent State Senator. In each case, the person opposing the marijuana law was beaten by better than 2 to 1.

The answer to why there has been so little public concern on the issue is unclear. If I may speculate, I would suggest that the timing of the Bill followed the end of the "hippie" scare of the 1960's.

Marijuana was viewed at that time not as a drug in isolation but as part of a cultural revolution involving the breakdown of long-established mores, dress and cleanliness standards, challenges to the marriage institution, and revulsion against the Protestant work ethic, etc. By 1973, middle-class Americans found the world had not come to an end; that traditional institutions and values had been maintained, that long hair did not mean moral depravity and that marijuana was being smoked by their own children without the

resultant epidemic of hard drug usage that had been feared. In short, people finally were able to look at marijuana rationally.

Another generalization I would like to make is that the law has had much less effect on the State than might be expected.

As I mentioned earlier, people as a general rule were not incarcerated for possession of small amounts of marijuana. Thus, there has been a negligible impact on the lives of those convicted except that the stigma of a criminal conviction has been removed.

In Oregon, people who commit violations may be cited by police officers so there is no need to arrest and take them into custody. This has saved police time; however, in many instances, policemen were not arresting persons caught in possession of small amounts but were merely confiscating the drugs. Also, enforcement of drug laws has been largely directed toward commercial activity. Thus, there has not been a major impact on law enforcement officers.

Finally, there has been little impact on usage. Mr. Davis will elaborate on this point.

Although there are many drug offenses in the Oregon Criminal Code, the 1973 Legislation amended only the offenses of Possession and Criminal Use of Drugs. (Criminal Use is almost never enforced.) The reason for the narrow focus of the 1973 Bill was political. The effect however, was to establish a general principle; that private use should be treated differently from commercial activity. Most law enforcement agencies have been following the spirit of the law, and are treating other offenses as violations if they involve personal amounts, although technically they are still felonies.

I have introduced a bill to extend the private use principle through the statutes by making other offenses such as transporting, furnishing, cultivating or manufacturing violations if less than one ounce is involved.

The problem we have run into since 1973 is unequal enforcement by overzealous prosecutors. In a few areas of the State, people have found themselves in the anomalous position of being charged with felonies for transporting less than one ounce, or cultivating one plant, whereas if the offense had been possession, the charge would have been only a violation.

In summary, I think the Federal Government is in a similar position to Oregon in 1973. Presently, Federal narcotics agents are not involved in enforcing laws against persons with small amounts of marijuana. Nothing really will be changed by decriminalizing small amounts as far as the Federal Government is concerned, but it will indicate a direction for other states to follow. I would suggest that you decriminalize all offenses including cultivation of a few plants and furnishing small amounts where no profit is involved. I think the experience in Oregon has shown the wisdom of this approach.

(Attached you will find information pertaining to marijuana laws in the State of Oregon.)

DEPARTMENT OF STATE POLICE,  
Salem, Ore., February 28, 1977.

JOSEPH L. NELLIS,  
U.S. House of Representatives, Select Committee on Narcotics Abuse and Control,  
House Office Building, Annex 2, Washington, D.C.

DEAR SIR: With reference to your request for information pertaining to marijuana laws within the state of Oregon, ORS 167.207 is appended for your information. You will note our law made simple possession or use of marijuana less than one ounce a violation punishable by a maximum fine of \$100. This change did not affect cultivation, furnishing or transporting less than one ounce of marijuana as they still remain a felony in our state.

On the passage of the law in Oregon, we were unable to issue citations for possession of less than one ounce of marijuana during the first three months of 1974 due to an oversight on the part of the 1973 Legislature. Our law concerning the issuance of citation for criminal violations was restricted to those only in which an arrest could be made and, prior to March, 1974, an arrest could not be made for possession of less than one ounce of marijuana. A Special Session was called which corrected this oversight.

We are appending statistical data involving marijuana for 1974-1975 plus State Police statistical information for 1976. Due to the fact that we were handicapped during the first three months of 1974, we have included a six-months breakdown of activities for the period July/December, 1974 and 1975 with percentage change noted. These figures are only those of the Oregon



State Police and do not reflect any picture that might be encountered by one or more of our local police departments.

We noted in the State of Oregon "Analysis of Criminal Offenses", January-December, 1974, UCR reports for Oregon indicate 9,262 persons arrested for drug offenses of which 4,473 were for marijuana violations. The 1975 figures indicate a total of 8,505 persons arrested of which 6,736 were on marijuana related charges. During 1974, marijuana accounted for 77.7 percent of total drug arrests, which in 1975 increased to 79.2 percent of total drug arrests.

Our experience with the law in Oregon can best be summed up in two ways. It was the Legislature's intent that by decriminalizing possession of small amounts of marijuana the police officer would have more time to devote to enforcement of the drug laws in relation to stronger drugs; however, we have found this has not been so as we are now spending more time enforcing drug laws than we were prior to the liberalization law as borne out by the percentages of increase each year of those individuals possessing less than one ounce of marijuana.

In defense of our law, we would like to say that by issuing only a citation for possession or use of minute quantities, it has made it less taxing on our police resources. The matter can be handled very expediently on the highway similar to the issuance of a traffic citation. Our records do reflect, however, that our members are seeing more marijuana and encountering more individuals using this toxic substance than in previous years. There is less antagonism between law enforcement officers and the individuals possessing marijuana since under Oregon law a person does not suffer any civil disability, i.e., have a police record, and the fine can be handled by mail rather than in person before the courts with a maximum of \$100 being levied.

We trust this information will be of value to you.

Sincerely,

ROBERT R. FISHER,  
Superintendent.

By

E. W. DAUGHERTY, Major,  
Criminal Division.

Enclosure.

#### OFFENSES AGAINST PUBLIC HEALTH AND DECENCY

(4) "Unlawfully" means in violation of any provision of ORS chapter 474 or 475.

[1971 c.743 §273; 1974 s.s. c.67 §1]

167.205 [Amended by 1961 c.333 §1; repealed by 1971 c.743 §432]

167.207 Criminal activity in drugs. (1) A person commits the offense of criminal activity in drugs if he knowingly and unlawfully manufactures, cultivates, transports, possesses, furnishes, prescribes, administers, dispenses or compounds a narcotic or dangerous drug.

(2) Except as provided in subsections (3) and (4) of this section, criminal activity in drugs is a Class B felony, or the court may, under the criteria set forth in ORS 161.705, enter judgment for a Class A misdemeanor and impose sentence accordingly.

(3) Notwithstanding subsection (2) of this section, if the conviction is for possession of less than one avoirdupois ounce of marijuana it is a violation punishable by a fine of not more than \$100.

(4) Notwithstanding subsection (2) of this section, if the defendant is 18 years of age or over and the conviction is for furnishing a narcotic or dangerous drug to a person under 18 years of age and who is at least three years younger than the defendant, criminal activity in drugs is a Class A felony.

[1971 c.743 §274; 1973 c.680 §1; 1974 s.s. c.67 §2]

167.210 [Repealed by 1971 c.743 §432]

167.212 Tampering with drug records. (1) A person commits the crime of tampering with drug records if he knowingly:

(a) Alters, defaces or removes a narcotic or dangerous drug label affixed by a manufacturer, wholesaler or apothecary, except that it shall not be unlawful for an apothecary to remove or deface such a label for the purpose of filling prescriptions; or

(b) Affixes a false or forged label to a package or receptacle containing narcotic or dangerous drugs; or

(c) Makes or utters a false or forged prescription or false or forged official written order for narcotic or dangerous drugs; or

(d) Makes a false statement in any narcotic or dangerous drug prescription, order, report or record required by ORS chapter 474 or 475.

(2) Tampering with drug records is a Class C felony.

[1971 c.743 §275]

167.215 [Repealed by 1971 c.743 §432]

167.217 Criminal use of drugs. (1) A person commits the offense of criminal use of drugs if he knowingly uses or is under the influence of a narcotic or dangerous drug, except when administered or dispensed by or under the direction of a person authorized by law to prescribe and administer narcotic drugs and dangerous drugs to human beings.

(2) In any prosecution for violation of subsection (1) of this section, it is not necessary to allege or prove what specific drug the defendant used, or was under the influence of, in order to establish a prima facie case. Evidence that the specific drug is not within the definition of "narcotic drugs" in ORS 474.010 or the definition of "dangerous drugs" in ORS 475.010 is a defense.

(3) Criminal use of drugs is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, if the conviction is for criminal use of marijuana, criminal use of drugs is a violation punishable by a fine of not more than \$100.

[1971 c.743 §276; 1973 c.680 §2; 1974 s.s. c.67 §3]

167.220 [Amended by 1957 c.403 §8; 1961 c.261 §2; repealed by 1971 c.743 §432]

167.222 Criminal drug promotion. (1) A person commits the offense of criminal drug promotion if he knowingly maintains, frequents, or remains at a place:

(a) Resorted to by drug users for the purpose of unlawfully using narcotic or dangerous drugs; or

(b) Which is used for the unlawful keeping or sale of narcotic or dangerous drugs.

(2) Criminal drug promotion is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, if the conviction is for knowingly maintaining, frequenting or remaining at a place where less than one avoirdupois ounce of marijuana is found at the time of an arrest under this section, criminal drug promotion is a violation punishable by a fine of not more than \$100.

[1971 c.743 §277; 1974 s.s. c.43 §1]

167.225 [Repealed by 1971 c.743 §432]

167.227 [1969 c.655 §2; repealed by 1971 c.743 §432]

167.228 Obtaining a drug unlawfully. (1) A person commits the crime of obtaining a drug unlawfully if he obtains or procures the administration of a narcotic or dangerous drug by:

OREGON STATE POLICE DRUG ARRESTS INVOLVING MARIHUANA—JULY/DECEMBER 1974, COMPARED TO JULY/DECEMBER 1975

	July/December 1974	July/December 1975	Percent change
Cultivating.....	101	108	+6.9
Transporting.....	13	12	-7.7
Possession over 1 oz.....	161	170	+5.6
Possession less 1 oz.....	633	718	+13.4
Furnishing.....	75	51	-32.0
Use.....	28	12	-57.2
Promotion.....	139	46	-66.9
Total, marihuana.....	971	1,117	+15.0
Other drugs.....	460	270	-41.3
Total, all drugs.....	1,431	1,387	-3.1

**OREGON STATE POLICE DRUG ARRESTS INVOLVING MARIHUANA—JANUARY/MARCH 1975, COMPARED TO  
JANUARY/MARCH 1976**

	January/March 1975	January/March 1976
Cultivating.....	3	18
Transporting.....	3	4
Possession over 1 oz.....	69	60
Possession less 1 oz.....	238	376
Furnishing.....	50	49
Use.....	5	16
Promotion.....	27	14
Total, marihuana.....	395	1 537
Other drugs.....	151	121
Total, all drugs.....	546	2 658

<sup>1</sup> +36 pct. increase.

<sup>2</sup> +21 pct. increase.

**OREGON STATE POLICE CRIMINAL ARREST INFORMATION**

	1975	1976	Percent change
Total arrests.....	11, 071	11, 586	+4. 65
Adults.....	6, 982	7, 495	+7. 3
Juveniles.....	4, 089	4, 091	+0. 04
Drug arrests, total.....	2, 514	2, 992	+19. 0
Adults.....	2, 158	2, 437	+12. 9
Juveniles.....	356	555	+55. 9

**POSSESSION OF MARIJUANA**

[Included in total drug arrests]

Possession over 1 oz., total.....	302	252	-16. 5
Adults.....	275	218	-20. 9
Juveniles.....	27	34	+25. 9
Possession under 1 oz., total.....	1, 281	1, 987	+55. 0
Adults.....	1, 009	1, 582	+58. 2
Juveniles.....	281	405	+44. 0
Marijuana arrests, total.....	1, 583	2, 239	+41. 0

Mr. WOLFE. Thank you very much, Senator.

We will now hear Mr. Richard Davis, director of the department of human resources in the State of Oregon.

**TESTIMONY OF RICHARD A. DAVIS, DIRECTOR, OREGON  
DEPARTMENT OF HUMAN RESOURCES**

Mr. DAVIS. Mr. Chairman, I should start off by saying I'm not a member of the board of NORML, nor did I graduate from an eastern university. But I would like to comment—and Senator Kafoury has

already touched on it—when Oregon decriminalized marihuana, we were fortunate to set up with a drug abuse council a program of taking surveys of our population to try and track what happened and what impact we had.

In my testimony I have attached some charts. There is no source written on it. The source is the Drug Abuse Council of Washington, D.C.

When the bill came up, there was, as you've seen already before your committee, a great deal of controversy and emotion involved in the issue. There were all sorts of claimant that Oregon was going to become the pot capital of the world and our society would fall apart.

As a matter of fact, I think the surveys would show—at least the surveys reflected in the Drug Abuse Council plus several of our own local ones—that drug abuse has increased, but in the over-18 age group only by 5 percent.

I think the thing we are finding is that there has been an increase, but there's an increase in drug usage across the country.

Mr. NELLIS. Excuse me, sir. Is that drug abuse generally, or marihuana use?

Mr. DAVIS. We're talking about marihuana use, just use of marihuana.

Mr. NELLIS. You're not including, in that 5 percent, other drugs?

Mr. DAVIS. Just marihuana.

Mr. FREY. Do you have surveys on the use of other drugs during the same time?

Mr. DAVIS. No; and I think one of the difficulties you have with that, since they are illegal and it's a felony, you have difficulty getting a survey and having any sort of credibility.

I think one of the key questions, though, that came up in the survey, one of the significant ones, was to try and determine what impact prosecution had on usage. And the interesting thing in the study was, prior to the implementation of the decriminalization law in Oregon, 4 percent of those surveyed in the sample said they did not smoke because of fear of prosecution.

Since the change in Oregon, that figure has remained constant. So, I guess—and Senator Kafoury has already touched—and prior to coming back here I had an opportunity to interview not only the superintendent of our State police who has communicated to the committee but also with juvenile judges and also juvenile workers—and I guess that our concern is not so much with marihuana these days in terms of the substance of abuse, but really alcohol.

We talk about the problems in our schools in Oregon and they tend to relate more to alcohol since decriminalization than they do marihuana.

Rather than go on, in respect of the time, Mr. Chairman, I would just close off with that right there.

[Mr. Davis' prepared statement follows:]

PREPARED STATEMENT OF RICHARD A. DAVIS, DIRECTOR, OREGON DEPARTMENT OF  
HUMAN RESOURCES

Mr. Chairman, Members of the Committee: It is a pleasure to be invited today to share Oregon's experience on the issue of decriminalization of marijuana.

From my conversations with your staff and the material which your committee has forwarded to me, it is our understanding that your interest is in three basic issues. . . the same three issues which we in Oregon struggled with in 1973, when we conducted similar proceedings and similar discussions.

I assure you that your task is not an easy one. We know that in Oregon few people lack strong opinions about what should be done.

Key legislators such as Senator Kafoury recognize that there were certain realities which had to be addressed. We no longer could hide from them.

We knew that the presence of marijuana was widespread—nearly one-quarter of Oregon's population over the age of 18 had at least tried the substance once. And of that number, two-thirds were using it on a more than infrequent basis.

We also knew that more than half the young persons under 18 years of age had at least experienced the substance.

And we knew that if we were to enforce our laws properly, we would have to spend vast amounts on scores of new police officers; greatly expand the capacity of our courts, and develop a prison system 100-times larger than the one we already had—at \$35,000 per bed.

Our laws made simple possession of even a minute quantity of marijuana a serious criminal offense. Yet, it was calculated that no more than one percent of all users were ever apprehended.

To achieve even that small amount of success, our police agencies were spending an inordinate amount of time apprehending the casual users, while finding less time and fewer resources available in addressing more serious offenses in the community.

And even after all that effort, grand juries refused to indict, and the courts frequently refused to convict.

It had become obvious that the law had become a farce in the wake of changing public attitudes. Widespread violation of marijuana laws and the indiscriminatory application tended to breed disrespect for authority in general—a dangerous precedent which worried all in responsible positions.

We had several choices. We could tighten our laws and make enforcement even more severe to discourage the use of marijuana. But with the facts that I have just given you, this option obviously was unwise.

Another choice was to legalize the substance entirely. That, too, was politically unrealistic.

Although we recognized a strong feeling for more liberalization of the marijuana laws, there was a definite adverse reaction to total legalization. It was our belief that government should not be too far in front of the people it serves.

Instead, we chose an acceptable balance—decriminalization of possession of relatively small amounts of the substance. Senator Kafoury held a leadership role in the legislative activities which led to the change of our law in 1973. I believe that he can lend great perspective to this issue and give us a first-hand observation of the changes and also of the problems which we faced in the passage of that new legislation.

As Senator Kafoury has said, although there was little debate on the final bill, there was opposition. It was predicted that Oregon would experience grave consequences if our laws were liberalized. It was suggested that the use of marijuana would surge. Some even decried a total breakdown of our society. They said Oregon would suddenly become the "pot capital of the nation."

It simply did not happen.

We have found, that in spite of the early predictions, usage of marijuana has not surged. We found that usage in the three years since decriminalization has increased by no more than 5 percent in the over-18 age group. And much of this is due to the increase in numbers in the age group that smokes marijuana, rather than an increase in new smokers.

Our figures are not idle supposition. Instead, our conclusions are the result of a continuing series of surveys conducted in Oregon since the decriminalization effort. They are the result of three annual studies commissioned by the Drug Abuse Council, Inc., of Washington, D.C., to determine any changes in usage and public attitude.

During that same period, other studies conducted among students in major colleges and universities and among the juvenile population in Oregon have borne out the findings of the main research effort.

We found that the substance still is favored by the same group that were users when the law was changed. These now are individuals who are 19 to 20 years old.

Among the teenagers of today, we have found that marijuana is still ever-present, but we also have noted that age group has made a surprising choice of intoxicant. The vast majority of juveniles prefer alcohol to marijuana. And we are greatly alarmed.

In our studies of intensity of usage following decriminalization, we found no real correlation. We have asked individuals who described themselves as current users whether they had increased or decreased their usage over the period. Half of the group said that they had not changed; another 39 percent had decreased their use; 9 percent said that they had increased. There appears to be very little difference in those statistics between the first survey in 1974 and the most recent one concluded in October of 1976.

We even polled non-users of marijuana as well and asked why they had chosen not to use the substance. The vast majority's answer was simply they were not interested. Also, contrary to popular belief, the fear of prosecution did not rate high as a deterrent. As a matter of fact, from a recent poll, we found that 4 percent prior to the passage of the law cited fear of prosecution as a reason for not using the substance. And that percentage has remained constant over the years. I believe that factor supports our original belief that stiffer penalties will not deter use when public acceptance is contrary to the law.

Another interesting factor was that 23 percent of the non-users said they chose not to use marijuana because they feared possible health dangers. Last fall the percentage dropped to 7 percent and in a recent examination of admissions of one of our state institutions we have found that in 1970, well before decriminalization, 23 individuals received institutional treatment for the effects of marijuana abuse. Last year, that number was 7.

Senator Kafoury and I have already mentioned that one reason for changing the law was to create relief to the criminal justice system. That has worked.

Robert R. Fisher, Superintendent of the Oregon State Police, has recently related this to this committee:

"In defense of our law, we would like to say that by issuing only a citation for possession or use in minute quantities, it has made it less taxing on our police resources. The matter can be handled very expeditiously on the state highway, similar to the issuance of a traffic citation."

He also cites less antagonism between officers and subjects alleged to be in possession. Other officials have also observed that the actual time spent in the field and time spent testifying in court later has been cut measurably.

From the standpoint of courts and prosecutors in some areas, decriminalization has eased the load and freed the system's resources.

One Oregon prosecutor representing a heavily populated county—including a state university—said that one year after the change went into effect, one-third of the cases awaiting trial in his county's courts had been removed from the docket and the jails no longer contained large numbers of citizens held in custody on minor possession charges. The majority of Oregon's prosecutors agree with him.

Within the judiciary, the sentiment is the same. Judges, who once found their courts crowded with minor marijuana offenders before decriminalization, now say they feel that the changes in the law are a more fair approach to the situation and they seem comfortable with the change.

So we see that the concerns expressed by opponents in 1973 have not been validated over the past three years. And we have found that there is steady public support of the change.

Although there remains a division within our society—a division based primarily on age and culture—there has been no widespread move by Oregonians to return to the old system. The studies have shown that the percentage of adults who favor the present law or who favor one of two legalization measures has remained at 58 percent during the entire three-year period. Our latest survey also has shown increasing public support for an even further liberalization of Oregon's marijuana laws.

We in Oregon are comfortable with the effects of the new legislation, but there still are concerns about one aspect of casual use of marijuana. It is an issue which currently is before our legislature and which deals with apparent inconsistencies in the area of cultivation.

Senator Kafoury will outline the proposal. I hope that we have shown that in spite of the divisions which still exist in our society on the issue of marijuana, and in spite of the legal complexities in controlling its use, it is possible for government to strike a balance—as we have done in Oregon.

We set a bold example. Other states have followed it. That example was based primarily on humanitarian concerns, and we believe that we were correct.

We know that more might be done, and Senator Kafoury now will explain one new option.

TABLE I.—*Marihuana use by adults (over 18)*

Percent ever used:		Percent currently using:	
1974.....	19	1974.....	9
1976.....	24	1976.....	12
Percent never used:		Percent currently not using:	
1974.....	81	1974.....	91
1976.....	76	1976.....	88

TABLE 2

Age group	Percent ever used		Percent currently using	
	1974	1976	1974	1976
18 to 29.....	49	62	NA	35
30 to 44.....	15	18	NA	5
45 to 59.....	4	6	NA	3
60 and over.....	2	2	NA	(1)

<sup>1</sup> Less than 1 pct.

NA=Not available.

TABLE 3

	Percent current users	
	1974	1976
Decreased usage.....	40	39
Increased usage.....	5	9
No change.....	52	50
Undecided.....	3	2

TABLE 4.—REASONS FOR NOT CURRENTLY USING MARIHUANA

Reason	Percent current nonusers	
	1974	1976
Not interested.....	53	64
Possible health dangers.....	23	7
Possibility of legal prosecution.....	4	4
Drug not available.....	2	4
Other reasons.....	9	17
Undecided.....	4	9

TABLE 5.—ATTITUDES TOWARD MARIHUANA LAW

[In percent]

	Civil penalties, as is		Possession of small amounts legal		Sale and possession of small amounts legal		Stiffer penalties		Undecided	
	1976	1974	1976	1974	1976	1974	1976	1974	1976	1974
Total adults (1976).....	27	32	19	15	12	11	38	39	4	NA
By age group:										
18 to 29.....	23	36	30	26	26	17	18	19	3	NA
30 to 44.....	37	-----	18	-----	5	-----	37	-----	3	-----
45 to 59.....	25	-----	16	-----	8	-----	48	-----	3	-----
60 and over.....	24	-----	8	-----	6	-----	53	-----	9	-----
By usage (1976):										
Have used.....	20	-----	40	-----	30	-----	8	-----	2	-----
Currently used.....	10	-----	41	-----	47	-----	1	-----	1	-----
Never used.....	30	-----	12	-----	6	-----	47	-----	5	-----

TABLE 6.—*Effect of Oregon Marihuana Law*

Effect:	Percent response
Beneficial.....	22
Harmful.....	16
No effect.....	38
Undecided.....	24

Mr. RANGEL [presiding]. Thank you, Mr. Davis.  
Mr. Hollingsworth?

**TESTIMONY OF EUGENE HOLLINGSWORTH, CHIEF, BUREAU OF  
INVESTIGATION AND NARCOTIC ENFORCEMENT, DEPARTMENT  
OF JUSTICE FOR THE STATE OF CALIFORNIA**

Mr. HOLLINGSWORTH. Thank you, sir.

I'm appearing on behalf of California Attorney General Evelle Younger. I will try to make my comments brief.

However, there are a number of points from our experience in California relative to the passage of our marihuana liberalization bill, senate bill 95, which I would like to make. First, and that is the point, it was a liberalization, not a decriminalization law.

California has not decriminalized. The sanction against the possession of 1 ounce or less of marihuana is a citable misdemeanor instead of a possible felony, and possession of more than 1 ounce for personal use is a straight misdemeanor.

That is a fact that is often misstated concerning California, and I would like to take this opportunity to set the record straight.

Mr. RANGEL. Could I interrupt to say, in Oregon they said they did not have to report that you'd been convicted of a crime for the lesser penalty.

Under your State law, must you report a conviction?

Mr. HOLLINGSWORTH. A conviction is a matter of record with our State bureau. However, there is a provision in the law for the expungement of that record after a period of 2 years, provided there is no further activity in this area.

Mr. RANGEL. Pardon me for interrupting.

Mr. NELLIS. Excuse me; could I get something else straight? I don't follow you. If you get a civil citation, or rather a citation under the misdemeanor statute, is that reported as an arrest?

Mr. HOLLINGSWORTH. Yes; it is. Or as a conviction, if it goes to conviction. Senate bill 95 became law in California in January 1976.

I will base my comments on a report that was done by the State office of narcotics and drug abuse in conjunction with our department for 1976.

I will preface my comments with the usual qualification that much of this data is incomplete and much of it, if not all, is based on the first half of 1976, compared to 1975; arrests and citations: Total known arrests and citations for marihuana possession have decreased 47 percent for adults, and 14.8 percent for juveniles.

Based upon very limited seizure data, there has been an 11 percent decrease in the amount of marihuana seized in California between 1975 and 1976.



That does, of course, vary from jurisdiction to jurisdiction. Some jurisdictions showed increases.

There was a decrease of 5 percent in the comparative arrests for adults in the marihuana trafficking area; but for the juveniles, the comparative arrests reflected an increase of 22.7 percent.

With respect to narcotics and dangerous drugs, arrests for non-marihuana-felony drug offenses increased 18 percent. And for persons under the influence of heroin, arrests increased 48.2 percent.

Driving under the influence of a drug was an area that showed considerable increases. Arrests of adults went up 46.2 percent. Arrests of juveniles driving under the influence of a drug went up 71.4 percent.

I would like to comment that we do not know, since the data does not tell us, which drugs were involved.

Mr. RANGEL. That doesn't help us much, does it?

Mr. HOLLINGSWORTH. It is only a raw figure, based on the data that we have.

Mr. RANGEL. Now, I'm not being critical.

Mr. HOLLINGSWORTH. I understand and I understand the thrust of your comment.

With respect to the cost of law enforcement, total marihuana custody arrests costs in California were \$5.4 million for the 6-month period of 1975, and \$850,000 for the same period in 1976.

Using the law enforcement agency responses, the cost of a citation was estimated by us to be about 59 percent of the cost of an arrest. We computed the cost of 9,102 citations to be \$1.2 million.

Judicial costs: It was estimated that senate bill 95 brought about a reduction in marihuana case-processing costs in our court system from \$9.4 million in the first half of 1975 to \$2 million in the first 6 months of 1976.

And one more cost area: Revenue to State and local government. The State general fund received \$818,000 in fines and bail forfeiture money for marihuana possession offenses in 1976, an increase of approximately \$631,000 over the previous year.

County and city general funds shared an estimated \$120,000 in additional revenue.

From these highlights, it is apparent that under senate bill 95 there was a decline in the number of arrests for marihuana possession and in the associated costs for law enforcement in the criminal justice system.

If these were the only criteria for the determination of the success or failure of senate bill 95, it would be a striking success, and I would be here today in support of decriminalization, rather than in opposition.

There are other factors: The comparatively large increases in other categories, I believe, should not be ignored, but more immediately germane to the issue at hand is the fact that a reduction in penalties for possession of marihuana has been accompanied by a significant increase in use, according to surveys conducted by the Field Research Corp. between February of 1975 and November of 1976.

Specifically, according to these figures, the percentage of our adult population who have used marihuana went from 28 to 34 percent, and the percentage of those who currently are users of the drug rose from 9 to 14 percent. This latter figure represents an increase of 55 percent.

Even more important is the finding that 66 percent of our population between 18 and 29 have tried marihuana, and that 31 percent of that age group currently use it.

That last figure represents nearly one out of three of those of our youth with whom we should be the most concerned, those who are now entering into the jobs and careers which will shape their future.

In California, as was common, I believe, in the experience of law enforcement officials in Oregon, prior to our enactment of our law—and I went to Oregon and spoke with many of them—we have noticed a significant increase—and this is a perception based upon a subjective judgment of our officers and theirs—a significant increase in public marihuana usage and intoxication.

Mr. NELLIS. Excuse me, Mr. Hollingsworth; that is not the experience, statistically.

Mr. HOLLINGSWORTH. As I said, this is a subjective perception.

Mr. NELLIS. I think it only fair to add, that is not a statistical perception.

Mr. HOLLINGSWORTH. I added it only because I wanted to draw the comment that I believe when you place that in comparison with the statistics of increased use, a greater credence perhaps may be given to both.

While we are considering the data that suggests liberalization of marihuana does lead to increased usage by a considerable percentage of our population, I would like to consider briefly the consequences of increased usage to the individual. I will not touch upon this more than briefly. You have heard much testimony on this subject. I'm sure that some of it, at least, has been contradictory.

I believe, however, that there is a considerable body of evidence to suggest that the use of marihuana is indeed harmful. And I would like to ask this committee to consider this evidence carefully.

We seem to be addressing marihuana, however, in a vacuum, although there were comments this morning about alcohol. The supporters of decriminalization often compare marihuana to alcohol, and I suppose we are to infer from this that because we condone the use of alcohol that we should treat marihuana in the same manner.

Alcohol costs us dearly each year in lives and in dollars. We pay a price for this intoxicant. We don't need another one; but the thrust of my comments is that we cannot consider it alone nor should we consider it in connection with alcohol.

As any law enforcement officer will tell you, marihuana is found in company with and is used in conjunction with other drugs and narcotics.

It is no secret that a strong movement exists to legalize cocaine. In California we have already had hearings in Los Angeles to inquire into the effects and dangers of this increasingly available drug. The clouds of heroin legalization can also be seen upon the horizon.

The California experience has shown that the liberalization of our marihuana laws was a message to our youth that marihuana usage is no big deal. And they have responded in increasing numbers to this perception.

But if two recreational intoxicants are OK—and believe me Federal decriminalization will be clear signal to this effect—then, why not others?

We in California law enforcement—and I speak not only for the attorney general but for the California Peace Officers Association and the California Narcotics Officers Association—believe that decriminalization will lead to further and more widespread drug usage.

We believe that even in senate bill 95 we may have gone too far and that we should certainly go no further.

The California decision to liberalize our marihuana laws was not one upon which we embarked lightly. The results of the first year are in, and they are disturbing.

If these trends toward increased marihuana usage and increased consumption of other drugs continues, it is a certainty that consideration will be given to returning to our State legislature to ask that a better approach to our drug problem be sought and that better controls of marihuana be returned.

One more point: Federal decriminalization at this time, I believe, gentlemen, would be unwise. There is no doubt that such an action on the part of the Federal Government would place pressures on the States that would be impossible for them to resist.

Federal decriminalization would impose a Federal standard that would make it difficult, if not impossible, for the individual States to address their own laws to their own needs.

The present Federal structure, we believe, supports the concept of State option, but decriminalization would defeat it. We in California strongly urge the retention of Federal law, and we urge this committee in its finding to exercise judgment and discretion.

To abandon our present sanctions for the control of drug abuse as a result of the current pressures over marihuana would be a regrettable step and one from which we could not retreat.

I thank you.

[Mr. Hollingsworth's prepared statement follows:]

PREPARED STATEMENT OF EUGENE HOLLINGSWORTH, CHIEF, BUREAU OF INVESTIGATION AND NARCOTIC ENFORCEMENT, DEPARTMENT OF JUSTICE FOR THE STATE OF CALIFORNIA

On behalf of California Attorney General Evelle Younger and Dale Speck, the Director of the Division of Law Enforcement of the Department of Justice, I would like to extend their thanks and appreciation for the opportunity that you have extended to California to appear before this Committee and to provide both input and recommendations on an issue that is of vital concern and interest to our country today—the question of decriminalization of possession and use of marijuana under Federal laws.

In recent years there has been an increasing controversy over the Nation's marijuana laws, and those of the several states. As the most populous state in the Union, California often has the distinction, if that is the proper word, of being among the first in the country to face new problems as they develop in our twentieth century American society. In no area is this more true than the drug problem with which we are all so vitally concerned.

With respect to this controversy, after a careful examination of the pros and cons, in 1975, our State Legislature passed Senate Bill 95, in what I would like to term the "California experiment." At this point, I would like to place clear emphasis upon a very important point, one often apparently unclear in the minds of some. Senate Bill 95 reduced the sanction against the possession of one ounce or less of marijuana to a citable misdemeanor instead of a possible felony, and possession of more than one ounce for personal use to a straight misdemeanor. Because this has been mis-stated in news and magazine articles, and even in responsible and authoritative reports, the last time just last week, I do not feel that I can make this point too strongly—California has not decriminalized the possession of marijuana, even in quantities of one ounce or less.

Senate Bill 95 became law in California on January 1, 1976. We have now had a full year's experience with the liberalized provisions of Senate Bill 95. It is my intent to report on some of the major effects of its passage. I will base my report upon the findings of a study of the impact of Senate Bill 95 which was done by California's State Office of Narcotics and Drug Abuse, in conjunction with the Department of Justice, and upon the findings of two Field Research Corporation polls commissioned by the Health and Welfare Agency of California in February, 1975, and November, 1976.

#### ARRESTS AND CITATIONS

Total known arrests and citations for marijuana possession in the first six months of 1976 have decreased 47% for adults and 14.8% for juveniles compared to arrests for marijuana possession during the first six months of 1975.

#### MARIJUANA SEIZURES

Based on available marijuana seizure data, there has been an 11% decrease in the amount of marijuana seized in California between 1975 and 1976.

#### ARRESTS FOR TRAFFICKING OFFENSES

There was a decrease of 5.0% in the comparative arrests for adults for the marijuana trafficking offenses.

For juveniles, the comparative arrests reflected an increase of 22.7%.

#### NARCOTICS AND DANGEROUS DRUGS

Adult arrests for non-marijuana felony drug offenses increased 18%, and for persons under the influence of heroin, arrests increased 48.2% between the first half of 1975 and the first half of 1976.

#### DRIVING UNDER THE INFLUENCE OF A DRUG

Arrests of adults and juveniles driving under the influence of a drug in the first half of 1976 increased 46.2% and 71.4%, respectively, over the same period in 1975, although the data do not indicate which drug was used.

#### DRUG OFFENDER DIVERSION PROGRAM (CAL. PENAL CODE 1,000 ET SEQ.)

In 1975, statewide diversions were 85% (20,540) marijuana related and 15% (3,691) hard drug related, while in 1976 diversions were 50% (5,954) marijuana related and 50% hard drug related.

On the whole, any Senate Bill 95 related reduction in drug treatment program effort in handling divertees has been offset by program referrals from the courts as a result of substantial increases in hard drug arrests and diversions.

#### LAW ENFORCEMENT COSTS

Total marijuana custody arrest costs were \$5.4 million from January through June, 1975, and \$850,000 for the same period in 1976. Using law enforcement agency survey responses, the cost of a citation was roughly estimated to be 59% of the cost of an arrest. We computed the cost of 9,102 citations at \$131 each, or \$1.2 million.

## JUDICIAL SYSTEM COSTS

It is estimated that Senate Bill 95 has brought about a reduction in marijuana case processing costs in the court system from \$9.4 million in the first half of 1975 to \$2.0 million in the first six months of 1976.

## CRIMINAL JUSTICE SYSTEM COSTS

Overall, the data indicate substantial cost savings in the criminal justice system as a result of Senate Bill 95. If the estimated law enforcement costs are added to the known judicial costs, the total of \$17 million for half of 1975 compared to \$4.4 million for half of 1976 represents a 74% reduction in costs. While the exact amount of the reduction is subject to interpretation of incomplete or estimated data, the general direction and magnitude of cost changes are clear.

## REVENUE TO STATE AND LOCAL GOVERNMENT

It is estimated that the State General Fund received \$818,000 in fine and bail forfeiture money for marijuana possession offenses in 1976, an increase of approximately \$361,000 over the previous year. County and city general funds shared an estimated \$120,000 in additional revenue.

From the foregoing highlights of the impact of the liberalizing of California's marijuana laws, it is apparent that under Senate Bill 95 there was a clear decline in the numbers of arrests for marijuana possession and in the associated costs for law enforcement and the criminal justice system. If these were the only criteria for the determination of the success or failure of the California experiment, Senate Bill 95 would be termed a striking success and I would be here today in support of decriminalization rather than in opposition.

There are other costs, however, and other criteria. I believe these other costs more than offset the comparatively small dollar savings I have just reported.

The comparatively large increase in juvenile trafficking arrests, arrests for both adult and juvenile driving under the influence of drugs, the increases in non-marijuana felony drug arrests and the increases of hard drug related admissions to our drug diversion program should not be ignored.

More immediately germane to the issue at hand is the fact that a reduction in penalties for possession of marijuana has been accompanied by a significant increase in the use of marijuana.

Surveys conducted by the Field Research Corporation found that between February, 1975, and November, 1976, when the California media were widely reporting the legislative hearings on Senate Bill 95 and when it was in its first year of operation, the numbers of California's adult citizens involved with marijuana usage escalated sharply. Specifically, the percentage of our adult population, according to available figures, who have used marijuana went from 28% to 34% and the percentage of those who currently are users of the drug rose from 9% to 14%. This latter figure represents an increase in the number of regular users of marijuana in California of almost 55%! Even more important is the finding that 66% of our population between age 18 and 29 have tried marijuana and that 31% of that age group currently use it. That last figure represents nearly one out of three of those of our youth with whom we should be most concerned—those who are now entering into the jobs and careers which will shape their future, as well as ours.

I am aware that in the past few days the press has reported a recent study which purports to show that marijuana decriminalization does not tend to increase its use. I submit that in California, at least, there is considerable evidence to the contrary.

The press has indicated that this report relied upon "the subjective judgment of key knowledgeable officials" in arriving at its conclusions. I should like to give this Committee an insight into the subjective judgment of other knowledgeable officials on this same subject.

In 1975, prior to the passage of Senate Bill 95, I visited the State of Oregon, where I spoke at length with Oregon officials at many levels. When speaking to enforcement officials at the state and local level, both I and other members of my party were struck by their common perception that public marijuana use and intoxication had significantly increased. These same officials were

quick to point out that they were not attempting to infer that overall use had increased, and that perhaps the same users were now simply more open. I now understand that the Oregon data does show an increase in use. In California, this same phenomenon has been repeated. The Agents of our Department, as well as local officers, have echoed this perception of increased public use and intoxication. In particular, drive-in theatres and the public roads are places where this is noted. I have seen this myself, in 1976, when in earlier years it was never seen.

When this observable increase in public usage is viewed in comparison with the statistics of increased usage, I believe that greater credence is given to both.

While we are considering the data that strongly suggest that liberalization of the marijuana laws does lead to increased usage by a considerable percentage of our population, it would be appropriate to consider the consequences of this increased usage to the individual.

The question of the harmful effects of marijuana is one upon which I will not touch more than briefly. You have already heard much testimony on this subject. I am sure that some of it, at least, has been contradictory. I believe, however, that there is a considerable body of evidence to suggest that the use of marijuana is indeed harmful. I would like to ask this Committee to consider this evidence carefully.

I should like to invite the Committee's attention to the fact that we appear to be addressing the marijuana issue in a vacuum. This, I submit, is an over-simplification, and a mistake. The supporters of decriminalization often compare marijuana to alcohol and I suppose that we are to draw the inference from this that because our society condones the use of alcohol that we should treat marijuana in the same manner. Alcohol costs us 25,000 lives annually and untold billions of dollars in alcohol-related costs. We pay a dear price for this harmful intoxicant—we don't need another. But the thrust of my comments at this point is that we cannot consider marijuana alone, nor should we consider it in connection with alcohol. Marijuana, as any law enforcement officer will tell you, is found in company with, and is used and sold in conjunction with other drugs and narcotics. It is no secret that a strong movement exists to legalize cocaine. In California we have already had hearings in Los Angeles to inquire into the effects and dangers of this increasingly available drug. The clouds of heroin legalization can also be seen upon the horizon.

The California experiment has shown that the liberalization of our marijuana laws was a message to our youth that marijuana usage is no big deal, and they have responded in increasing numbers to this perception. But if two recreational intoxicants are OK, and believe me, Federal decriminalization will be a clear signal to this effect, then why not others? We in California law enforcement, and I speak not only for the Attorney General and the Department of Justice, but for the California Peace Officers' Association and the California Narcotic Officers' Association as well, believe that decriminalization would surely and inevitably lead to further and more widespread drug usage.

We believe that even in Senate Bill 95 we may have gone too far and that we should certainly go no farther.

The California decision to liberalize our marijuana laws was not one upon which we embarked lightly. The results of the first year are in. They are disturbing. If these trends toward increased marijuana usage and increased consumption of other drugs continue, it is a certainty that consideration will be given to returning to our State Legislature to ask that a better approach to our drug problem be sought and that stricter controls of marijuana be returned.

Federal decriminalization at this point would be unwise. There is no doubt that such an action on the part of the Federal government would place pressures upon the states that would be impossible for them to resist. Federal decriminalization would impose a Federal standard that would make it impossible for the individual states to adjust their own laws to meet their own needs. The present Federal structure supports the concept of state option—decriminalization would defeat it. We in California strongly urge the retention of current Federal law, and we urge this Committee, in its findings, to exercise both judgment and discretion. To abandon our present sanctions for the control of drug abuse as a result of the current pressures over marijuana would be a regrettable step—one from which we could not retreat.

Mr. RANGEL. Mr. Hollingsworth, you used the expression, "we in California." Did you have the opportunity to hear the testimony of Congresswoman Yvonne Burke?

Mr. HOLLINGSWORTH. No; I did not.

Mr. RANGEL. Did you have an opportunity to read her testimony?

Mr. HOLLINGSWORTH. No; I did not.

Mr. RANGEL. A part of her statement referred to a report issued by Mario Obledo.

Mr. HOLLINGSWORTH. We're talking about the same report.

Mr. RANGEL. And they used a poll of usage and attitudes conducted by the Field Research Corp?

Mr. HOLLINGSWORTH. Yes, sir.

Mr. RANGEL. And this was conducted at the direction of the California State Legislature.

Mr. HOLLINGSWORTH. Yes; it was.

Mr. RANGEL. And there are some sharp differences between your testimony and this report.

Mr. HOLLINGSWORTH. I did not hear the earlier testimony. I do know that the report which I have referred to does show a decrease in arrests and citations. I understand, obliquely, that there was testimony that that was usage. It was not. It was known arrests and citations. The Field Research Corp., for marihuana usage, showed an increase.

Mr. RANGEL. Counsel?

Mr. NELLIS. Excuse me, sir.

Mr. Whalen, are you familiar with how many young people are presently incarcerated in New Hampshire jails for possession or use of small amounts of marihuana?

Mr. WHALEN. Well, I can't give you the percentage. I believe the figure, if it isn't the lowest it's the next to the lowest, based on population of the State per thousand or by any measurement that you would like to use, of all 50 States.

Mr. NELLIS. I have some information that was obtained this morning from the deputy director of the New Hampshire State prison system. Let me just tell you what is going on. Juveniles under 18—and these are in jail in a State penitentiary, 16 for possession of marihuana, 4 for use of marihuana, 8 for sales of minor amounts of marihuana. And these are juveniles under 18. You have 28 presently incarcerated.

Now, in the group 18 to 23, you have two for possession, one for transportation, one for conspiracy to sell. That is four.

We have 32 people in jail in New Hampshire today for the use, possession, or transfer of small amounts of marihuana. Do you regard that as a reasonable result in terms of the youths of this country?

Mr. WHALEN. Well, I think it is reasonable as far as the State of New Hampshire is concerned.

Mr. NELLIS. In what respect is it reasonable?

Mr. WHALEN. Well, I think the numbers or the percentage is very low, based on the total population of the State. And I think if you look at our penalties for the possession, whether it be a felony, a class B felony, or a misdemeanor—

Mr. NELLIS. They're very severe, aren't they?

Mr. BEARD. I would like to ask the counsel, if I may, because I think this is a very interesting point that you're making. The 16 that are in jail for possession, what were the amounts that they were arrested for? What are small amounts?

Mr. NELLIS. Small amounts, certainly less than 3 ounces.

Mr. BEARD. Well, did he say that? If we're going to have it, I would like to have it for the record, exactly——

Mr. WHALEN. Actually the penalty starts at 1 pound or less. So, it could be any amount.

Mr. BEARD. I would also like to know, as far as the 18 to 23, one for transportation, what was the amount of weight that the gentleman was transporting that was arrested?

Mr. NELLIS. I will put those figures in the record, Mr. Beard. The point I'm trying to make is whether or not these young people who are in jail for possession or use or transportation have a future ahead of them in light of the criminal penalty which they have suffered?

[The above-mentioned information was not broken down in such a way that exact figures could be furnished.]

Mr. WHALEN. Well, I can't speak for the individuals involved, whether they have a future or not. But, based upon their conviction either as a misdemeanor or class B felony, I think they still have a future ahead of them. They have recourse in the State of New Hampshire. We have an unusual State government system, an executive system; it is one of the 3 States left in the country of the 13 original States that have an executive council. And I sat on that as an elected representative of the people, 5 councilors, who, along with the Governor, have the power to pardon.

And increasingly, during the past 6 or 8 years, we have young people trying to get into the military or trying to pass some kind of a security test for a large corporation or what have you, who have the opportunity to come before the Governor and council and apply for pardon.

Mr. NELLIS. While you were sitting on that council, how many young people did you pardon after conviction of minor marihuana offenses?

Mr. WHALEN. Probably 10 or 12 in the 6 years, 3 terms that I served. And all of the applications indicated that it was necessary to enter the armed services. As a matter of fact, that was made a condition in most cases for a pardon.

Mr. NELLIS. You do understand the process, the methodology, that the committee is looking into involves decriminalization with a thrust at young people who heretofore have been sent to jail for possession of marihuana cigarettes no longer will be sent to jail. That is the problem with which we are wrestling.

Mr. WHALEN. I understand.

Mr. NELLIS. And if you have this many people in jail for these relatively minor offenses. I am wondering first, whether your law is being enforced, and if it is not being enforced, why not? Why aren't there more people in jail? And if it is not being enforced, why were these 28 selected?

Mr. WHALEN. Well, in answer to that; I think the law is being enforced.



Before I became Commissioner of Health and Welfare I was Deputy Commissioner of Safety, and the State Police Division was under my office, along with the State Detective Bureau. And I would think, on a relative basis, compared to other States, at least neighboring States, that the enforcement of the law in New Hampshire is probably better than it is, at least, in the New England States.

Mr. NELLIS. Thank you, Mr. Chairman.

Mr. RANGEL. Mr. Beard.

Mr. BEARD. Thank you, Mr. Chairman.

I would just say that 32 people in jail, I would hope that—I will look with great curiosity, for the record, to see the amounts that were possessed. I was shocked to find out that 1 ounce of marihuana can make 70 pretty healthy cigarettes. So this is a learning stage for me.

I would just to know, 4 for conspiracy, what were these 4 young men—what was the conspiracy? I would like to know that. I think that would maybe bring things at least into perspective.

Mr. NELLIS. We are going to provide that for the record, Mr. Beard.

Mr. BEARD. Thank you.

Senator, I would like to ask you regarding your testimony, did the Senate, when the bill was passed, or in presenting the bill, was there a strong word of discouragement in de-emphasizing the seriousness of the use of marihuana or de-emphasizing the penalty? Was there wording in the bill that we feel, because of health implication or potential health problems or because of seriousness, we would discourage the use? Was any of that handled in any way?

Senator KAFOURY. The words in the bill, Congressman, are in my testimony. It is a very clear thing, notwithstanding, and not much else, a conviction for possession of less than an ounce will be a \$100 fine maximum.

I'm glad you asked that question because I would like to answer in some detail, if I may, in a little bit of a roundabout way.

We have been hearing a lot about drug problems this morning. I have been either chairman or on a committee since 1973, and I have heard a lot of testimony in this area. I have been a teacher. I think I'm as familiar as any person who is not actually in the field working with drug addicts, certainly in the State of Oregon, with their problems, and we are really getting a lot of effect and cause mixed up.

There are a lot of teenage problems. My wife is on the Planned Parenthood Board in the State of Oregon. We've got 11 million teenage pregnancies in the United States. No one is suggesting that we then bring the criminal justice system in and start putting young girls and young men in jail.

The thing that my study has shown is that in State of Oregon there are increases in drug use, there are increases in alcohol use. This is true around the country. But it is irrelevant of the law. The law does not have an effect on whether people use or do not use drugs.

We have also looked at this issue in the question of teenage drinking. There have been several bills in to lower the age from 21 on teenage drinking, and all the studies we found there—that the decision, whether to drink or not to drink, whether to smoke marihuana or not to smoke marihuana, are made by a lot of criteria. Fear of the

Government, fear of the criminal justice system, is not one of those criteria that people use when they choose whether to smoke or not.

So what we are doing by having laws, is selectively enforcing a social phenomenon.

Mr. BEARD. Of course, part of that is in contrast to what Dr. DuPont's statement and the result of his studies said, that the majority of individuals stopped smoking marihuana as a result of the fear of the law or being arrested.

Senator KAFOURY. Not in the State of Oregon.

Mr. BEARD. No. I'm referring to Dr. DuPont's—the NIDA study that they did, and I don't know how many people are involved in it. But this was in the testimony given to Senator Eastland's committee in 1975, that this was the number one deterrent to get those that were smoking to stop smoking.

Senator KAFOURY. In the State of Oregon, we have done three polls I am familiar with over a period of time of different groups of people, and the figure 4 percent comes up over and over and over again of the number of people who do not smoke, and when asked why, give the answer, fear of the law.

The other answers that they give are safety reasons, just don't care to, religious reasons, et cetera, et cetera, et cetera.

Mr. BEARD. I would like to give you an opportunity to respond, and you might have in part of your testimony, regarding the fact that in 1976 in Oregon, 1,987 citations were issued for marihuana possession against a total of 1,281 citations for 1975. The number of all marihuana offenses for 1976 was 2,239 against 1,585 for 1975, an increase of 41.3 percent.

Senator KAFOURY. I am roughly familiar with the figures. If you take a look at those numbers, those are very small absolute numbers. And I think the same thing is true of other States. I think you need to take a look at that. If you start with a low absolute number and then increase it slightly, you can get a tremendous percentage increase which may not reflect—we have 2½ million people in the State of Oregon, and so an increase of 500 has to be taken into account in that perspective as well as looking at what is happening later and what was happening before. And also look at the different jurisdictions that are getting arrests. The State police are finding more arrests. Our local jurisdictions are having fewer.

So you can spend a lot of time—

Mr. BEARD. I guess what we are saying is those who feel that is the direction we should go in can find statistics to back that up, and those who feel that maybe decriminalization presents a problem, whether it be the law enforcement area or whatever, can find statistics to back their approach.

Senator KAFOURY. I'm sure that everything that comes before your committee, they can find that. I think we need to pare down the statistics and look at what, I think, are the really significant ones. And I think the No. 1, significant one, is the fact that usage is increasing, very slightly, but it is increasing nationwide.

I suggest this is true in States which have tough laws, States which have medium laws, and States which have very soft laws.

Second, I think the figure of 4 percent—and this has been verified by a number of statistics, or a number of polls—of the number of people who don't smoke because they are afraid of the law—shows that the law does not have very much effect on people's behavior. And so what we're doing is catching some people and putting them in jail; catching other people and giving them criminal records; whereas the vast majority of people who smoke are not being touched, and that is inequitable. The law has no effect on whether people smoke or not.

Mr. BEARD. I saw an attachment—and correct me if I am wrong—but do you feel we should maybe go a couple of steps further and apparently plan on introducing legislation or have or discussed it regarding the legality of growing, what, six marihuana plants, I believe.

And, also, I believe there was some reference made to the no-penalty or lesser penalties or whatever for the distribution of small amounts of marihuana and transportation of small amounts of marihuana.

I asked the question yesterday to the American Bar Association representative, and she stated that they had just come out in support for the philosophical aspect of it but had not done any research as to the fine points.

Would your law, or would your bill—or do you feel we need to be specific as to the relaying of marihuana to another person, small amounts, would there be an age limit on that?

Senator KAFOURY. We have this in the State of Oregon presently.

Mr. BEARD. Grammar school children, high school children, or someone who distributes?

Senator KAFOURY. Yes, we have a law like this that is very severe. It is class A felony, the toughest penalty we have in the State of Oregon, for selling to a minor. And I don't think anyone is in favor of changing that.

Alcohol is tough for kids to handle. Teenagers should not drink alcohol. Marihuana is tough for kids to handle. Teenagers ought not to smoke marihuana. I don't think that by putting adults in jail you keep teenagers from smoking marihuana. And I wish I had an answer to how we stop teenagers from smoking marihuana. I don't have it.

Mr. BEARD. You see, they are in the process now of considering changing the law back to 21 as to allowing the drinking or being able to drink, because they said, apparently, when they went back to 18—and this was up in this area—it has just gone—created extremely serious problems.

So that concerns me when I look at the marihuana aspect, also. But that's just an observation.

Thank you.

Mr. WOLFF [presiding]. Mr. Rangel.

Mr. RANGEL. I yield to Mr. Murphy.

Mr. MORGAN MURPHY. Congressman Rangel and I were just discussing what a difficult time in life the teenage years are. They're old enough to know better and not young enough to do anything about it.

Senator KAFOURY. Our law does not affect teenagers. The juvenile laws in the State of Oregon—I'm not familiar with Federal law and



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**5 OF 7**

I don't think you have any jurisdiction over juveniles—but we have, of course, different jurisdictions for juvenile courts than we do for adults, and this law does not affect juveniles.

Mr. MORGAN MURPHY. What about expunging the record of conviction in Oregon?

Senator KAFOURY. For juveniles?

Mr. MORGAN MURPHY. For juveniles.

Senator KAFOURY. We're in the process—and I'm serving on the committee that's revising the juvenile code presently, and we are in the process of discussing this. We do have expungement on the record for all juvenile offenses.

Mr. MORGAN MURPHY. That's all, Mr. Chairman.

Mr. WOLFF. Mr. Rangel.

Mr. RANGEL. I would like to ask Mr. Hollingsworth a question on this.

We find social workers can conduct studies, and different doctors—certainly we have heard their different testimony—and certainly politicians for a variety of reasons can hire consultants to study this problem, and they differ. But nowhere have we found the continuity of opposition as we have in law enforcement.

Why is it that they never give a conflicting view?

Mr. HOLLINGSWORTH. Well, I think, just briefly, to try to answer that question, Congressman, it may be because of their having experience with the effects of drug abuse that they see in the field. I think that probably is a great factor in their perceptions.

Mr. RANGEL. Could you think of any criminal law in the State of California where the law enforcement could say the political legislators made a mistake and this should not really be a crime?

I mean, I haven't found it in New York State, and I haven't found it in the Congress, when they can say that the Congress just made a mistake. It should be something but not a crime.

Mr. HOLLINGSWORTH. I don't know of any studies to that effect.

Mr. RANGEL. I think we ought to take a look at that.

Thank you, Mr. Chairman.

Mr. WOLFF. Gentlemen, I would just like to, again, pose a question to you who have had some experience with this problem.

Where are the people who are now using a small quantity of marihuana, where are they getting it from?

Senator KAFOURY. That's the reason, Mr. Chairman, for introducing the bill that I'm introducing, to decriminalize cultivation of small amounts.

The problem—and you've heard it said here this morning—and it is true is that people who deal in large quantities of marihuana—I'm not talking about your neighborhood supplier—but people who deal in marihuana are often found, when police catch them, with other drugs, other heavy drugs. And I think that we take the small amount and differentiate what the Oregon laws try to differentiate—between commercial activity and private use.

As you know, in Alaska the court has said—the Supreme Court—that it is none of the State's business what people do in their own homes, whether they grow and possess small amounts of marihuana.

This is the theory of the Oregon law. We are trying to get people, by my law, out of the criminal milieu to allow people in their own homes to do their own private thing. And right now the only place you can get marihuana is from someone who is committing a felony.

Mr. WOLFF. Now, I alluded to yesterday, and said I was not a lawyer, so I can't enter into the legal question here, but it seems to me that someone who is part of the act of committing a felony is also guilty of that felony, according to the law. Am I correct in that?

Mr. RANGEL. I think that is too rational for a lawyer, Mr. Chairman. [Laughter.]

Mr. NELLIS. The buyer and seller are generally equally liable.

Mr. WOLFF. And in the sale of stolen property—

Senator KAROURY. You have to look at the enforcement. How are people apprehended when they are selling an illegal substance? They are not apprehended by somebody standing out and watching one guilty person sell to another guilty person. A policeman goes up and procures something from a felon, or a person committing a felony. So this, really, as a practical matter is not a problem. It is a theoretical problem.

Mr. WOLFF. But it is part of the basic problem that we are faced with here in attempting to bring about a viable solution which discourages the use of this substance and at the same time does not stigmatize a person forever for using a small amount.

The approach of permitting someone to grow their own supply is an idea that was raised by Dr. DuPont. He recommended this. But we are living in an "instant age." It seems that the idea of having somebody grow their own food, especially with the high price of food that exists today, you would think there would be more people growing their own food. But this has not happened.

Aren't you always going to have this problem of people who are selling a product rather than just trying to grow it on their own?

There is also the fact of the transfer of small quantities is not a crime; is that correct?

Senator KAROURY. In my bill, presently this is one of the problems. In 1973 I wanted a narrow focus because I could pass a narrow-focus bill that dealt just with possession. I knew that if I got into other areas of law I would get opponents and it would not be able to pass. So now I'm coming back and saying, let's make this across the board—transporting—presently we have one or two D.A.'s in the State—most of the district attorneys are going along with the spirit of the law very well, but we have 1 or 2 district attorneys who are catching a kid for having a joint or two in the car and bringing him in and indicting him for a felony, charged with transporting marihuana.

If a D.A. wants to be hard, there are laws you can find.

Mostly, small amounts for growing or transporting or giving to another person, as a practical matter, are being dealt with by the courts as a violation, presently. So, again, my bill is not going to change a whole lot of what is being done. But it will help, I think, the problem of discrimination where in one county, growing 1 or 2 plants in your backyard is a violation and in another one it's a class A felony with 10 years in jail.

Mr. WOLFF. We also had that problem during World War II, as I understand it, when people were encouraged to grow cannabis or hemp. As a result, it grows wild in many States in the United States today. The important element, however, I think, that we must give consideration to is whether or not this type of recommendation will increase or decrease the usage or abuse of this substance. That is the bottom line.

The committee with its oversight and coordination responsibilities for the collection of material and information, is exercising this responsibility in having you gentlemen appear before us. There are no easy answers to this problem, and I think that you have certainly been able to provide us with information that will add to the total structure and total picture that we are to present to the Congress, for which we are very grateful.

Any further questions?

Mr. BEARD. I would just like to ask one.

Being in politics, and your being an astute politician, and having stated that rather than throw everything into that one bill, you needed to take that first big step, if these areas are passed, these other aspects of what you feel your overall plan is—and you might have covered this, and I apologize if you have—but do you feel there is a danger, or do you have an attitude as to the next big step, say 3 to 4 years from now or whatever, would be the legalization?

Senator KAFOURY. To some extent, legislators follow social phenomena. I think what is happening today is that a tremendous number of people are using marihuana. Another interesting figure is that those people who are using marihuana seem to be using it less. They don't smoke as often as they did. It is not the fad, in that way, that it used to be.

Down the line I wouldn't be surprised but what we would have the same kind of regulation of marihuana that we have now with alcohol.

Mr. BEARD. Do you feel that now, if you could throw it in your bill, do you think legalization would be the proper approach to take today? I mean as far as what the people—

Senator KAFOURY. My feeling is that what people do in their own homes is really their own business, and that the State, as much as possible, ought to stay out of people's lives in this area. People do a lot of other things that damage their body. There's no doubt that people differ whether marihuana is horrible or whether it's a little bit dangerous—but to some extent it is a little bit dangerous. People overeat. A lot of people die of heart attacks from eating too much. We don't take care of our bodies in a lot of ways, and yet the State doesn't think it is their responsibility to come in and say, you ought not to overeat or you ought to exercise.

There are just limited things that the law can do, and frankly, the law is not an effective tool in reducing drug abuse. We've got this problem with alcohol. There are lots of people who work in alcoholic programs—what can the State do to reduce alcoholism? Nobody has the answers. The same thing is true of marihuana use.



Mr. WOLFF. You're saying that if you overeat, you are damaging your body; but there is no law on the books that says that you can't sell food.

Senator KAFOURY. That's the point I'm trying to make.

Mr. WOLFF. The problem is difficult to handle, because the fact is, there are people who are licensed to sell booze in this country, and you still have laws that a person is liable criminally if he is drunk. A similar situation exists here. I take it that you still would favor, or would you not favor, criminal penalties for the commission of an illegal act while being under the influence.

Senator KAFOURY. Mr. Chairman, I think it is very similar to pornography. If somebody is going to go out and sell things to children or they are going to display things that are obnoxious to the public, that is one issue. If a person is going to their own home to read a dirty book, it seems to me that's his own personal business. And this is where I make the distinction. I don't think the laws have been very effective in controlling whether people are going to read dirty books at home, and I don't think it's going to be very effective in whether people are going to smoke marihuana in their own home.

Mr. WOLFF. I, unfortunately, had to leave.

Senator KAFOURY. If I might finish that, when a person's actions start to impact on other people, then the State has a role to come in and play. And that's a fine line, and we will differ on what personal activity does impinge on other people's activities. I can appreciate that.

Mr. WOLFF. You have indicated that you consider marihuana a somewhat harmful substance, did you not?

Senator KAFOURY. Well, there is no doubt that it has an effect during the period of time that a person is under its influence. It's dangerous to drive after smoking, because your distance and time and those things, your judgments are screwed up. Long range, the scientists disagree. There are a lot of studies that show that they can't find anything that's wrong. Some of them will say you're going to die tomorrow if you smoke it. Let the medical experts talk on that. You've heard a lot of that already.

Mr. DAVIS. Mr. Chairman, one comment I may make, I don't envy you your chore.

Now, our experience has been not only with the Drug Abuse Council survey but also the survey done by the Governor's Youth Commission, and that is that basically the law is not going to have any positive or negative effect. In other words, drug usage is going to continue.

We're spending in the State of Oregon a quarter million dollars in education programs to try and deal with the substances abuse. We have some conferences this summer.

We had some conferences this summer. I think the issue at hand at that time is that 60 percent of our citizens in Oregon favored the casual use of marihuana. I think the factors that lead to the use of marihuana in the schools which we're very familiar with, the law is not a huge deterrent. There are social factors. Use of marihuana is a product of age, at least in the State of Oregon, and as you get older, 30 and the older you get, the usage drops dramatically.

Now, whether that will change in the future, we don't know. But I think that decriminalization will not decrease the consumption of marihuana. It may increase, but that was not the issue. We did not pass the bill hoping to decrease the usage of marihuana.

Mr. WOLFF. Why then did you pass the bill?

Mr. DAVIS. We passed the bill to deal with the social issue involved in treating individuals who casually used it and treat them as a felon. And as Senator Kafoury has referred to, many counties within our State enforced it in a variety of ways.

What we found happening was that we knew usage was widespread, and yet we were only prosecuting 1 percent of the usage. The kind of disrespect it builds for authority when you don't have even law enforcement, and when you've got a society that basically says, look, we know it's a drug but we think it's okay to use it in casual amounts.

What we're saying is, in Oregon our State government was responsive to the public's desire and recognition that we ought not to penalize kids and stick them in jail for casual use of marihuana.

Mr. WOLFF. What about the casual use of other drugs?

Senator KAFOURY. That is not the issue before us today.

Mr. WOLFF. I know it isn't. But if the statement is based upon casual use and the ability to do as one desires in one's own home, then I think that it must be a part of the equation.

Mr. DAVIS. I would just, in commenting, in having talked to juvenile authorities and others, I would see that the argument, let's say, to legalize the use of heroin would not be something we would ever consider. Simply because of the fact that we are dealing with a drug that has two different impacts on individuals in terms of addiction and in terms of all the other problems associated with it. I think there are other ways to deal with hard drugs.

Mr. WOLFF. How about cocaine, which is said to be nonaddicting?

Mr. DAVIS. I think one of the things government has to do is not to get too far out in front of its citizens, and I think in the State of Oregon there's little sentiment to legalize any drugs other than marihuana for casual use.

In fact, as the Senator can tell you, when the bill was originally passed in the Oregon Senate—or in the Oregon Legislature—there was a special session to clear up some confusion over the use of hashish.

So, I think what we're dealing with in Oregon in purely marihuana, and there is no plan to expand it to other drugs.

Mr. BEARD. If I may, the only thing that I just get hung up with is the fact that no one has said, as a result of decriminalization, will there be a decrease? To almost every witness we've had, they've said there's going to be an increase. And as far as citations, as far as some problems, there's been an increase in Oregon. There's been some what of an increase in California. In Alaska there was an increase.

We have—it was stated by one of the law enforcement officers in Oregon that whereas before, a few years ago, the seizures were a half-pound size; now, that they're making seizures in great, large, much larger quantities.

The distribution aspect, the fact that now a kid that carries an ounce around, he can carry just an ounce or less around and what do they get for a cigarette now, a marihuana cigarette of good stuff? A dollar or a dollar and a half?

Senator KAFOURY. It's not sold that way very often.

Mr. BEARD. But they said the distribution is a lot more available, because they can just break it down into smaller quantities.

Senator KAFOURY. That has always been—an ounce has always been the traditional size. That's why I chose an ounce in the law in the first place. An ounce is what is sold to the ultimate consumer. That is not something that has changed as a result of the law. The law was a result of the use, the practice, and not vice versa. And I think what we have to continue to look at is, where is the cause and where is the effect?

I think if you check New York or New Hampshire, you're going to find the same thing is happening. There is an increase in marihuana usage. The law doesn't affect that change.

Mr. BEARD. Yes, Mr. Davis?

Mr. DAVIS. Congressman, I'd just like to add this. Drug usage is continuing to grow in the country, and those individuals who are professionals and working in the area are concerned about it. I guess our concern in Oregon is that even if you do nothing, drug use is going to continue to increase, both marihuana usage and other drugs.

The point is, do we want to waste our court and police resources getting to the casual user? We made the decision in Oregon that we don't. But there's no way that decriminalization is going to decrease the usage of marihuana because it is a cultural social thing, and I think that is a significant factor.

Mr. WOLFF. Mr. Nellis.

Mr. NELLIS. I would like to ask some questions about the effects on police enforcement of both the California and Oregon law.

I'm told the statistics published in the first California survey show a savings of some \$25 million, with respect to the difference between the period immediately before the decriminalization or rather the reduction of sanction and the period after. Is that a correct statement? It was widely reported that there was a \$25 million savings to the police authorities of California. Assuming that's correct, Mr. Hollingsworth—and I want to ask this in a different way of the Oregon people as well—doesn't that mean that police efforts can be far better distributed in the pursuit of more violent and brutal crime?

Mr. HOLLINGSWORTH. Well, I would like to answer your question in two parts. First, the reduction in policy agency costs went from \$7.6 million to \$2.3 million. So, that was about a \$5 million decrease.

Mr. NELLIS. That is statewide?

Mr. HOLLINGSWORTH. That is statewide, about \$5 million for the first 6 months of 1976 compared to the same period of 1975.

Mr. NELLIS. Is it likely to have the same amount for the second 6 months?

Mr. HOLLINGSWORTH. I would assume so, yes.

Mr. NELLIS. We're talking, then, about \$10 or \$11 million.

Mr. HOLLINGSWORTH. I would then make the comment that although these are the raw data figures, that I would strongly enter-

tain the suspicion that many of those costs were transferred from these kinds of arrests to other kinds of arrests and that perhaps we have not yet seen a correct picture of the costs—the so-called cost reduction in California.

I would want to warn the committee that these are preliminary figures. They're based on the first 6 months, and probably a more thorough-going analysis we have not had time for would reflect that some of these costs were transferred into other law enforcement activities, resulting maybe from the same types of offenses.

Mr. NELLIS. In that connection, would there be a social benefit in a reduction in the number of marihuana arrests, the concentration of that effort, let's say, on heroin traffic?

Mr. HOLLINGSWORTH. I would comment that your question would assume a deliberate restructure of police priorities, and that is not what I think is taking place.

What I'm referring to is an arrest perhaps made in which there are 2 or 3 offenses and that where perhaps in earlier years in California, the narcotic or marihuana possessions offense would be the one that was registered. And now, perhaps, the car theft, that same arrest, resulting from patrol activities, is showing up as car theft.

Mr. NELLIS. You have no figures to show that?

Mr. HOLLINGSWORTH. No.

Mr. BEARD. Might I ask one more question?

Mr. WOLFF. We have a vote on in the House. If you would like to submit questions to the gentleman and if someone would take the chair, I will come right back.

Mr. HOLLINGSWORTH. Mr. Chairman, I have one brief comment I would like to add for the record, if I may.

Mr. WOLFF. Yes.

Mr. HOLLINGSWORTH. There was earlier apparently an inference that there was some discrepancy between the comments made yesterday by Congresswoman Burke and the ones that I gave this morning. I have been kindly furnished a copy of her statement and there really is no discrepancy. Her comments were, there has been some reported increase in current users. I merely put numbers onto that increase.

Mr. WOLFF. Thank you very much.

We have one more witness for this morning's session, and I don't want to hold these gentlemen while we are in recess if there are no further questions or could these questions be submitted in writing to the gentlemen.

Mr. BEARD. Well, I can knock out my question just like this and be through.

Mr. GILMAN. Well, let's see if we have time.

Mr. WOLFF. We will wait for the second bell.

Mr. BEARD. Let me just ask real quick. You mentioned the 18 and over, it has only increased by 5 percent. Now, was that the October 1976 poll?

Mr. DAVIS. That's correct.

Mr. BEARD. Now, did not that same poll show that the 18 to 29 age, that the increase was 20 percent as far as the increase in use of marihuana?

Senator KAFOURY. I think 16 was the figure. It's in the report. You have those figures.

Mr. BEARD. I have been supplied that it was 18—between 18 years old and 29, whereas the 5 percent was what—18 years old all the way up to the 1970's or 1980's?

Mr. DAVIS. That is over 18, period.

Mr. BEARD. Well, I think that kind of dilutes the impact of that, don't you?

Mr. DAVIS. Well, we also talked then in the material we gave you about the 16 percent increase in the age group 18 to 29. Because we said that is the group that has the heavy usage.

Mr. BEARD. What about from 18 and below? What was the percentage there?

Mr. DAVIS. We have no data on that.

Senator KAFOURY. The Governor's commission shows a very small increase.

Mr. BEARD. Thank you, Mr. Chairman.

Mr. GILMAN. Does the entire panel agree that we should be discouraging use of marihuana?

Mr. DAVIS. Very much so.

Mr. GILMAN. What are your best suggestions for discouraging that use?

Senator KAFOURY. This is a long answer. We've been involved in the State of Oregon in education, and the studies around the United States show that direct education, where you take somebody to a classroom and say, don't smoke marihuana, it is bad for you, don't shoot heroin, it's bad for you, don't drink alcohol—has, if anything, a counterproductive effect.

In actuality, people say, that sounds neat, let me go out and try it.

That doesn't work. The only thing that we have found that seems to be at all leading to help in this area is basic young children, helping them cope with the stresses in life, and we have some programs now to look at the reason why people get involved in abusing drugs. We get involved in abusing drugs because the law is not satisfactory and we need to help people learn how to handle modern civilization. If they learn how to handle modern civilization without abusing drugs, we won't need to do it. But there is no simple answer to that.

Mr. GILMAN. Do you other gentlemen have any comments on how best to discourage use?

Mr. HOLLINGWORTH. Just briefly, in summary, I agree with the senator. It is a complex issue. There are no simple solutions. I think the point here that we're trying to make this morning, at least from my standpoint, is that decriminalization would encourage use. However, I agree that with education, health, and rehabilitation, as well as law enforcement in decreasing the availability of the drug to the user.

Mr. GILMAN. Mr. Whalen.

Mr. WHEALEN. Well, we point to the low use, almost complete absence, for instance, of heroin or cocaine, and the very small amount of marihuana that is consumed in New Hampshire. We have to,

whether it's the fact or not, point to the fact that our penalties are very strict. We do not have these stresses and strains that other States have. We have a very small total population.

For instance, we sell more alcohol per capita than any other State in the Union, and yet our rate of alcoholism and the number of alcoholics is one of the lowest. So, we have to point to the statutes on the books and say that we are definitely opposed to the decriminalization of marihuana.

Mr. GILMAN. Mr. Davis, do you have anything to add?

Mr. DAVIS. No. I think the Senator has touched on it. We're spending approximately \$250,000 a year in substance abuse education. I think the state of the art around the country is such that no one has the answer in how to get at the kids on this problem, but we are all working at it.

Mr. WOLFF. Mr. Gilman, the second bell has rung. I'm sorry, I must cut you off at this point.

Mr. GILMAN. I thank you, Mr. Chairman.

Mr. WOLFF. We have to take a short recess.

We are appreciative of you gentlemen coming before us this morning.

We will continue in 12 to 15 minutes to hear Mr. Kraja of the American Legion.

[A brief recess is taken.]

Mr. WOLFF. The committee will come to order.

We are pleased to have appear before us as a witness in these proceedings Mr. Mylio S. Kraja, representing the American Legion. Mr. Kraja is director of the American Legion's National Legislative Commission.

Mr. Kraja, would you please proceed?

**TESTIMONY OF MYLIO S. KRAJA, DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION; ACCOMPANIED BY PHILLIP RIGGIN**

Mr. KRAJA. Thank you, Mr. Chairman, and members of the committee. I have with me at the table my assistant, Mr. Phil Riggin.

It is our distinct pleasure, Mr. Chairman, to appear before you to offer our views on the legal treatment of marihuana possession and use. We understand that these hearings seek to gather information through a thorough discussion of the future policy options available to the Federal Government.

Apparently, three general options are under consideration—continued criminal prosecution for possession, use, and sale; legalization of use and sale; or decriminalization of possession and use of small amounts.

It is our intention to offer testimony on only one of the three options. We do not claim to be experts on the legal disposition of those who are currently identified as marihuana offenders. Nor do we claim any special knowledge of the physical and emotional dangers of this substance. However, we have digested volumes of information which argue this issue on legal, medical, and moral grounds.

The American Legion has consistently opposed and continues to oppose the legalization of marihuana—a position which is based upon the complete analysis of all information now available. Although many persons in this country have experimented with or continue to use this substance, there are a great many more who refrain from such activity because it is illegal. We believe that a significant portion of the nonuser population would at least experiment with marihuana if it was condoned by the Federal Government. Since the medical community cannot agree on the harmful effects of this substance and since it is a conscious-altering agent, we cannot accept its legalization.

In its role of providing leadership to the States, the Federal Government is obligated to treat the use of marihuana realistically and, in that regard, we wish to identify several realities which must be considered.

First, the medical controversy surrounding marihuana has not been resolved and there is no consensus which confirms physical well being after chronic long term use. In fact, in its recent annual report to Congress, the National Institute of Drug Abuse suggested that the idea of marihuana being safe is not endorsed by the research community and that lung impairment has been detected after extended heavy use.

Second, any Federal action to legalize the use of marihuana would suggest official approval and encourage such behavior. This, in our opinion, would be an irresponsible act which effectively opposes the Federal Government's commitment to protect public health and welfare.

Third, apart from these theoretical arguments, there remain the practical problems inherent to legalization. Marihuana significantly alters coordination abilities, the level of consciousness, and general behavior soon after entering the body. For these reasons, it is potentially dangerous to those who would use it while engaged in anything other than sedentary activity. Presumably, legalized marihuana would be available in certain locations and under certain conditions where the user's safety would require a clear head and a firm hand.

Mr. Chairman, this—in simple terms—is our analysis of the situation. We find too many disadvantages in legalizing marihuana to make it an acceptable or feasible option.

Mr. Chairman, prior to these hearings, it was our understanding that this committee would hear argument regarding three approaches to the marihuana issue. However, after monitoring these hearings for the past 2 days, it appears rather obvious that the discussion has been limited almost exclusively to decriminalization.

The American Legion's only official position on the legal treatment of marihuana is in opposition to legalization partly because we are not sure what the firm definition of decriminalization really is. Apparently, our uncertainty in this regard is shared by members of this committee and others.

Without doubt, the proponents of decriminalization are justified in their quest for a method which would not attach the social stigma of a criminal record to marihuana offenders. And the opponents of this approach are equally justified in their concern that decriminalization would likely increase marihuana use.

It is our belief that the discriminatory treatment of marihuana offenders because of totally inconsistent State laws contributes significantly to the problem at hand. We believe that the strictest application of some State laws has caused greater social, economic, and psychological damage to the individual and society than the direct consequences of using the drug.

Certainly, a more uniform system of State laws which are in proper perspective with current scientific knowledge would be an appropriate step toward alleviating the problem. In pursuit of this objective, we realize that leadership must be furnished by the Federal Government.

The American Legion is not in a position to generate pertinent data on this issue. We, like many other organizations, must rely on data provided by those who are experts in this field. During the past 2 days we have heard opposing accounts of whether marihuana use has increased or decreased in California since use of the drug was decriminalized. We have also heard opposing arguments on marihuana's harm to the body. We have heard several versions of what legal actions can be taken under a decriminalization program.

It is for these reasons that our organization has found it difficult to support or oppose decriminalization and it is our opinion that this committee will experience the same difficulty in preparing its final report.

Mr. Chairman, a great deal of valuable raw data has been cited during these hearings and interpretations of this data have been employed as bases for a number of claims and counterclaims. We believe that an immediate impartial examination of these facts should be conducted in order that the committee may have some firm findings on which to base its conclusions.

We appreciate this opportunity to present our views and we also appreciate the committee's attention to our arguments.

Mr. WOLFF. Thank you, Mr. Kraja.

On page 2 of the second part of your statement—

Mr. KRAJA. Yes, sir?

Mr. WOLFF. I want you to know that the Chair has taken no position, either pro or con, on this question. And I am merely posing questions in order to elicit responses that will bring us further along the road of understanding the full impact of this problem.

On page 2 you say:

We believe that the strictest application of some State laws has caused greater social, economic, and psychological damage to the individual and society than the direct consequences of using the drug.

Mr. KRAJA. Yes, sir.

Mr. WOLFF. Could you expand upon that, please?

Mr. KRAJA. Well we feel—and as we've heard testimony presented here—that in some cases, in some States, the penalty is greater than others; and the hardships put on the individuals that are cited under the existing laws in the individual States, has created a greater harm to the individual than the small, and oftentimes one, occasional use of the drug.

Mr. WOLFF. That is exactly what this committee is looking at. That is what we are trying—or attempting to, clarify.



One aspect that we believe is that the States should have the opportunity to make their own determinations. However, you do pose a further problem for me, as an individual on this committee. Because here I see that you are posing the question that prompted the committee, in the first place, to bring about these hearings.

One aspect of this—and I take it you have had some experience with the veterans hospitals—

Mr. KRAJA. Yes, sir.

Mr. WOLFF. I know that we have sat together talking about programs within the hospitals.

Do you have any indications of the use, or abuse, of marihuana in the veterans hospitals throughout the country?

Mr. KRAJA. Our indications, and our present information available, is that it is not a great problem. Actually, alcoholism is the greatest problem in the veterans hospitals, as an abuse.

The use of drugs, to our knowledge, is a very small problem. It is a great problem in treatment of it, and there is a great deal, as you well know, of money and time committed to the treatment of the drug problem for the veteran.

Mr. WOLFF. When we come to the question of use within the military. The latest figures we have been able to obtain, for our forces in NATO, indicate that up to 25 percent of the people in those forces today are using or, I shouldn't say using, this is not a one-time use but abusing over a period of time, at least on a daily basis, marihuana and stronger drugs.

Now, in some of the visits that I have made to veterans hospitals, I found that there is an acute drug problem existing in some of these hospitals. One of the objectives of this committee is to make a study of the drug-abuse problem in the hospitals. The easy availability of drugs, particularly opiates that are available in the hospital pharmacies—pills and the like—have really accentuated this problem.

Now with the wide use of marihuana within the service today, I'm just wondering how this relates to the information that you have given that marihuana is not a big problem in VA hospitals.

Mr. KRAJA. Well—

Mr. WOLFF. Is it the fact that one of the problems we have had in the past is that the undesirable discharges, or less-than-honorable discharges, have taken these people out of the VA hospital system and put them into the hands of the local communities, so you may have eliminated a lot of people in this fashion?

But, where I have visited, I have found that there has been a marihuana problem, and a drug problem.

Mr. KRAJA. Well I don't think the problem is eliminated, but in comparison of degrees—and maybe I should have entered into that comparison—the alcohol problem is a greater problem, from what information we have from the Veterans Administration.

Now I do not have the statistics with me—and I'm sure they are available, and we would—either to you, or to us—and we would be most happy to provide them.

Mr. WOLFF. If you could provide them for us, we would appreciate it.

[The information referred to follows:]

Your inquiry pertaining to the marihuana problem in VA hospitals. at the hearing it was our immediate response that marihuana abuse is not a significant problem and that most efforts are being directed toward treatment of alcoholism and hard drug addiction. After investigation of this matter, we find that our original assessment was essentially an accurate one. As you may know, our organization conducts regular inspections of VA hospitals. Those inspections during the past year have shown that there are isolated situations where marihuana abuse among the patient population has created some temporary difficulties. More frequently, our inspections have revealed occasional problems in the accountability of controlled prescription drugs; however, there is no real evidence whether those drugs are being used by the patients or the hospital employees. In researching this matter we did not seek any official VA information because it was felt that, by doing so, we would be circumventing the established channel by which VA provides information directly to Congress.

Mr. WOLFF. Mr. Gilman?

Mr. GILMAN. Thank you.

Mr. Kraja, I want to welcome you to our committee, and I appreciate your taking the time to inform the committee of the Legion's stand. I was curious why the Legion had not taken a position on decriminalization.

You take a strong position on the legalization. Why hasn't the Legion taken up the issue of decriminalization?

Mr. KRAJA. Well, Mr. Congressman, I suspect—and of course I work in one area of the American Legion. The actual area of jurisdiction comes under our "children and youth," and I suspect they have not completed their study of it. And they have not given us a formulation of an opinion. I know that they are very concerned and they are gathering all the information they can; and hopefully we will have a position on it in the near future.

Mr. GILMAN. Well if you do, and it is in the very near future, so we can make it a part of this report, I would welcome your forwarding it to us.

Mr. Chairman, if we could include that as part of this study, we would welcome having that.

[The American Legion is not in a position to make a policy statement until further studies have been completed.]

Has the Legion also taken up the issue of narcotic use by members of the armed services?

Mr. KRAJA. No; we have not. Not that it has not been a concern, but we have not exercised, or attempted to exercise any thought that we would have any jurisdiction over that area. We know that it is a great problem. And, as the Chairman has cited, those statistics are very alarming.

And I know that the military has had difficulty facing up to the issue—at least the information I have—in solving the problem.

Mr. GILMAN. A great deal has been said about the need to discourage the use of marihuana and other drugs. Does the Legion have any position on how best to discourage the use of marihuana?

Mr. KRAJA. No. It has been a great concern of ours. The American Legion started this study on the drug problem back in 1950, and we were one of the first organizations to be very concerned in our initial concern, because we were so involved in the youth and children activity.

We became aware of it way back in 1950, and became quite concerned. Yes, we have talked, in general terms, and unfortunately we don't have any solution ourselves. We have talked of the greater studies—the greater medical science to it—of greater education. I don't think that it is any different than anyone else has talked about.

And we don't have anything real, or different, or original to add to it.

Mr. GILMAN. What sort of program is the American Legion involved in now, with regard to narcotics?

Mr. KRAJA. With a continued encouragement of local communities to address themselves to the problem, in some manner or another, in the education.

Mr. GILMAN. Thank you, Mr. Kraja. I appreciate your coming before us.

Mr. WOLFF. We very sincerely appreciate your appearing here today, and would hope to be able to call upon you in the future for further aspects of this problem.

Mr. KRAJA. Thank you, Mr. Chairman; thank you, members.

Mr. WOLFF. The committee stands adjourned until 2 o'clock when we will have our next panel, which includes the American Medical Association.

[Whereupon, at 1:05 p.m., the hearing was recessed, to reconvene at 2 p.m., the same day.]

#### AFTERNOON SESSION

Mr. WOLFF. The committee will come to order.

We are continuing on the session from this morning, and we welcome all of you back to our final session.

The matter before the House today is an important piece of legislation. Many of the Members of this committee are part of the debate and, therefore, will be coming back and forth during the course of the afternoon.

We are going to ask the people who are scheduled for this afternoon to act as a panel, as we have in the past, so that we can get all the statements on the record. And then, as Members come in, the witnesses can be questioned as to their statements.

Mr. Charles Sevilla, public defender of the State of California, who was to be with us this morning will instead appear this afternoon; Dr. Herbert Raskin, representing the American Medical Association and many physicians across the Nation is also with us.

Next we have Dr. Gabriel Nahas, College of Physicians, Columbia University, who is an expert on marihuana research and a leading opponent of decriminalization. He will be joined by two more opponents of the issue, Mr. John Datt of the American Farm Bureau, representing the view of many rural Americans, and Mr. John Bellizzi, executive director of the International Narcotics Enforcement Officers Association. Mr. Bellizzi will stress the impact that decriminalization would have on respect for the law in general and on effectiveness of subsequent law enforcement efforts.

Once again I want to thank each of the witnesses for appearing at these hearings, and ask that you state your qualifications and your position; whether you are supporting or opposing Federal decriminalization—in advance of the testimony.

Each witness, as I have indicated before, has been requested to provide copies of his or her prepared statement. However, I would appreciate it if each witness would attempt to summarize the statement with the understanding that the full text will appear in the record.

Hearing no objection, each of the statements will appear in its entirety in the record.

I would ask that you gentlemen all be sworn, if you will. If you will please rise and take the oath.

[Witnesses sworn.]

Mr. WOLFF. We will begin with Mr. Sevilla and then continue with the rest of the members of the panel.

### TESTIMONY OF CHARLES SEVILLA, PUBLIC DEFENDER, STATE OF CALIFORNIA

Mr. SEVILLA. Yes, Mr. Chairman.

First, a few comments with respect to my background. I am currently the chief assistant public defender, State public defender, for the city of Los Angeles. My jurisdiction covers Los Angeles County and six surrounding counties. At the present time our mandate is in the appellate arena, representing indigents who have been convicted of felonies. Trial representation is limited at this time to California State prison conflict cases.

Prior to that, for 5 years I was a Federal defender in the city of San Diego where I had trial and appeal responsibilities. In that position I had, of course, day-to-day involvement in the criminal justice process and, specifically, the representation of indigents accused of violating the Controlled Substances Act of 1970, and as it relates to this committee's work, 21 U.S.C. 844, the misdemeanor possession of a controlled substance statute.

I can say from that experience in San Diego that there were very few prosecutions of individuals possessing meager amounts of marijuana, although it did take place from time to time. The bulk of those violations were prosecuted in the State courts.

However, as I say, some prosecutions did take place under 844 or under the Assimilative Crimes Act, which is 18 U.S.C.A., section 13, whereby people were prosecuted in Federal court for possessing minor amounts of marijuana.

With respect to my position, obviously I am here to support the idea of decriminalization.

I have read Mr. Hollingsworth's statement, which is upon the recent impact report conducted by the health and welfare agency in the State of California and published in January 1977. I certainly agree with his recitation of some of the statistical information in that report, but I think that his view with respect to marijuana usage distorts the report. I would be happy to submit a copy of the report to the committee. It probably has a copy of the report which I would adopt in toto.

Mr. WOLFF. We do have the report.

Mr. SEVILLA. Basically, Mr. Hollingsworth has alleged that marijuana usage increased markedly in the State of California after the

passage of S.B. 95. That is not correct at all. The report, on page 10 and 11, states that during the year 1976, when the act went into effect, there was a 3-percent increase in usage. A field poll found that of those who had begun marihuana usage during the past year, one out of eight indicated that they experimented with marihuana because of decriminalization in California. That amounts to approximately 3 out of every 1,000 Californians experimented with marihuana in 1976 because of the new legislation.

The fact of the matter is that about 13 percent of the population of the State of California would be considered users of marihuana—that is, use marihuana once a week or less. This figure compares to 11 percent of the population in the Western States.

The statistics in Oregon are somewhat similar. There is, perhaps, 1 or 2 percent more usage in the States where there has been decriminalization, but it is not significant when compared to the tremendous savings to the criminal justice process in terms of time and money. The weighing, I think, results in an obvious balance in favor of decriminalization. I would like to state briefly what those savings have amounted to in just 1 year in the State of California.

With respect to law enforcement cost alone, there were, in comparing the statistics of 1975 to 1976 with respect to the cost attributable to law enforcement marihuana arrests for possession, the following costs: \$7.6 million was spent in 1975 with respect to law enforcement costs, that is, the arrest process, the booking procedure, transportation to the jail; in 1976, that figure went down to \$2.3 million, a savings of over \$5 million to the taxpayers.

More important was the savings to the court in terms of court costs. Directly related to marihuana possession arrests and prosecutions, the cost in 1975 was over \$9 million. In 1976, it was down to \$2 million, a savings of \$7 million to the taxpayer.

Such savings cleared the courtroom for the prosecution of people who should be speedily prosecuted in a court of law—the hard drug abusers and the traffickers. By clearing the courtroom and eliminating the prosecution time and expense for minor possessors of marihuana, we more properly devote law enforcement activities to offenses that are more serious and a threat to the community.

I have from the Alameda County's attorney's office statistics with respect to the 1976 experience which aren't in the report. With respect to people who have been cited under the 1976 statute and failed to appear compared to persons cited for vehicular offenses—traffic tickets—the statistics reflect that while 18 percent did not show in Alameda County in 1976 on traffic citations, only 3 percent of the people cited under S.B. 95 did not show. This refutes the law enforcement argument of 1975, when it battled S.B. 95, saying that the typical person cited under the statute would not make an appearance because they were low-life types and simply not responsible people. That simply is not the fact as reflected by these figures.

In Alameda County in 1976 there were only six marihuana possession trials, which was probably the lowest in the last decade in that county. It gives you some idea of the tremendous amount of court time that has been saved statewide by the passage of S.B. 95.

Mr. Hollingsworth's report states in a pejorative fashion that there have been increases in driving under the influence of drug arrests. The study stated however that there was no attribution as to what drug the individual arrested was under the influence of. This issue really isn't directly attributable to marihuana or S.B. 95.

Mr. Hollingsworth states that in our diversion program—whereby people are diverted from the criminal justice program into non-criminal diversion programs—in 1976 there was a significant increase of hard drug offenders who received placement. That is an obvious result of S.B. 95 because marihuana offenders are no longer being prosecuted and are thus usually not divertable. How that is to be deemed an ominous trend escapes me.

I think that with respect to use of marihuana, decriminalization has very little effect at all. People choose to use marihuana irrespective of the sanction that society has imposed. This is clear from the fact that the other States in the western region have harsh sanctions, and use is approximately the same as in California. When you balance usage to the savings, there is a tremendous advantage in the experience in California.

The conclusion is obvious. Decriminalization is in order.

Mr. Wolff. Thank you, Mr. Sevilla.

Dr. Raskin?

#### TESTIMONY OF HERBERT A. RASKIN, M.D., AMERICAN MEDICAL ASSOCIATION; ACCOMPANIED BY HARRY N. PETERSON

Dr. RASKIN. Thank you, Mr. Chairman.

I am Dr. Herbert A. Raskin, psychiatrist, board certified, in private practice, a clinical professor of psychiatry at Wayne State University, a former chairman of the AMA Committee on Alcoholism and Drug Dependence.

We appear today—with me is Harry Peterson of the AMA department of legislation.

And in answer to your request for a pronouncement, our feeling would align ourselves with the principle of decriminalization of marihuana. It has long been widely recognized in scientific fields that marihuana does not involve the problem of drug dependence as, for example, do opiate substances. Yet penalties for personal use of the drug are just as severe in many jurisdictions, and under Federal law marihuana is classified as a controlled substance. And simple personal possession under certain circumstances is a felony.

Our view on this subject has been expressed on several occasions. In 1972 the AMA house of delegates formally adopted a policy as follows, and I quote:

The AMA House of Delegates does not condone the production, sale, or use of marihuana. It does, however, recommend that the personal possession of insignificant amounts of that substance be considered at most a misdemeanor with commensurate penalties applied. It also recommends its prohibition for public use; and that a plea of marihuana intoxication should not be a defense in any criminal proceedings.

In view of the need for further research, and the possibility of some deleterious effects on the user and on society at large which could constitute a major public health problem, a policy of discouragement is strongly advocated.

We have no reason now to alter this view.

The use of marihuana as an intoxicant and drug of abuse is not new. I shan't review the history of such use and abuse. But unlike narcotics, barbiturates, and other sedatives and amphetamines, marihuana has no proven use in medical practice in the United States, although recent clinical research and experience would point in various directions and, especially, possibly having a positive effect on victims of glaucoma. It is classified as a schedule 1 drug under the Controlled Substances Act.

Marihuana is primarily used as a recreational drug in the United States in that its users experience a pleasurable or high feeling under its influence. The primary method of intake into the body is for the drug to be smoked with or without its being mixed with tobacco. However, direct ingestion of marihuana in bakery products is also an occasional method of use. Although the personal use of marihuana should not be subject to disproportionate criminal penalties, we believe that sufficient evidence exists indicating possible adverse effects on the user.

While the use of the drug produces a generally pleasurable experience, exceptions do in fact occur. The most frequent adverse effect from marihuana use is a transient anxiety reaction to toxic effects usually related to a high dosage of the drug in frequent users but may occur at lower doses in less experienced users. The most severe acute psychological reaction from the use of marihuana is a toxic psychosis, also transient, with significant disorganization of mental functions.

Evidence also indicates that when such a psychosis develops, it most often reflects the activation of previously existing mental problems. Heavy use of the drug tends to represent a psychological dependence upon it and in such instances medical treatment is indicated.

The use of marihuana decreases psychomotor coordination with the effects being dose related. There is also evidence that the use of marihuana adversely affect an individuals' ability to operate a motor vehicle.

It is clear that the drug is an intoxicant and that it may produce undesirable psychological effects upon its users. Furthermore, it is unclear yet what effects may be produced from a long-term use of the drug.

Reports of several research studies in recent years have raised serious questions regarding the possible effects of marihuana upon the body's immune mechanisms, testosterone levels in males, and other biological functions. Although some of the evidence can be regarded as inconclusive in terms of permanent or long-term damage, this research and any future investigations which seek to refute such findings need to be critically assessed and evaluated. This we intend to do. At this stage, it would be premature to just out of hand dismiss the likelihood of adverse health consequences, either physiological or psychological, that could flow from chronic heavy use of marihuana, stressing chronic heavy use.

As a further note for consideration as to possible adverse effects of using marihuana, we would point out that these effects, which I

have discussed above, apply to the use of marihuana as it is currently sold in the United States. By that, we are referring to quantity, dose, frequency relationships. Presently, because of its illicit nature, marihuana sold on the street is often diluted and mixed with other substances in order for the vendor to generate a higher profit. If production, growth, distribution, and use of marihuana were to be legalized, for example, one could expect that the quality and strength of the product would become appreciably higher than presently is the case. Since the possible adverse effects of the use of the drug are correlated directly with its strength, the adverse effects we have described could reasonably be expected to be increased.

Furthermore, if marihuana were legalized, it would only be a short time before sophisticated advertising techniques would be employed to encourage the frequent and widespread use of marihuana. Under no circumstances do we consider that to be in the public interest.

For these reasons the AMA does not advocate the legalization of marihuana. We do not believe that it is an innocuous drug and do not believe that it is in the best interests of public health to legalize marihuana.

However, while we do not advocate legalization of marihuana, we do believe that the penalties under existing law for simple possession of marihuana for private personal use are highly disproportionate to the act and should be reduced to reflect the known risks and dangers involved in marihuana use. Under existing Federal law, possession of marihuana is treated in the same manner and with the same penalties as possession of narcotics, barbiturates, amphetamines, and opiates.

I can skip this, because you are well aware of what is involved under Federal law.

We believe that the penalty for simply possession of marihuana for personal use by individuals in private should be at most a misdemeanor. In this way, greater credibility would be established for the enforcement efforts under the controlled substances laws for those drugs which do present an inherent danger to the public. In addition, limited police and judicial resources could be redirected toward control of those drugs which present a clear and significant danger to public health and safety.

In fact, the current trend at the State and local levels has been to reduce penalties for simple possession of limited amounts of marihuana for personal use. Nine States have completely revised their penalties for simple possession since Oregon changed its own in 1972. While modification of the Federal law would not directly affect local laws regarding marihuana possession, such change would provide an excellent example.

In conclusion, I must reiterate that the AMA does not advocate nor condone the legalization or use of marihuana. In fact, we believe that educational programs should be developed to discourage the public from the use of marihuana. However, because of the presently known facts concerning marihuana, we believe that any penalty for personal use should be no more than a misdemeanor.



At this time we would be pleased to answer any questions that the committee may have.

[Dr. Raskin's prepared statement follows:]

PREPARED STATEMENT OF HERBERT A. RASKIN, M.D., AMERICAN MEDICAL ASSOCIATION

Mr. Chairman and Members of the Committee: I am Herbert A. Raskin, M.D., a psychiatrist in private practice in Southfield, Michigan and the former Chairman of the AMA Committee on Alcoholism and Drug Dependence. With me today is Harry N. Peterson, Director of AMA's Department of Legislation.

The questions of whether marihuana should or should not be legalized and whether possession of small amounts of marihuana for personal use should or should not be decriminalized have generated extensive discussion and controversy over a long period of time.

It has been widely recognized in scientific fields that marihuana does not involve the problem of drug dependence as, for example, do opiate substances. Yet penalties for personal use of the drug are just as severe in many jurisdictions. Under Federal law marihuana is classified as a controlled substance and simple personal possession under certain circumstances is a felony.

Our view of this subject has been expressed on several occasions.

In 1972, the AMA House of Delegates formally adopted a policy as follows:

"The AMA House of Delegates does not condone the production, sale or use of marihuana. It does, however, recommend that the personal possession of insignificant amounts of that substance be considered at most a misdemeanor with commensurate penalties applied. It also recommends its prohibition for public use; and that a plea of marihuana intoxication should not be a defense in any criminal proceedings.

In view of the need for further research, and the possibility of some deleterious effects on the user and on society at large which could constitute a major public health problem, a policy of discouragement is strongly advocated."

We have no reason now to alter this view.

The use of marihuana as an intoxicant and drug of abuse is not new. For centuries cannabis derived from the hemp plant has been used as an intoxicant. Traffic in and use of cannabis now is restricted in practically every civilized country of the world. Unlike narcotics, barbiturates and other sedatives and amphetamines, marihuana has no proven use in medical practice in the United States (although there has been some recent speculation as to the positive effect upon victims of glaucoma) and is classified as a Schedule 1 drug under the Controlled Substances Act.

Marihuana is primarily used as a "recreational drug" in the United States in that its users experience a pleasurable or "high" feeling under its influence. The primary method of intake into the body is for the drug to be smoked with or without its being mixed with tobacco. However, direct ingestion of marihuana in bakery products is also an occasional method of use. Although the personal use of marihuana should not be subject to disproportionate criminal penalties, we believe that sufficient evidence exists indicating possible adverse effects on the user.

While the use of the drug produces a generally pleasurable experience, exceptions do in fact occur. The most frequent adverse effect from marihuana use is a transient anxiety reaction to toxic effects usually related to a high dosage of the drug in frequent users but may occur at lower doses in less experienced users. The most severe acute psychological reaction from the use of marihuana is a toxic psychosis, also transient, with significant disorganization of mental functions.

Evidence also indicates that when such a psychosis develops, it most often reflects the activation of previously existing mental problems. Heavy use of the drug tends to represent a psychological dependence upon it and medical treatment is indicated.

The use of marihuana decreases psychomotor coordination with the effects being dose related. There is also evidence that the use of marihuana adversely affects an individual's ability to operate a motor vehicle.

It is clear that the drug is an intoxicant and that it may have undesirable psychological effects upon its users. Furthermore, it is unclear yet what effects may be produced from a long-term use of the drug.

Reports of several research studies in recent years have raised serious questions regarding the possible effects of marihuana upon the body's immune mechanisms, testosterone levels in males and other biological functions. Although some of the evidence can be regarded as inconclusive in terms of permanent or long-term damage, this research and any future investigations which seek to refute such findings need to be critically assessed and evaluated. This we intend to do. At this stage, it would be premature to dismiss the likelihood of adverse health consequences, either physiological or psychological, that could flow from chronic heavy use of marihuana.

As a further note for consideration as to possible adverse effects of using marihuana, we would point out that these effects, which I have discussed above, apply to the use of marihuana as it is currently sold in the United States. Presently, because of its illicit nature, marihuana sold on the street is often diluted and mixed with other substances in order for the vendor to generate a higher profit. If production, growth, distribution and use of marihuana were to be legalized, one could expect that the quality and strength of the product would become appreciably higher than presently is the case. Since the possible adverse effects of the use of the drug are correlated directly with its strength, the adverse effects we have described could reasonably be expected to be increased.

Furthermore, if marihuana were legalized, it would only be a short time before sophisticated advertising techniques would be employed to encourage the frequent and widespread use of marihuana. Under no circumstances do we consider that to be in the public interest.

For these reasons the AMA does not advocate the legalization of marihuana. We do not believe that it is an innocuous drug and do not believe that it is in the best interests of public health to legalize marihuana.

However, while we do not advocate legalization of marihuana, we do believe that the penalties under existing law for simple possession of marihuana for private personal use are highly disproportionate to the act and should be reduced to reflect the known risks and dangers involved in marihuana use. Under existing Federal law, possession of marihuana is treated in the same manner and with the same penalties as possession of narcotics, barbiturates, amphetamines, and opiates. A first offense conviction for unlawful possession of marihuana under Federal law carries a possible maximum sentence of one year imprisonment and a fine of up to \$5,000. A second offense conviction carries with it a maximum penalty of up to two years' imprisonment and fines up to \$10,000. Although provision is made under the law for first offender probation, dismissal after probation and expunging of all records for persons under the age of twenty-one, we believe the penalties upon conviction can be excessively severe under present law.

We believe that the penalty for simple possession of marihuana for personal use by individuals in private should be at most a misdemeanor. In this way, greater credibility would be established for the enforcement efforts under the controlled substances laws for those drugs which do present an inherent danger to the public. In addition, limited police and judicial resources could be re-directed toward control of those drugs which present a clear and significant danger to public health and safety.

In fact the current trend at the state and local levels has been to reduce penalties for simple possession of limited amounts of marihuana for personal use. Nine states have completely revised their penalties for simple possession since Oregon changed its own in 1972. While modification of the Federal law would not directly affect local laws regarding marihuana possession, such change would provide an example for state and local government to follow.

In conclusion, I must reiterate that the AMA does not advocate nor condone the legalization or use of marihuana. In fact we believe that educational programs should be developed to discourage the public from the use of marihuana. However, because of the presently known facts concerning marihuana, we believe that any penalty for personal use should be no more than a misdemeanor.

At this time we would be pleased to answer any questions that the committee may have.

Mr. WOLFF. Thank you, Dr. Raskin.

What we are going to do, as I indicated before, is hear the statements of all of the members of the panel and then we will question the panel.

Mr. Datt has joined the panel, from the Farm Bureau, I would like to swear you in, if you don't mind, Mr. Datt.

[Witness sworn.]

Mr. Wolff. Our next witness is Mr. John Bellizzi, executive director of the International Narcotics Enforcement Officers Association, and a very respected member of that organization.

**TESTIMONY OF JOHN J. BELLIZZI, EXECUTIVE DIRECTOR, INTERNATIONAL NARCOTICS ENFORCEMENT OFFICERS ASSOCIATION**

Mr. BELLIZZI. Mr. Chairman, and other members of the committee:

Thank you for giving me the opportunity of appearing here in these important hearings. Officially I appear as executive director, and on behalf of the International Narcotics Enforcement Officers Association.

My background has been law enforcement. I have spent 33 years both as a member of the New York City Police Department, and presently I head the bureau of narcotic enforcement for the State of New York.

I have served on various committees concerning drug abuse. Personally, I'm in favor of decreasing the penalty for simple unlawful possession by a user possessing less than a quarter of an ounce, or less than 25 marihuana cigarettes.

I support the first-offender concept of dismissing all charges, expunging the criminal record, under certain conditions. This could be accomplished by procedures such as adjournment, in contemplation of dismissal. The discretion should remain with the courts.

The criminal possession provisions should be retained. The official position of INEOA is that the association is opposed to the decriminalization of marihuana. A 15-page policy statement has been submitted for the record.

Mr. Wolff. Without objection, that full statement will be put into the record.

Mr. BELLIZZI. Our opposition to decriminalization is based on the following: (1) Decriminalization is inconsistent with enforcement. Making the possession of something legal, the sale or trafficking of which is illegal, is illogical and incompatible.

Second, decriminalization will not, as its proponents submit, decrease police activity; but, on the contrary, it will increase police activity because it will result in the wider use, greater demand, creating a greater market, resulting in increased trafficking and generating more police work.

Third, it is generally recognized that operating a motor vehicle or heavy machinery while under the influence of marihuana is dangerous. Liberalizing the use of marihuana will result in more people driving while under the influence of marihuana, resulting in more accidents, more property damage, and more people being maimed and killed on our highways. Ultimately, decriminalization will increase the financial burdens of our city, State, and Federal government. God only knows, we don't need this in New York City.

More police will be required to cope with the increased trafficking that will be generated by the increased demand. Business and industry will suffer from the high costs of drug-abuser employees brought

about by absenteeism, inefficiency, loss of production, all resulting in a rise in operating costs resulting in a loss of revenue both industry and government.

Now who is going to pay for these additional costs? As usual, the general public will. Taxes will rise. Prices will rise. Insurance rates—already out of sight—will skyrocket due to accident increases. These are some of the direct results that we can expect if we decriminalize marihuana.

Now I stated earlier that, officially, I appear here on behalf of INEOA. Unofficially, if you will, I also appear here as a law enforcement officer, as a concerned citizen, as a concerned parent, as a concerned grandparent. I am interested in the future of our country, our State, our community, and our children.

I feel all of us should do everything we possibly can do to protect the future generations. And decriminalization is not one of the things we should do. Say what you will, I have yet to be convinced of any benefit to be derived from the decriminalization of marihuana.

Just look at some of the incidents that are related—and I know what the proponents are going to say, immediately, when I cite some of these instances: You are being too dramatic; you are overreacting. But you may, or may not, have seen "The Death of Richie," an NBC special which portrayed an acting role by Ben Gazzarra as the father of a young man who using marihuana, and finally, out of desperation, because nothing could be done, he shot his own son. This was based on an actual case.

Not too long ago there was a Texas grand jury which refused to indict the former ex-professional football player who did the same thing—who shot his son in desperation—shot his son while the son was sleeping.

Need I remind you of the "Helter Skelter"—Manson atrocities in which all of the defendants involved were heavy marihuana users? Need I remind you of the other portrayal of the movie "Joe," in which the parent of a young lady who was exposed to marihuana, set out to take the law into his own hands, and finally killing some of the persons who made the drug available—killed his daughter accidentally?

About 2 weeks ago, we had two housewives who were executed—literally executed—before four young children. Not too much later, these two defendants—or these two people—were arrested in Connecticut on a marihuana-related charge. Only over the weekend, appearing in the Newsday of March 11, was the story of a suspect charged with killing a child—a 10-year-old child—who was molested and dismembered—and I just want to quote one thing:

And as the defendant was booked, he told the police he had been using marihuana, hashish, and popping various pills, including amphetamines, before and during the time he is accused of kidnapping the child, or murdering the child.

Now, as a police officer—and I know you've had many people come before you; some are administrators in police activity—but I speak from frontline experience. I speak as a New York City policeman who worked in Harlem, in your District, Mr. Rangel, and who worked in Bedford-Stuyvesant, and who worked in Fort Apache in the Bronx. I speak from experience.

I have seen what this drug will do to some people. I also speak as a police officer who has had the experience of facing the muzzle of a gun in a dark alley, in some of these areas. Our men, our officers, are being killed out there. To do what? To protect our young people.

INEOA first went on record opposing decriminalization after the release of the President's Marihuana Commission report in April of 1972. It has reaffirmed its position at each subsequent annual meeting—the most recent one, which was held in Miami Beach January 20, 1977.

The recent Eastland committee hearings raise a question, at the very least, that marihuana does possess some medical hazards. The President's Marihuana Commission report concluded that driving under the influence of marihuana was indeed dangerous.

These observations should not be minimized. The economic impact decriminalization of marihuana will have on the Nation are likewise not to be minimized.

INEOA feels it would be ill-advised for the Congress to enact any bill to decriminalize marihuana at this time. Marihuana is either bad and harmful, or it is good and harmless. You cannot have it both ways.

I hope our presentation will help to convince this committee that marihuana is bad and harmful and that its possession should not be decriminalized. Thank you.

[Mr. Bellizzi's prepared statement follows:]

PREPARED STATEMENT OF JOHN J. BELLIZZI, EXECUTIVE DIRECTOR, INTERNATIONAL NARCOTICS ENFORCEMENT OFFICERS ASSOCIATION\*

Mr. Chairman and distinguished members of the House Select Committee on Narcotics Abuse and Control. I am appearing here today on behalf of the International Narcotic Enforcement Officers Association (INEOA) and appreciate the opportunity of sharing with this honorable body the observations and views of our association on the controversial issue of whether marihuana should be decriminalized.

INEOA is opposed to the decriminalization of marihuana.

The issue is indeed a paradox. I personally find myself in agreement with the basic reason for decriminalization, namely to avoid arresting and tagging the young abuser with a criminal record. On the other hand I am a strong supporter for meting out tough penalties for the pusher of marihuana, a concept even the staunch supporters of decriminalization subscribe to.

I personally support scaling down the penalty structure for the unlawful possession of marihuana such as providing a procedure whereby an adjournment of the case in contemplation of dismissal under specified conditions would be made available for the young first offender resulting in no criminal record. I would however stop just short of decriminalization because I am of the opinion that to do otherwise would give the impression that marihuana is an innocuous drug which it is not. After much soul searching I have come to the conclusion that, whatever the risk, I must testify against decriminalization. Not only do I take such a strong position because it is the firm stand of our association, but because of what I personally have learned of the drug during my 33 year career as a law enforcement officer, 10 years of which included patrol and detective duty as a police officer of the New York City Police Department with assign-

\*John J. Bellizzi is Director of the New York State Bureau of Narcotic Enforcement, Executive Director of the International Narcotic Enforcement Officers Association which he founded in 1958 and has served as Professor of Pharmaceutical Law at St. John's University for 14 years, he has 33 years of law enforcement experience with the New York City Police Department and State Narcotic Bureau, holds degrees in pharmacy, chemistry and law from St. John's and Albany Law School and has served as consultant to the White House on narcotics and drug abuse, and as a member of Mayor Wagner and Mayor Lindsay's Narcotic Commission.

ments in the Harlem area of Manhattan, the Bedford-Stuyvesant section of Brooklyn and the "Fort Apache" area of the Bronx.

I have seen the effect of marihuana upon our young people, upon our community, upon our states and nation. There is much controversy over whether pot is harmful or whether it is just as harmless as cigarette smoking or alcohol.

#### HARMLESS AS CIGARETTES OR ALCOHOL?

Think about this. Think about how many lives have been snuffed out by cigarettes because of cancer; and how about the countless lives that have been snuffed out by alcoholics—alcoholics who have maimed and killed thousands by automobile accidents caused by drunken driving.

Harmless they say—well if marihuana is only just as harmless as cigarettes and alcohol, and I think that it is by far more harmful, and if marihuana only causes as many accidents and deaths due to intoxicated driving as alcohol, and I think it causes by far many more, then is not that sufficient reason for all of us to see to it that we do everything possible to discourage and prevent its use. The way to accomplish this would be to oppose decriminalization and legalization; to strongly enforce all marihuana laws; to remove it from our communities, from the scene, and from the reach of our young people and to stop the silly notion that marihuana is a harmless drug.

To condone marihuana is to encourage its use.

#### WHERE DO WE GO FROM MARIHUANA—HEROIN? COCAINE?

Drug abuse, especially as it affects our young people, has become one of the most alarming public health and social problems confronting the nation today. The cost of drug abuse in money, in tragically deformed lives and in its tremendous contribution to the rising crime rate is enormous and frightening.

Of all the many dangerous drugs currently in use, marihuana has become the most widely abused and it has also generated the most controversy. There is indeed sharp disagreement among scientists, law enforcement, legislators, parents and civic groups as to whether marihuana is in fact the dangerous drug, or whether it is merely a "harmless weed."

Marihuana, hemp, cannabis, grass—no one knows where it came from, nor for that matter, when it was discovered, but it has been traced to the earliest of times. Even so, it remains as much of a puzzle today. As one man first discovered, he could use it to heighten perception and distort his concept of time, or as modern users say, "trip" or "turn on."

How old is pot? Ask the hippie and he will tell you "grass" is as old as Eden. He may refer you to Genesis chapter I: III "and God said, 'Let the Earth bring forth grass.'" If the same hippie took the time to read the Good Book fully, he would discover a comment made by God some 62 verses later when he dispatched Adam and Eve from their paradise and said "cursed is the ground for thy sake,"—"In sorrow shalt thou eat of it all the days of thy life; thorns also and thistles shall it bring forth to thee; and thou shalt eat of the herb of the field."

Chinese history has recorded that the learned Emperor Shen-nung, who was an adept pharmacologist, was well aware of the effects of cannabis and he noted about the year 2737 B.C. in his writings on pharmacology, a number of still accurate observations concerning this hemp plant. Contemporary Chinese moralists watching the effects produced by the use of this drug in those wild youth of that era concluded that this frenetic euphoria had no place in stable Chinese culture. Shortly, with proper warning to recalcitrant youths, the drug was labeled "liberator of sin," and the use of the hemp plant or its resin as an escapist phenomenon forbidden to the Chinese.

For centuries after it found its way to India, marihuana or bhang as it was termed in India was extolled with an air of holiness. Indian philosophers wrote that a longing for bhang foretold happiness and that it cured dysentery, sunstroke, cleared phlegm, quickened digestion, sharpened appetite, made the tongue of the lisper plain, freshened the intellect and gave alertness to the body and gaiety to the mind.

The thought that someone might later come along and deprive the people of this magnificent experience caused these native writers to predict terrible consequences that could follow such deprivation. To forbid or seriously restrict so

holy and gracious an herb as the hemp would cause widespread suffering and annoyance and to large bands of worshippers . . . it would rob the people of solace in discomfort, of a cure in sickness, of a guardian whose gracious protection saved them from the attacks of evil influences." Surprisingly, this Indian writer concluded his eulogy of cannabis with an apology: "So grand a result, so tiny a sin."

The use of the drug was not, however, without complications. Soon cannabis became so important to those dependent upon its effects that legislators become fearful of the ultimate result. Despite these fears, the government, after a careful study that revealed the use of the drug was so widespread, attempts at its elimination seemed almost futile, begrudgingly issued a recommendation to the League of Nations in 1930 to the effect that it was neither practical nor advisable to attempt to exterminate the practice. Some 30 years later the government had to come to grips with this problem again. This time it legislated against the use of cannabis. In so doing, the Indian government appears to have accepted the argument that cannabis' use has deleterious social consequences and to have embraced the position maintained by diverse investigators that continued use of hallucinogenic drugs tends to eliminate the learned patterns of culture. "So grand a result, so tiny a sin?"

Among those who are advocating legalization of marihuana, Dr. Lester Grinspoon, a research director at the Massachusetts Mental Health Center in Boston, associate clinical professor of psychiatry at the Harvard Medical School and the author of a recently published book "Marihuana Reconsidered." Dr. Grinspoon makes his case for legalization of marihuana by attacking what he terms are the myths of marihuana, the most prevalent of which he identifies as the claim that marihuana is addictive, that users become psychologically dependent upon it and that it is a stepping stone to heroin. He is joined by some public officials, including a few law enforcement officials who have concluded marihuana cannot be controlled, so why not legalize it.

Nowhere in the book does Dr. Grinspoon state what benefit mankind would derive from legalization of marihuana. In knocking down the so-called myths, Dr. Grinspoon has proved nothing.

We admit marihuana is not a true narcotic drug. So what, if we cannot prove it is psychologically dependent? So what, if it doesn't lead to the use of heroin? I could care less if we have not proved it causes severe brain damage or serious medical complications! What I do know and what all of us admit, even Dr. Grinspoon and the other advocates for legalization, is that marihuana is an intoxicant. —Is that the chronic marihuana users are victims of decreased drive, apathy, distractibility, poor judgement, introversion, depersonalization, diminished capacity to carry out complex plans or prepare realistically for the future, magical thinking, a peculiar fragmentation of thought, and progressive loss of insight.

Now—why in God's name would we want to give our youngsters any directive that would cause the above end results? Why not learn a lesson from the Chinese? Why condone the use of a drug which took the Indians centuries to ban because they were shortsighted enough to allow the use of it in the first place?

On March 22, 1972 the National Commission on Marihuana and Drug Abuse released its findings and recommendations on marihuana. They found that 93% of all marihuana arrests were for users arrested for unlawful possession of less than 1 ounce of marihuana. They recommend de-criminalization of private use of marihuana which they theorize would eliminate 93% of the arrest problem of a law which is unenforceable to begin with; they find that marihuana is not addictive (so what else is new?); that it cannot be shown to be physically or psychologically harmful even after long use; that it does not appear to lead to the use of hard drugs such as heroin, and that it does not lead to crime. In the same breath they recognize no beneficial aspects finding that long term daily use by adolescents sometimes contributed to a general lack of motivation. They also concluded that anyone driving under the influence of marihuana was a serious threat to public safety and said that heavy daily use over a number of years might cause some damage to hearts and lungs. Private use should be decriminalized but public use should continue to be illegal and also growing it, giving it away to a friend or selling and driving while under the influence of the drug should be illegal. So in effect the report is replete with contradictions.

It's good—it's bad—you can smoke it in your living room but if you smoke it on your stoop you are going to get busted . . .

Isn't it about time we took a firm stand? Marihuana is either bad and dangerous or it's good and harmless.

#### UNITED STATES GOING TO POT?

If the United States goes to pot then the people of our country not only risk endangering the health of their future generations—their children and their grandchildren but they risk adding to their financial woes by increasing substantially their economic losses.

#### MEDICAL HAZARDS DOCUMENTED

Gabriel Nahas, M.D., Ph.D., a research professor of anesthesiology at the College of Physicians and Surgeons at Columbia University in New York City, in his new book "Keep Off the Grass," released in May 1976 by the Readers Digest Press, points out that "Despite misleading popular arguments to the contrary, the drug marihuana is dangerous. Once ingested in sufficient quantities, marihuana may produce impotence, sterility, genetic damage, high blood pressure, emphysema, tuberculosis, cancer." At a time when strong forces in every community are pressing for the legalization of marihuana, most public information on the subject concerns marihuana's impact from a legalistic rather than a scientific or medical aspect. Dr. Nahas' book is important precisely because it presents the truth about the dangers of marihuana from documental medical, pharmacological, and scientific evidence.

In 1974-75 Senator Eastland, chairman of the committee on internal security reacting to the large amount of illegal marihuana seized by the drug enforcement administration decided to hold hearings on the marihuana epidemic. What emerged from these hearings was testimony by twenty scientists, from six countries who presented documented evidence that marihuana is a psychoactive drug that carries with it seven clear-cut biological hazards:

1. THC, the major psychoactive substance in cannabis tends to accumulate in the brain, sex glands, and other fatty tissues of the body in much the same manner as DDT is stored.

2. Regular use of marihuana may cause damage to the process of cell division.

3. There is evidence that marihuana may cause irreversible damage to the brain, including actual brain atrophy, when used daily for several days.

4. Marihuana adversely affects the reproductive process and it poses potential genetic damage to the offspring.

5. One year of cannabis smoking often—twenty cigarettes a day—can produce as much sinusitis, pharyngitis, bronchitis, emphysema, and other respiratory conditions as would be expected from smoking twenty to forty tobacco cigarettes daily for twenty years.

6. Marihuana smoke, particularly when it is mixed with tobacco smoke, is far more damaging to lung tissues than tobacco smoke alone.

7. Chronic cannabis use results in deterioration of mental functioning, pathological forms of thinking resembling paranoia, a progressive and chronic passivity, and lack of motivation.

The above cited medical hazards have been documented in the Senate hearings chaired by Senator Eastland and they have been referred to by Dr. Nahas in his book "Keep Off the Grass." For years preceding the Surgeon General's report, the American public was told, "There is no proof that cigarette smoking is dangerous to your health." Today the American public is being told just that about marihuana. If you have ever smoked marihuana, if your child has ever smoked marihuana, if either of you has ever been tempted, you owe it to yourself to read "Keep Off the Grass." It may save your life or the lives of your children.

As brought out by testimony before the Senate hearings conducted by Senator Eastland in May of 1975—factors which make marihuana use of serious concern are:

1. The epidemic use of marihuana in all sectors of society,
2. The rapidity of progress that a marihuana user can go from an occasional moderate user to a chronic massive user,



3. The dramatic escalation of the potency of the drug now being made available—from  $\frac{1}{16}$ th of 1% of THC for locally grown marihuana upwards to 5% for marihuana coming from Mexico and Columbia—an increase of 40 times the potency,

4. The ease in which marihuana can be concealed and consumed,

5. The increase in tendency to smoke marihuana on the job,

6. And apart from seriously affecting performance and distorting perception the grave long-term effects including paranoid forms of thinking and general psychological destabilization.

Dr. Eugene LeBlanc, a Canadian scientist, has warned that society will suffer severe health and economic consequences if cannabis becomes widespread. Dr. LeBlanc, a pharmacologist until now a non-combatant in the cannabis debate, says in terms of society as a whole, cannabis poses a more serious threat than drugs like thalidomide.

#### ECONOMIC IMPLICATIONS

At present the entire nation is facing serious economic problems. Decriminalization of pot will add to its existing financial woes in the following ways:

##### 1. *The operating costs of industry and business will escalate*

Industry and business has become aware of the problems that alcohol and drug abuse festers among its personnel. They know that personnel with such problems are inclined to be subjected to excessive absenteeism, become inefficient, lose incentive, cause accidents and most important of all, cost money caused by increase in operating costs.

##### 2. *Increase in auto insurance and other insurance rates*

Even the proponents of bills to decriminalize pot agree that driving while under the influence of pot increases the possibility of accidents. About the only conclusion made by the President's Commission on Marihuana was that driving while under the influence of marihuana is dangerous. If pot is decriminalized, it would be virtually impossible to cope with the problem of young people driving under the influence of marihuana. The result will be tragic not only to human lives but will cause insurance rates to soar upwards.

##### 3. *Increase burden on police and courts*

Contrary to what the proponents of decriminalization claim, the decriminalization of pot is going to increase the burden upon police and courts. Of the many bills introduced by the legislators, those which seem more likely to receive consideration are bills for the issuance of a ticket carrying with it a \$100 fine on convicting for possession of up to 2 ounces of marihuana. In addition, criminal possession of up to 8 ounces of marihuana or criminal sale of up to 2 ounces of marihuana will also be handled by issuance of a ticket. It is estimated that there are about 20,000 arrested each year in New York for simple possession of marihuana. Decriminalization will, without any doubt increase that figure ten fold. Where will we get the police in New York to hand out 200,000 tickets and who will administer the paperwork. Not to say anything about the countless number of warrants that will have to be issued for the pot users who will defiantly refuse to answer the tickets. If they think we have an unenforceable law now, they are kidding themselves if they think the proposed decriminalization law will be enforceable.

This has been confirmed in testimony submitted by Superintendent Holly V. Holcomb of the State Police of Oregon, one of the first states to decriminalize marihuana, who on March 12, 1975, submitted a statement to Senator Eastland as follows: "It was the legislature's intent that by decriminalizing possession of small amounts of marihuana, the police officers would have more time to devote to enforcement of the drug laws in relation to stronger drugs; however, we have found this has not been so, as we are now spending more time enforcing drug laws than we were prior to this liberalization law. After conferring with members of our narcotic unit, they are of the opinion the young people of our state are becoming much more liberal and casual in their attitude and approach toward marihuana usage and the use of this drug is on the increase. In an effort to determine the seizure increase, we had to depend on the dollar value of total drugs seized which are as follows: 1972 . . . \$47,293; 1973 . . . \$64,835; 1974 . . . \$230,981."

#### 4. Increase taxes

Decriminalization will, without any question, result in adding to the burdens of the citizen. Loss of business, increase in insurance, added to police, court and administrative burdens, all cost money and such costs will eventually have to be assumed by the citizen in the form of taxes.

#### EXISTING NEW YORK LAW PROVIDES FOR FIRST OFFENDER CASES

Nowhere in their arguments do the proponents of decriminalization of marihuana make reference to the provision in the criminal procedure law of New York State that currently apply to first offenders: Section 170.56 of N.Y. Criminal Procedure Law. Under this section, if a first offender is arrested for unlawful possession of less than  $\frac{1}{4}$  ounce or less than 25 marihuana cigarettes, the court may invoke an adjournment in contemplation of dismissal. The result of this action is that all court papers, arrest records and other administrative papers are sealed and eventually the case is dismissed and the offender suffers no criminal record. Contrary to some opinions expressed by proponents of decriminalization, enforcement officers do not relish placing young people under arrest. We do support giving the first offender a chance to be free of criminal record under certain conditions as provided above.

#### DE FACTO LEGALIZATION

About the only thing that will be accomplished if the marihuana laws are decriminalized will be de facto legalization. Let's be realistic. If possession of 2 ounces is not a crime—who will supply the marihuana. Are the police going to be able to cope with the rise in trafficking of marihuana that will be generated by the demand for the drug.

#### DECRIMINALIZATION OPPOSED

Recently the plight of a marihuana and pill user (based on an actual incident) was depicted in an NBC-TV special in which Ben Gazzara, playing the role of the father of a young man who had become unmanageable because of his drug involvement shot to death his own son.

In another recent incident a Texas grand jury refused to indict a father, a former professional football player, for shooting his own son while sleeping in order to put to an end the tragic life resulting from his son becoming involved with marihuana.

You may recall the movie "Joe" in which the parent of a young woman sought out to take the law in his own hands by shooting to death the gang who had introduced his young daughter to marihuana and in so doing killed his own daughter.

Let me refreshen in your minds "Helter-Skelter" Manson atrocities which occurred in Hollywood perpetrated by a gang who were heavy pot users. There are countless such tragedies.

Just two weeks ago we were horrified by the execution style killing of two Westchester New York housewives. A tragedy reconstructed by four terrified children who faced the killers before being herded into a room. Killers who were later arrested in Connecticut on marihuana charges.

Oh I know that the proponents of decriminalization will counter with statements that in referring to such incidents I am over-reacting, that I am being too dramatic. Well, the loss of a life is always dramatic; especially when it's the result of drug-related actions.

Acting on the sentiments of the International Narcotic Enforcement Officers Association membership expressed in a marihuana survey taken at that time the board of directors went on record opposing any form of legalization of marihuana. The action was taken at the board meeting held in Hartford, Connecticut, April 11, 1972.

The board members and officers unanimously adopted a resolution recognizing the potential dangers of marihuana and pointing to the findings of the President's Commission on Marihuana and Drugs took the position that a drug which has no beneficial use for mankind and which has detrimental effects on its users should not be legalized.

The International Narcotic Enforcement Officers Association survey which consisted of questionnaires completed by members of the association revealed that 90% were against legalization; 5% favored legalization and 5% indicated no preference.

A survey of an independent group of non-enforcement participants, the New York State Legislative Forum also indicated they were opposed to legalization by a 5 to 1 margin.

A Gallup Poll taken in 1972 also showed that a national sampling of opinion on legalization 81% of Americans are opposed to legalization, 15% were in favor and 4% expressed no opinion.

In addition to being asked whether marihuana should be legalized other questions included whether penalties for unlawful possession and sale should be increased or decreased and whether 1st offender users should be allowed to be placed on probation with all charges dropped.

A slim margin favored decrease in unlawful possession although most enforcement officers made a distinction between 1st offense and quantities possessed favoring increased punishment for those possessing more than 1 ounce and for second offenders. About 50% were in favor of unlawful possession to be handled as a misdemeanor whereas 20% wanted it to be classified as an offense and 30% a felony.

About 50% felt penalties should include fine and/or jail sentence; 11% called for a fine only; 6% for 3 months; 5% for 6 months; 13% for 1 year and about 16% for more than 1 year sentence.

Results also were in favor of allowing 1st offender users of marihuana to be placed on probation with charges dropped if the conditions of probation were met by a 5 to 3 return.

Increased penalties for sale of marihuana were favored by a 5 to 1 margin.

International Narcotic Enforcement Officers Association has reaffirmed its position against decriminalization at each subsequent meeting; the most recent of which was held in Miami Beach, Florida on January 20, 1977.

The Eastland marihuana hearings raise a question, at the very least, that marihuana does possess medical hazards. The economic impact decriminalization of marihuana will have on the nation are likewise, not to be minimized. It will be ill-advised for the Congress to enact any bill to decriminalize at this time, without further delving into the medical and economic questions involved. They owe it to their constituents to examine further the issues raised here.

If we want the nation to go to pot, then by all means, let's decriminalize.

If we want to save the lives of our future generations, if we want to save the nation from further economic pressures, let's examine further all of the issues before we consider changing the marihuana laws—however.

If we want to enrich the coffers of organized crime, disregard the health and welfare of the nation, and increase taxes, then let's decriminalize—but if we do then surely the nation will go to pot.

Mr. WOLFF. Thank you, Mr. Bellizzi.

We will proceed with Dr. Nahas.

#### TESTIMONY OF GABRIEL G. NAHAS, M.D., PH. D., COLLEGE OF PHYSICIANS AND SURGEONS, COLUMBIA UNIVERSITY, NEW YORK CITY

Dr. NAHAS. Mr. Chairman, members of the committee, ladies and gentlemen: My name is Gabriel Nahas. I am a research professor of anesthesiology at the College of Physicians and Surgeons in New York City.

As everybody else here, I am concerned about imposing harsh penalties on the occasional user of marihuana; but I am equally concerned that the decriminalization of marihuana might well be interpreted as an indication that it is a harmless substance.

On the basis of the research that has been carried out over the past

8 years, nothing could be further from the truth. For the benefit of the committee, I would like to summarize this research. It is a monumental task. I spent the last week trying to do it, reviewing only the five last books which have been published on this subject in 1976. These books comprise 2,600 pages and were written by 450 authors.

The work I would like to present deals with the heavy, daily use of marihuana. It should be emphasized that daily use of marihuana is not unusual in the United States today. Indeed, a statement released by NIDA, has reported that 8 percent of the graduating high school class in 1975 used marihuana daily. It is to this type of usage of marihuana that I refer.

First, we are dealing with a substance which is fat soluble. For this reason it remains in the body for a long time and permeates all organs. It has a half-life of 8 days, which means that it takes a week for 50 percent of a single dose to be eliminated from the body. Alcohol has a half-life of about 8 hours.

The main effect of marihuana in the test tube is to prevent the entry into the cell of the chemicals required for proper cell division. These chemicals are proteins and the nucleic acids RNA and DNA, which carries the genetic code. As a result of this there will be an impairment of cell division.

The abnormality of cell division produced by marihuana in the test tube has been described by Dr. Morishima at Columbia University, and by Dr. Leuchtenberger in Switzerland. There are abnormal chromosomal separations. There are abnormal cells which are produced. This could be just a laboratory curiosity, if the scientists had observed such changes only in the test tube.

However, such alterations in the test tube stimulated a number of researchers to find out if daily marihuana smoking in man impairs the formation of those cells in the body that have to grow and divide very rapidly.

I'm speaking of the sperm cell of men. Therefore, 2 years ago a study was started at Columbia University under the sponsorship of NIDA, in which Dr. Hembree, Dr. Zeidenberg, Dr. Morishima and myself studied the effects of daily marihuana smoking, in a controlled environment, on 16 individuals aged 18 to 33. I would like briefly to report the result of these studies:

The experiment involved three periods. A first period of washout, during which the subjects were drug free and remained in the hospital for 1 month. A second period of 1 month, during which they smoked as many marihuana cigarettes as they wanted. And a third 1-month period of washout.

During the period of marihuana smoking, the subjects smoked anywhere from 5 to 20 cigarettes a day without any apparent discomfort.

At the end of this period of marihuana smoking, a decrease in the sperm count was observed.

Mr. WOLFF. Dr. Nahas, may I ask, we had someone talk of this study before, and they indicated that some of the subjects had used other drugs prior to this experimentation, and therefore the study was not conclusive as a result of that.

Dr. NAHAS. I think this person could not have referred to the present study because all of our subjects were very carefully selected out

of a large pool of marihuana smokers, and all of those who had used other drugs were eliminated. The use of other drugs was determined by making a complete analysis of their urine. Of course this did not eliminate previous use of drugs in the past.

Our method of sampling was designed to select young people who were in good physical and psychiatric condition. So, I don't think this criticism could be leveled at this study, especially since the changes that we observed occurred only after 2 weeks to a month of heavy marihuana smoking. After this we observed a decrease in the sperm count which averaged in all the subjects 35 percent, with individual decreases ranging from 30 to 73 percent.

While the decrease in sperm count is not a very alarming factor in itself, it was accompanied by an observation of a more serious nature: a decrease in the functional properties of sperm. There was a decrease in motility and there also were alterations in morphology. There was a marked increase in abnormal forms of sperm cells.

All of these observations were made by Dr. Hembree, who is the head of the reproductive research laboratory at Columbia. His paper, as a matter of fact, is being presented today in California at a meeting in Palm Springs.

In these studies the most potential damaging effect of marihuana is the marked increase in abnormal forms of sperm cells. This raises the possibility that a genetically transmitted abnormality could occur if a viable sperm with decreased genetic information fertilizes an egg.

Such a possibility of course could be documented only by long-term studies which would be performed on children born from marihuana-smoking parents. Meanwhile, there is evidence that marihuana may produce such abnormality from a study which was performed at the University of California at Davis over the past 3 years. It is a very careful study performed by Drs. Sassenrath and Chapman. The study indicates that chronically administered delta 9 THC, one of the active ingredients in marihuana, produces impairment in reproductive function of the rhesus monkey, an animal closely related to man.

Mr. NELLIS. Doctor, may I ask you a question in that regard? In all of these experiments and the marihuana you used, does that have a constant THC factor, or are they marihuana cigarettes selected at random?

Dr. NATHAN. All of the marihuana used in the experiments that I described were provided by the National Institute on Drug Abuse from stores which are prepared by chemists at the Mississippi School of Pharmacy. They are carefully calibrated for percentage of THC content. The marihuana cigarettes used by the subjects at Columbia weighed 0.9 gram and contained between 2 and 2.1 percent THC. The monkeys which were treated by Dr. Sassenrath were treated with known amounts of THC, 2.5 milligrams per kilo, given orally, and this on a continuous basis in the preferred food of the animal.

Mr. NELLIS. Do you find it difficult to accept some of these findings by reason of the fact that you are using very carefully controlled substances with uniform amounts of THC, whereas in fact on the

street a cigarette can be bought today with 0.5 percent THC and the next day it could be up to 15 percent?

Dr. NAHAS. Well, I believe that the analyses which are being monitored and done continuously by NIDA and also through the DEA on stocks of material which have been seized on the street indicate that the amount of THC is getting higher and higher, that more hashish is being used, and that there is even red oil which contains, as much as 50 percent THC. The amount of THC present in these different experiments does correspond actually to amounts which are found in a living situation, certainly in America on the basis of what we know and certainly in those places where marihuana is grown for export like Jamaica, or Morocco and Mexico.

In any event, in her experiment, Dr. Sassenrath indicated that the overall reproductive success of the drugged animals was 59 percent compared to a reproductive success of 90 percent in the nondrugged animals. And the nonviable fetuses born to the drugged animals included a large number of those with malformations.

Although the sample is small, it only involves 14 animals. The experiment was carried out over a 3-year period, and the data are very consistent. It suggests that there is a failure to conceive, or increased resorptions, which amount to abortions, when the female parent is treated with THC, and abortions stillbirths and neonate deaths which are associated with THC treatment of the male parent.

And this raises the possibility that an abnormal sperm due to THC treatment might produce an abnormal offspring.

Mr. NELLIS. Dr. Nahas, I'm puzzled. Are you suggesting to this committee that there is some reliable research which indicates that abnormal birth may be the result of smoking marihuana?

Dr. NAHAS. I think that what you just said is suggested from the preliminary studies of Drs. Sassenrath and Chapman. They are preliminary, but they were made over a period of 3 years and they involved, as I told you, 14 animals.

Mr. NELLIS. Dr. Raskin, do you agree with that statement?

Dr. RASKIN. In essence, as far as preliminary findings pointing to the possible effects, but nothing definitive or conclusive. This is the status of research of marihuana as far as human function is concerned that I alluded to in the sense of there being possibilities, but we still need more work and more time to gain better definition and correlate it with the manner and type use in terms of frequency and dose levels.

Mr. NELLIS. It might be indicated that young women of childbearing age should not smoke marihuana at all? Is that correct?

Dr. NAHAS. That would be my recommendation.

Dr. RASKIN. Question mark.

Dr. NAHAS. Especially in view of the fact that my recommendation is based on the following physiological fact: While man makes trillions of sperm cells during his lifetime—a woman has only 400,000 eggs in her ovaries from birth on. And if any one of those eggs is impaired, it will be permanently impaired. Therefore I think young women should be advised not to use too much marihuana.

The same authors—Sassenrath and Golub—also released in this regard another warning signal. They also studied six offspring, viable

offspring from those drugged monkeys, and they observed that these offspring presented heightening of locomotor activity and increased behavioral responsiveness to visual and auditory stimuli.

Now, I would like to skip over a lot of this testimony and go on to another area, which is very important in relation to chronic daily marihuana use, its effect on central nervous function. After all, our brain is the most precious organ that we have at our disposal to solve our many problems.

The effects of marihuana occur in a very specialized area of the brain, which is fundamental for human behavior. It's called the limbic area. It is the old brain which is covered by the new brain. Stimulation of this area can give rise to all of those feelings of distortion of perception, of alteration of time sense, of fear and paranoia, of well-being produced by marihuana. It has been established by scientific studies that this limbic area is where marihuana acts. This is the same area that is disturbed in many psychiatric illnesses.

Dr. Heath of the University of Tulane wanted to find out if this area, which is stimulated each time marihuana is used, is impaired permanently; if it does not present some anatomical lesions after prolonged marihuana smoking. Of course, such lesions could not be observed in man unless an autopsy can be made in time on someone who has had many years of exposure to marihuana.

This is the reason why Dr. Heath, also supported by NIDA, has performed studies on monkeys who were exposed to marihuana smoke for prolonged periods. He has already reported that these monkeys, fitted with deep electrodes in the limbic area, do present some abnormal brain wave patterns when they are made to smoke marihuana. Dr. Heath also showed that those abnormal patterns of activity in this very vital area of the brain do remain after cessation of marihuana smoking.

Dr. Heath sent me a summary of his latest work when he heard I was going to testify here, and I have included his letter in my report.

He tells me that some of the animals that had been exposed to marihuana smoke in concentrations which are reached in human consumption—do present some permanent lesions of this limbic area. These are: alterations of the nervous tissue of the synapse. All of these changes indicate marihuana produced a damage of neurons, or nervous tissue in an important area of the brain.

The monkeys treated with marihuana were able to keep on eating, mating, sleeping, and performing their daily gymnastics.

Mr. WOLFE. What else is there for a monkey to do? [Laughter.]

Dr. NAHAS. Dr. Sassenrath and Golub have also reported, in young monkeys born to parents which have been treated with THC, an abnormal type of reactivity of locomotor responsiveness which is reminiscent of the hyperkinetic syndrome which is sometimes observed in children.

Another study concerning the potential damaging effect of heavy marihuana use on the central nervous system was made by Dr. Kalant of the Addiction Research Institute in Toronto, Canada. He has shown that rats exposed to heavy marihuana smoking in amounts that can be reached in heavy human consumption, did present permanent learning impairment after 6 months of such treatment.

Mr. WOLFF. Dr. Nahas, could you define for us what you consider heavy marihuana use?

Dr. NAHAS. Well, heavy marihuana use for a man would be daily use—daily use of one or two cigarettes over a long period of time—over let's say 5, 10, 15, 20 years.

You see, the dose in monkeys is 2.5 milligrams per kilo ingested, is equivalent to 1.4 grams smoked. It would be about two or three cigarettes a day.

Mr. WOLFF. That would, too, depend upon the strength of the cigarette?

Dr. NAHAS. Of a cigarette containing 1.5 percent THC, 15 milligrams of THC, which is an average—because the percentage can go much higher—as high as 40 or 50 milligrams.

Mr. WOLFF. I think it is important that we make the definition here, rather than use general terms.

Dr. NAHAS. But I prefaced my testimony in saying that 9 percent of the graduating class over the Nation—that is a very large sample—smoke marihuana daily. And these are kids who are 17 or 18.

Now the extent to which chronic marihuana smoking will produce in man permanent psychiatric illness, such as psychosis, is a fierce debate, and I don't want to enter it.

However, I do want to say that most psychiatrists—at least those at the Psychiatric Institute in New York—believe that marihuana should not be used by any person prone to mental illness, such as schizophrenia, which this drug might trigger, or worsen. I don't know if you would agree with that statement, Dr. Raskin.

Dr. RASKIN. On an essentially principle basis, in terms of any toxic, or potentially toxic substance being detrimental.

Dr. NAHAS. However, I understand that schizophrenic patients may smoke tobacco. At the Psychiatric Institute, the schizophrenic patients are allowed to smoke as many cigarettes of tobacco as they want.

Dr. RASKIN. Well I would find no specific contraindication to any mentally ill patient smoking a cigarette, drinking a moderate amount of coffee, or Coca-Cola. But any psychotoxic substance would be a situation that could very well precipitate a lot of internal difficulty with which the person could not deal directly, and foment, or exacerbate mental symptoms, yes.

Dr. NAHAS. There are so many people who say that marihuana is no more dangerous than tobacco cigarettes; that in such instances where there is a difference, this should be emphasized.

Mr. RANGEL. Mr. Chairman, this is an interesting exchange, but I don't think it is the serious question as to whether or not marihuana is dangerous to those people that may have mental illness. It's just that everyone who commits some bizarre crime, as was so dramatically illustrated, was smoking marihuana, we end up at the bottom line that the marihuana triggered this guy into committing these dramatic acts. But no one says what happens when some nut who drinks some coffee—we don't attribute it to the coffee.

Dr. NAHAS. I think there's no reason to attribute it to coffee.

Mr. RANGEL. But every act that we get, because some guy had some pot in his pocket, automatically the drug fiend was motivated by the pot to do whatever he did.



Dr. RASKIN. Or any other drug that he might have ingested or shot up. This automatic relation is invalid. There has to be a more definitive demonstration of cause and effect relationship.

Mr. RANGEL. Right. So we have to say that some people who were crazy before they smoked pot—if we can get a handle on that, I think that we could take a far more objective look at it.

Dr. RASKIN. I would not, by this exchange, imply any negation—nonetheless ridicule—of what Dr. Nahas is pointing to. These are all valid experimental studies—some clinical studies. This is the kind of material that we dare not do other than pay very close attention to. Because it is from these kinds of studies that we are going to learn how much, of what, within whom begins to represent some form of danger to that individual.

Mr. RANGEL. I didn't mean to detract from his statement that they reach some type of medical conclusion that marihuana has an extremely harmful effect on people that have mental illness.

Dr. RASKIN. I'm not dealing with just the mentally ill, Mr. Rangel.

Mr. RANGEL. Well, he asked you if the mentally ill could smoke cigarettes, and you said "yes, and coffee, and they can do what they want."

Dr. RASKIN. I can agree with you that his implication, at that point, began to go, in my opinion, a little far afield from strict epidemiological types of relationships between clinical symptoms and possible cause and effect.

But I did not want to imply, by my agreement with you in principle on that, that we dare negate any aspect of clinical investigation, laboratory and experimental investigation of a continuing nature, with this chemical substance.

This is the only way by which we're going to learn sufficiently so that we can become more credible in our interpretation of how much danger is inherent in marihuana.

Mr. RANGEL. Well you have the entire support of the committee and the Congress. Some of us suggest that you can continue your study, without some of these people being in jail. That's all.

Dr. RASKIN. Exactly.

Dr. NAHAS. I don't disagree with that statement. I'm just trying to point out some of the damaging effects of marihuana in patients prone to mental illness.

And, in fact, I have been asked pointedly if young people with mental disturbances could smoke marihuana. On the basis of my consultation with psychiatrists, I have said I don't think it is helpful. There are even more experiments which are being planned in which schizophrenic patients who have been cured through chemotherapy, are now being subjected to marihuana treatment to see if this would trigger, again, their previous ailment.

Mr. RANGEL. Pardon the interruption.

Dr. NAHAS. Now I would like to just—

Mr. WOLFF. If you could please summarize, Doctor, so we can get to the question period?

Dr. NAHAS. Certainly. Marihuana decriminalization raises also a concern, among some physicians. They fear that such a measure, which would undoubtedly increase the usage of marihuana, might be

accompanied by an increase in the number of casual users and of heavy users of marihuana, and would also lead to an increase in the use of other drugs.

Because there is a drug culture—especially in this country—which seems to promote the use of these so-called recreational drugs. One can find publications of the drug culture on any newsstand. I don't say there's a mandatory link between the use of marihuana and the use of other drugs, but there is a statistical association between the use of marihuana and the use of other drugs that is as high as 26 percent in heavy marihuana users in high school, as shown by a study of Kandel published in *Science*.

In conclusion, I think that I am a spokesman for the biologists and physicians who have elected to take a cautionary view. We believe that the evidence at hand is sufficiently damaging to predict that widespread usage of marihuana, as would be brought about by decriminalization—especially if decriminalization results in legalization—would result in an increase in pathology.

We believe there might be a very high social cost in view as a result. Of course, only long-term studies of the marihuana smoking population will document the pathological effect of long-term marihuana usage.

In the meantime, on the basis of the present short-term observations past experience with other drugs, we have to make certain predictions. I have told you the predictions that I would make. And, since there are such risks in view, I am very concerned about seeing any measure passed which would be accompanied by a generalized use of marihuana.

And, in this respect, decriminalization of marihuana is not accompanied by any recommendation which would decrease its usage among the public. On the contrary, on the basis of the figures from California which were given to us there is an increase in use. It is a small percentage increase. But it is there.

On the basis of the present figures of 8 percent daily use of marihuana in the high school graduating class a model should be designed to decrease such use for a better development of these young people.

And, before taking the step of decriminalization of marihuana, we should be quite sure that we have a better way of discouraging its use. Thank you.

[Dr. Nahas' prepared statement follows:]

PREPARED STATEMENT OF GABRIEL G. NAHAS, M.D., PH. D., COLLEGE OF PHYSICIANS AND SURGEONS, COLUMBIA UNIVERSITY, NEW YORK CITY

The legal debate about liberalization of marihuana laws, whether decriminalization or the legalization which would follow, should be separated from the medical debate about the harmful effects of this drug that I would now like to review.

During the past 8 years I have devoted a large part of my research effort to the study of the medical effects of long-term marihuana usage. My work has been and is now supported by the National Institute on Drug Abuse (NIDA). I have attended or participated in over 28 national and international scientific meetings devoted entirely to the botany, chemistry, biochemical and medical effects of marihuana. These meetings were held, among other places, in Washington, D.C., New York, Paris, Helsinki, Athens, and Geneva. As a result, I have written 8 books on the subject and edited a 552 page monograph comprising the work of 126 authors on the chemistry, biochemistry and cellular effects

of marihuana. I have consulted regularly with the technical laboratory of the United Nations Commission on Narcotics in Geneva and have been invited to attend two of their ad hoc international meetings on marihuana. A careful analysis of the results of these hundreds of experiments that have been performed in clinics and laboratories here, mostly with the help of NIDA, and abroad has convinced me that marihuana, in amounts used today in the United States, is a drug that carries great potential harm, especially for adolescents and women of childbearing age. This opinion is based on the following scientific facts:

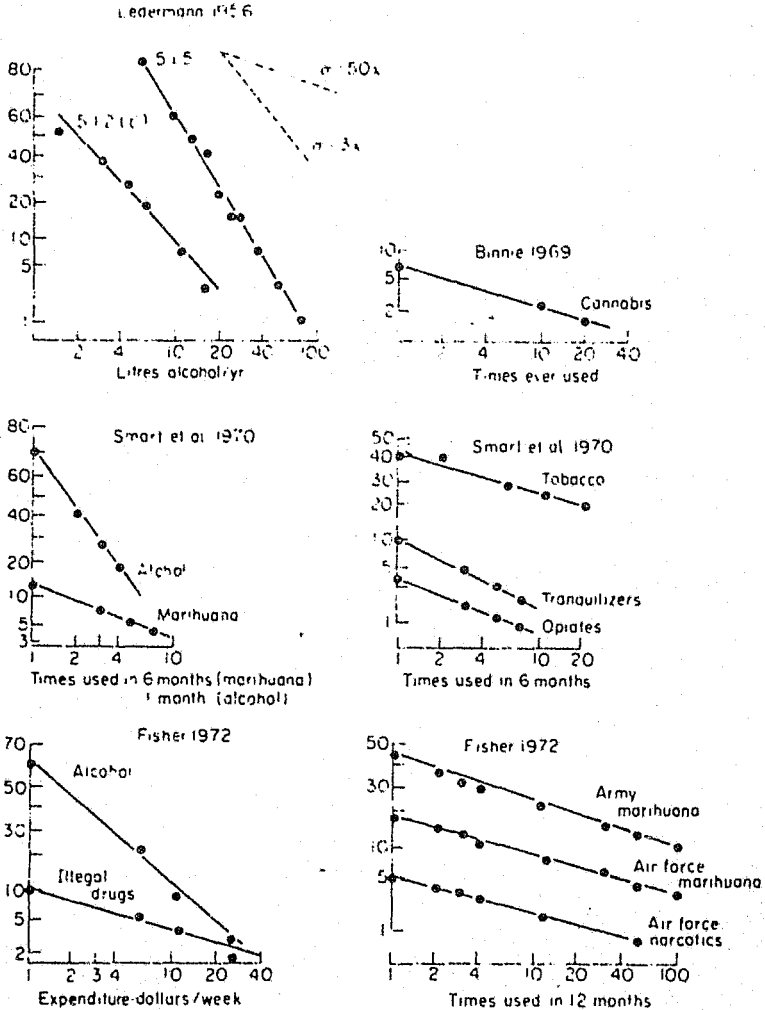


Figure 1. Cumulative distributions of rate of use of various drugs. Horizontal axes, rate of use of drug, on a logarithmic scale; vertical axes, per cent of the population studied who used the drug at a given rate or higher, on a probability scale. The data refer to Canadian schoolchildren, British undergraduates, American armed forces, and French adults and Italian immigrants.

The pattern is similar for Cannabis, tobacco, tranquillizers, opiates, "narcotics" and "illegal drugs", but is steeper for alcohol: it appears to be the same for low overall rates of use of Cannabis as for high overall rates. (From W. D. M. Paton (1975), Third I.S.D.D. Cannabis Symposium.)

## A SCIENTIFIC ESTIMATION OF THE PATTERNS OF MARIHUANA USE

It is essential for estimating the consequence of use of any drug to know how much is taken and how often. For Cannabis, it seemed at first as though there were two groups of users: adolescent occasional experimenters, and the wholly different heavy daily user of the Middle East and Far East. A result of this dichotomy was to cast doubts on reports of heavy use in adolescent groups of Western societies. Along with this has gone the view that "drug-users" are in some way a special population, whether from inborn physiology or personality or from social forces—even though no practically successful predictor or proneness to drug use has yet been found. A good deal of light is thrown on all this by the evidence that there is a continuous spectrum of rates of drug use, with no sharp dividing line between experimental, or "moderate", users and heavy users. The evidence, so far as Cannabis is concerned, is still entirely derived from answers to questionnaires, and can be analysed in a way similar to that introduced by Ledermann for alcohol consumption. Here a "cumulative distribution" of rates of use is constructed by calculating the proportion of the population studied who (for instance) used Cannabis 100 times or more in the last year, then the proportion who used it 10 times or more, and so on, recruiting an increasing proportion of the population as successively lower rates of use are used as a reference point. These proportions of the population are then plotted against the rates of use involved. But this is not done directly, but using a probability ("probit") scale for the proportions, and a logarithmic scale for rate of use. The implication of these scales (a "lognormal" plot) is that if there is only one overall population of individuals varying randomly in rates of use (as they would, for instance, in height), and if the relevant variable in dose is proportional change rather than arithmetical change (as is known for many drugs), then a straight line will result; but if there are two distinct groups, a discontinuity will appear. In the outcome (Fig. 1) there is a remarkably consistent pattern, extending over a considerable range of drugs besides Cannabis, and applicable to school children, undergraduates and soldiers. It should be stressed that such a fit to this particular mathematical pattern is not itself of great significance; it indicates that multiple forces are at work leading to drug use and that the forces at work appear to operate, in more or less degree, in us all. The result does not eliminate the idea of "proneness" to drug use, but suggests that such a quality is not sharply specific to a limited group.

For the medical investigator this result provides some clarifications. It allows, in principle, a clearer definition of the magnitude of vulnerable groups, i.e. those with a consumption greater than some limit. It also makes clear the choices confronting those who wish to work towards reducing drug use: namely, either to try to steepen the line by reducing consumption at high rates; or to accept that the general pattern is unalterable, and to reduce the overall rate of use at all levels (these choices amount to altering the standard deviation or the median of the distribution); or to try for both. The nature of the choice, or indeed the justification for attempts to manipulate at all, is controversial. But it gives some realism to the discussion to appreciate that, for a population of which 20% has tried Cannabis at least once in the last 12 months, around 5% will have been using it twice a week or more often.

In a school population, such as the one in San Mateo, California, where 55% of the students reported using marihuana during 1975 at least once, it can be projected that 20% of the students used the drug twice a week or more. This would put them medically in a vulnerable position. This projection fits well with the results of a national survey reported by Dr. Robert DuPont, Director of NIDA, which indicates that 8% of the graduating class of 1976 were daily marihuana users.

#### *Pharmacological Classification*

As to the place of cannabis in the family of pharmacological agents, for many purposes the most useful single fact is that of the high fat-solubility of the main active principle (THC) and its first metabolite. For these the octanol/water partition coefficient is over 1000, and it is only with further metabolism and conjugation that they are brought to forms sufficiently water-soluble to be readily eliminated from the body. From this derives the persistence in the body and the cumulation with repeated dosage. Fat-solubility also confers the ability to

penetrate all parts of the body, and radioactive label has been found in every tissue or fluid tested after injection of labelled THC. But the mere presence of a chemical in a tissue is, a priori, neither harmful nor beneficial; and the fact of cumulation merely means that if there are harmful effects, the chronic user will be particularly vulnerable. Fat-solubility does, however, bring a range of pharmacological actions in its wake, linked with those of the anaesthetics and industrial solvents, actions which there is good reason to believe depend on the insertion of the fat-soluble molecule into the lipid of cell membranes. It is only to be expected that such a process will modify cell function, and there is abundant evidence that THC shares this effect with other lipophiles.

Marihuana products have a "half life" of 7 days. This means that after a week, only 50% of the substance is eliminated. Anyone who uses marihuana more than once a week cannot be drug free, and there is a drug build-up in the tissues.

#### *Biochemical Actions of Marihuana*

In minute amounts chemicals contained in marihuana (cannabinoids) disrupt cellular metabolism and prevent the proper formation of DNA, RNA and proteins, the building blocks essential for cell division and growth. Scores of scientists have shown that cannabinoids decrease the incorporation of leucine into protein, uridine into RNA, thymidine into DNA, and choline into phospholipids, in brain, testis slice, or cell culture. These effects are evident at concentrations upward of 3  $\mu$ M, but are occasionally seen at lower concentrations as well. Others have reported uncoupling of oxidative phosphorylation in liver, activation or inhibition of ATPase (according to conditions in liver, cell culture or red cells); stimulation of adenyl cyclase; inhibition of liver microsomal enzymes; inhibition of prostaglandin synthesis in seminal vesicle, kidney and synaptosomes.

Some scientists disagree as to the mechanism of the interference of THC with synthesis of proteins and nucleic acids. (however they agree that the effect is general, rather than limited to a single precursor). Jakubovic and McGeer have not found evidence that uptake of precursor is impaired and believe that a fall in ATP cells and in phosphorylated products might account for the failure of incorporation. Blevins and Regan, who agree that uptake is not impaired, have found a reduction of size of precursor pool that might be due to a leakage of cell membrane, not to a depletion of ATP. Nahas et al in their studies of lymphocytes confirm this reduction of precursor pool, but have failed to detect membrane leakage or any depletion of ATP. They believe that the cell membrane is affected in some other way so that uptake is impaired. This difficulty of identifying a single action could be another indication of a general effect of THC that is capable of showing itself in a variety of ways, e.g. on influx, on efflux, or on energy levels.

#### *Effects of Marihuana on cell division*

Many authors have reported that the "cannabinoids," (chemicals contained in marihuana) whether psychoactive or not, decrease the rate of cell division when added to tissue culture of normal or abnormal cell lines in  $10^{-6}$  to  $10^{-4}$ M. But more striking is the production of segregation errors during cell division, described by the Leuchtenbergers and Morishima et al, in experiments on tissue cultures exposed to THC in solutions or marihuana smoke. The errors included bridges in anaphase and telophase, unequal segregation, tripolar cell divisions, and the resulting production of "micronuclei," i.e. nuclei containing 30 chromosomes or less against the normal 46. Such in vitro studies could explain observations made in a N.I.H. sponsored study by Stefanis and Issidorides on chronic hashish users, all men, near Athens: 60% showed in their white cells the nuclear drumstick: this is accessory chromatin typical of female cells and normally occurring in less than 1 in 500 men. The observation prompted Stefanis to some histo-chemical observations on the chromatin of leucocytes and spermatozoa in these subjects. This revealed a reduction in arginine-histone in lymphocytes, and in the arginine-specific staining expected from protamine in spermatozoal heads.

All of these cellular effects of marihuana in concentrations which may be reached in human consumption raised the possibility that chronic use of marihuana might affect spermatogenesis and impair reproductive function.

### *Effect of Marihuana on Spermatogenesis of Man*

The impairment of spermatogenesis in man by marihuana smoking has been best illustrated by an interdisciplinary study I carried out with Dr. Hembree, Morishima, and Zeidenberg at the College of Physicians and Surgeons and the Psychiatric Institute of Columbia University.

Over a 2 year period 16 marihuana smokers aged 18 to 23 were hospitalized in the Research Ward of Psychiatric Institute of Columbia University. Each subject was studied for 8 to 12 weeks. The study was divided in 3 periods: a 3 to 4 week drug-free period, a 4 week smoking period, and a 3 to 4 week wash out phase. All subjects were carefully selected from a large pool of marihuana smokers, and only those in good physical and mental health were retained. During the smoking period, the subject smoked an average of 5 to 15 cigarettes of marihuana a day (0.9 gm of marihuana, 2% THC). The highest daily consumption was 36 in one subject. The subjects claimed to have smoked such large amounts on certain occasions, when marihuana was available.

Twelve of the sixteen subjects had significant and sustained decrease in sperm concentration occurring only after 2 weeks of marihuana smoking and sustained for at least 2 weeks. All counts were normalized to 200, based upon the average obtained during the drug free control period. Group sperm counts decreased significantly only during the first and second week following the end of smoking. The average decrease for all 16 subjects was 35% with individual decreases ranging from 30 to 72%. Decrease in sperm count was associated with a decrease in spontaneous motility which was most marked immediately after the end of smoking. Statistical significance was maintained for only 2 weeks because of the large variance.

Finally there was also a significant decrease in normal forms which was noted at the end of the smoking period and sustained for an additional 3 weeks. All of these changes took place in the absence of any significant changes in the levels of testosterone, L.H. and F.S.H. The time course of the changes is consistent with an effect on spermiogenesis. During this period, gene activity gradually decreases as the permatid chromatin is packaged within the dense matrix of the newly synthesized arginine-rich protamine. Interference with transcription, translation, or both, resulting in failure to synthesize the structural proteins required for axonemal development and the formation of the other specialized morphological elements of the mature spermatozoon, is likely to be associated with decreased sperm in the ejaculate 12-45 days later. Therefore, if it can be assumed that the decreased count noted reflected a specific perturbation of germ cell production 28 days earlier: altered spermiogenesis induced directly by the cannabinoids best explains the observations.

### *Developmental Effects of Marihuana*

The most potentially damaging effect of marihuana on spermatogenesis is the marked increase in abnormal forms of sperm cells. This raises the possibility of a genetically transmitted abnormality if a viable sperm with decreased genetic information fertilizes an egg.

Such possibility could only be resolved by epidemiological studies performed on children born to marihuana smoking parents.

In the meanwhile, there is evidence that marihuana produces such abnormality. This evidence is conflicting when one considers all of the teratogenic studies performed on rodents which have a short gestation period. Some studies report increase in birth defects in the treated animals, others do not. However, a study on rhesus monkeys by Sassenrath and Chapman indicates that  $\Delta^9$  THC chronically administered produces impairment in reproductive function. The following is an abstract of their work:

"The reproductive success of long-term chronically THC-treated rhesus monkeys has been compared to that of undrugged cagemate controls. The data presented are from 27 matings over three successive birthing seasons, involving 5 THC-treated and 5 undrugged females paired with 2 THC-treated and 2 undrugged males in various combinations of drugged and undrugged males and females.

In this study, drug exposure of young adult breeders was continual and daily over the three-year period. THC was given orally on preferred food at 2.4 mg per kg once daily for the first two years and was increased to 2.4 mg per kg per day given twice daily prior to the third breeding season. All chronically

drugged subjects were behaviorally tolerant to the 24 mg/kg/day dose and showed only mild sedation effects on the double drugging.

"Although overall conception for all breeder pairs involving at least one THC-treated parent was not appreciably different from controls (94% compared to 100 percent), the overall reproductive success (taking into account fetal wastage, stillbirths, neonatal deaths and infant deaths) was markedly lower for drugged parents (59 percent compared to 90 percent). Histopathologies in non-viable offspring were observed only in those with at least one drugged parent, and included hydrocephalus, atrophic thymus, myocardial and umbilical degeneration, inguinal and umbilical hernias, and abnormal pancreas (atrophic and ectopic). Many or all of these have been reported in rodent offspring of mothers treated with THC or cannabis at higher dose levels, and are observed rarely in routine autopsy of infant deaths in the total rhesus breeding colony."

"Although the sample size is small, the data suggest that: 1. failure to conceive or resorptions are associated with THC-treatment of the female parent; 2. abortions, stillbirths, and neonatal deaths are associated with THC-treatment of the male parent; 3. reproductive deficits do not tend to become more frequent or severe over successive breeding seasons for the same breeder pairs as long as treatment conditions remain constant. However, abortions and resorptions were observed only during the third birthing season after the daily THC dosage had been doubled."

The effects associated with THC-treatment of males is of particular interest and raises the question of possible chromosomal drug effects via the sperm. Behavioral and endocrine data on these breeding groups do not strongly support the stress hypothesis." The same authors observed that 6 male surviving offspring presented heightening of locomotor activity and increased behavioral responsiveness to visual and auditory stimuli.

#### *Effect of THC on Membranes*

There is a recurrent theme in these biochemical and cellular studies—the possibility of an action of THC on membranes: i.e. either on membrane-bound enzymes, or on passage of precursors through membranes, leading to failures of synthesis of macromolecules, and secondarily to interference with nuclear function. Considering the fat-solubility of THC and other cannabinoids, and the usual views about the action of anesthetics also characterized by fat-solubility, the idea of membrane action is attractive; and we know, as Seeman showed, that THC partitions readily from buffer into membrane, and that THC alters the osmotic fragility of cells, making red cells more resistant and lysosomes and macrophages more sensitive. But there are reasons for caution. While the cell membrane must surely be able to concentrate THC and many of its metabolites from buffer, one must assume the occurrence of many other lipid-acceptor macromolecules which will compete with membrane uptake.

#### *Paton's theory: THC as a partial anesthetic*

There is another rather physico-chemical aspect: delta-9-THC as a partial anesthetic. Pertwee and Paton found that while cannabidiol was able to prolong barbiturate sleeping time in a dose-dependent manner over a wide range, with THC an early maximum effect was reached. This recalled an observation in the quite different field of narcosis by inert gases under high pressures, where Miller, Smith and Paton found that in the series of perfluorinated bases,  $\text{CF}_4$  and  $\text{C}_2\text{F}_6$  could produce anesthesia.  $\text{C}_2\text{F}_6$  could not: its saturated vapour pressure was too low, although by additional experiments with nitrous oxide, it was able to contribute about 40% of an anesthetic dose. This in turn recalls the classical paper by Ferguson who shows, in a series of alcohols, that as the chain lengthens, bactericidal potency increases, but solubility decreases faster, giving a cut-off of effect. At the transition point, an alcohol can kill typhoid bacillus, but not staphylococci; this selectivity or partial action is dependent on a physical mechanism. With all-or-none responses, the cut-off point is abrupt. With graded responses, there will be an area occupied by a small group of compounds (here hex, hept and octanol) where only partial effects can be produced before saturation of the system. The nature of the compounds involved will vary with the physical chemistry of the particular biological system. It seems a possibility that delta-9-THC occupies such a position: it is unable to produce surgical anesthesia, although it can contribute 10-25% of an anesthetic dose; there is a

limit to the hypothermia it produces; its maximum effect (seen by Chari-Briton) is on the red cell, where it resembles an anesthetic because it protects against lysis, but it cannot (as anesthetics do) produce lysis in higher doses; in a model system of liposomes made from cholesterol and lecithin, including an electron-spin-resonance marker (Gill & Lawrence), THC produces a disordering of the membrane which also plateaus, whereas typical anesthetic does not.

#### *Therapeutic potential*

Three actions should be mentioned for possible therapeutic use: first, bronchodilation. Inhalation of delta-9-THC causes a considerable increase in airway conductance; it is not antagonized by a  $\beta$ -blocker, and so is not due to sympathetic activation. It does not prevent methacholine broncho-constriction, so it is not an atropine-like action. The effect is most probably due to the ability of anesthetics to relax smooth muscle. The therapeutic use of THC inhaled as a smoke may be limited. Repeated marihuana inhalation in fact diminishes airway conductance and maximum expiratory function, even though an inhalation temporarily restores the normal situation. Here is a novel approach to bronchodilation, however, which ought to be detached from its cannabinoid environment and examined in its own right. The main problems are, delivery of the drug and the side-effects.

The second possible therapeutic use is based on the ability of the cannabinoids to lower intraocular pressure by up to 30%. This can be demonstrated in patients with glaucoma as well as in normal subjects. This effect is not due to a general lowering of blood pressure. In a study using delta-9-THC and two psychically active metabolites, cannabinalol and cannabidiol, the order of effectiveness in reducing intraocular pressure (IOP) was the same as the order of effectiveness in producing a "high". This lends support to the idea that it is a central effect, perhaps related to sedation. It has also been reported that THC and cannabinalol are active by direct application to the eye. Further, TRC, which with other cannabinoids is known to inhibit prostaglandin synthesis at about 10-100  $\mu$ M, was able to reduce the rise in IOP produced by arachidonic acid infusion.

The third potential therapeutic effect of marihuana is in the treatment of convulsive seizure. It has been shown in a number of animal preparations that cannabidiol (not THC) compares well to phenobarbital and Phenylhydantoin as an anticonvulsant. Because of the very low psychoactive effect of cannabidiol, it would appear that it may be a useful antiepileptic agent. Its mechanism of action remains to be determined but it might be related to its depressing action on neuronal activity.

If marihuana products are proven to be useful therapeutic agents, their usefulness might well be attenuated if marihuana is widely used as a "recreational drug".

#### *Effect of marihuana on central nervous function*

Out of hundreds of experimental papers on animals, it is now established that marihuana products affect all parts of the brain, but that the primary physiological and chemical changes produced by this drug occur in the so-called limbic diencephalic structures or paleocortex (old brain) (Klonoff and Low, 1974).

Penfield and Jasper showed in 1954 that abnormal discharges in or near the limbic cortex may produce feelings of depersonalization, distortions of perception, alterations in time sense, and feelings of fear or paranoia. All these subjective states may occur and some are very common as part of the marihuana experience. Pleasant feelings, euphoria, happiness and placidity are also very common elements, and the septal region which appears to function as a major coordinating center for the entire limbic system, is by far the most effective target for self-stimulation experiments with a variety of mammals, including man. Delgado (1970) has demonstrated that electrical stimulation of limbic structures, especially the hippocampus, often produces pleasant sensations, elation, deep thoughtful concentration, relaxation, and colored visions in human subjects with chronically implanted depth electrodes.

Studies by Heath (1972) and by McIsaac et al (1971) provide objective evidence that the primary physiological and chemical changes induced by marihuana do occur in limbic diencephalic structures. Heath recorded electrical activity from multiple subcortical brain regions and from scalp electrodes in



one psychiatric patient. Recordings were made repeatedly over several weeks during all states of consciousness and during intoxication with marihuana, alcohol, and amphetamines and while smoking tobacco. Only during marihuana intoxication and only associated with "rushes" of euphoria, Heath recorded marked changes in electrical activity patterns from the septal region. There were no significant changes in the activity in any other area including the scalp-recorded EEG.

McIsaac et al. injected squirrel monkeys with radioactive delta-9-THC and, using radioautographic techniques, showed that very high concentrations appeared in the limbic system, diencephalon, midbrain, and frontal and cerebellar cortex within 15 minutes and remained in these regions at higher concentrations than in other brain areas for up to 4 hours. They also noted a different effect of dose on the behavior of the monkeys, with low doses producing apparently diminished anxiety, moderate doses inducing stimulation, and high doses producing incapacitation.

This may be the most inclusive neural model of the physiological basis of the marihuana experience: delta-9-THC and its metabolites act primarily to alter the normal functional relationship between paleocortical limbic system structures ("old brain") and the neocortex ("new brain"). This alteration may vary from stimulation of limbic activity to depression (or disinhibition) to increasing inhibition) depending on dose, time, previous experience and current mood. The major elements of the marihuana experience, including altered perception, mood and performance, may all be explained on this basis. The most striking objective change, i.e., a general cognitive performance decrement, may be the result of the loss of an accurate concept formation, appraisal, or evaluation stage in the stimulus-cue-performance sequence, normally subserved by neocortical-limbic circuits. The occasional "bad trip," which has been reported in experimental subjects, seems to occur when the individual is already feeling badly or is apprehensive about the experimental situation, and emphasizes the importance of past and present experience in determining the quality of the emotional aspects of marihuana intoxication.

The model would explain not only the major elements of the acute marihuana experience itself but also the occasionally reported "flashback" phenomenon and possibly some of the cannabis-mobilized psychoses. It is well known to neurophysiologists that the limbic system and the hippocampus in particular, has a very low threshold for activation by mechanical, chemical, or electrical stimulation. Once activated, neuronal discharges tend to spread throughout all limbic circuits without very readily involving other brain areas. These phylogenetically old neural structures also have a marked tendency to persist in an altered functional state for long periods after the initial stimulus has been withdrawn. In this regard, it is perhaps significant that Heath (1972) has recorded bursts of high voltage spike and slow activity from limbic areas as the only consistent electrographic abnormality in a large number of patients during periods of psychotic behavior.

The exact cellular mechanisms of these multiple changes in the central nervous system are being investigated. It is difficult at the present time to combine the reports on the roles of Acetylcholine, catecholamines, 5-HT, and prostaglandins into a coherent story. They have all been implicated by different investigators. It might be useful to think of THC as lifting inhibitory gates involved in sensory processing: from this could follow logically the sensory effects, the interference with short-term memory, the prolongation of "felt" time against "clock" time, the neurophysiological evidence of hypersynchronous high voltage bursts at various sites, and a number of "release" phenomena—myoclonic jerks and the like. In one recent report, bringing in cerebellar activity explicitly, Fernandez-Guardiola et al. have shown that, in the anesthetized cat, THC produces a great acceleration of multi-unit activity in neurones of the sensory cortex, and in the Purkinje cells of the cerebellum, with a slowing of multi-unit activity in the red nucleus (believed to be under inhibitory control of Purkinje cells).

One should not discount the possibility that THC and its metabolites might also impair in the central nervous system the uptake of precursors of the proteins, (enzymes) which elaborate the neurotransmitters which are continuously synthesized within the neurone. It would be most important to study the effects of the cannabinoids on the fast and slow axonal flow of these precursors along the neurone.

### *Interaction with other psychoactive drugs*

This is an immense subject which has been well summarized by the behavioral study of Pryor (1976) who researched the interaction of delta-9-THC with 13 other drugs. A battery of tests, 13 largely behavioral, 3 physiological, were used: the results for each drug alone and combined with THC were pooled in two ways, first expressed in terms of the standard deviation of the observations so that their magnitudes are related to the size of normal variation in response; and second, regardless of sign as between "stimulation and depression," or taking account of this. A major acute interaction of delta-9-THC with other drugs is a mutual potentiation of any depressant properties, and an antagonism of any stimulant properties. The principal conclusion, borne out by all this work is that when THC is added to any of these drugs, the resultant effect either shifts to the depressant side, or becomes more depressant. This indicates something about mechanism of action because it is similar to the way that anesthetics reduce the excitant effects of neuromuscular blocking agents and increase their blocking action, and to Paton's theory that THC is related to general anesthetics.

### *Tolerance*

All euphorogenic or sedative drugs, if given for some time, evoke an adaptive response, and—on withdrawal of drug—some sort of rebound: the only question is, what are the characteristics of response and rebound?

In studies performed at Psychiatric Institute of the Columbia-Presbyterian Medical Center, marihuana cigarettes were made freely available to hospitalized volunteer subjects. These subjects smoked an average of 10 to 20 marihuana cigarettes (.9 gm cigarette, 2% THC) daily for a period of 4 weeks. This is an amount comparable to that used daily by chronic cannabis smokers in Jamaica, Costa Rica, or Morocco. All presently available pharmacological and clinical evidence indicates that frequent (daily) users of cannabis develop tolerance to the physiological as well as the psychological effects of the drug. This tolerance to Cannabis gives a physiological basis to the necessity for the frequent smoker to increase dosage or to seek more potent psychotropic drugs such as other hallucinogens or the opiates. However, it would appear that this tolerance to the effects of marihuana does not involve the effects of this drug on the triggering of abnormal activity in the limbic system, according to the work of Heath. Neither is there a tolerant effect on spermatogenesis since all chronic marihuana users that we observed had an increased incidence of abnormal forms of sperm and a lowered sperm count.

### *Physical and psychological dependence: Drug seeking behavior*

A misconception seems to have penetrated into the minds of many psychologists and physicians that "addiction," meaning physical dependence accompanied by withdrawal symptoms, is the main criterion by which the potential harm of a drug to the individual or to society should be gauged. There is a very fine line between physical and psychological dependence. There is no complete dichotomy between mind and body. Psychological function also has physiological and biochemical bases. The desire for instant gratification is a profound psychological reinforcer. Physical dependence does not develop with central nervous system stimulants such as cocaine, which is known to create in an individual one of the most enslaving types of drug dependence. Addiction to a drug is not a function of the ability of the drug to produce withdrawal symptoms. Drug dependence results basically from the reproducible interaction between an individual and a pleasure-inducing biologically active molecule. This interaction leads to what Wickler calls drug-seeking behavior or behavioral dependence. The common denominator of all drug dependence is the psychological reinforcement resulting from reward associated with past individual drug interaction, and the subsequent increasing desire for repeated reinforcement (Seever, 1970). On this basis, it is deceptive to categorize marihuana as a "soft" acceptable drug which does not create dependence.

Although cannabis users develop tolerance to the drug, they do not present any significant physical dependence identifiable by specific withdrawal symptoms similar to those occurring with heroin or ethanol. The symptoms observed following discontinuation of heavy use are relatively mild. Loss of appetite, insomnia, and irritability are well tolerated, but it is well documented that

cannabis may create a state of psychological dependence or behavioral dependence which is an important obstacle to discontinued usage.

In man, physiologic marihuana abstinence signs have not been demonstrated, but behavioral (and some physiologic) abstinence phenomena have been reported in heavy users of hashish or ganja. The between-dose hyperirritability and dysphoria reported to occur in experimental studies on chronic marihuana intoxication may actually be early and short-lived abstinence changes.

In the West, where marihuana with relatively low delta-9-THC content is widely smoked, dependence in the sense of drug-seeking behavior appears to be less a function of any pharmacologic reinforcing properties the drug may have than of secondary (conditioned) reinforcement derived from the social milieu in which the marihuana is smoked. In cultures where marihuana of higher delta-9-THC content, hashish, or ganja is used, pharmacologic reinforcement (through suppression of abstinence changes) may play a greater role in maintaining drug-seeking behavior.

#### *Long term effects on the central nervous system*

This is an area of great controversy mainly because there is no satisfactory method to assess in man damage to the limbic system, or to appraise changes in personality. Some investigators who have studied groups of chronic cannabis users in Jamaica, Costa Rica and the U.S. have concluded that there is no amotivational syndrome and no evidence of cerebral dysfunction or psychosis. On the other hand, investigators from Egypt, India and Morocco have pointed out the existence of such effects in groups of chronic cannabis users they have studied. In the United States, opinion is sharply divided as well: Fink, Mendelson, Freedman claim that cannabis use is not associated with serious mental pathology, whereas Kolansky, Moore, Hart, and Powelson have concluded just the reverse. Only time and the performance of carefully controlled longitudinal studies will resolve this controversy.

Meanwhile, the well-controlled animal experiments that have already been performed should be carefully appraised. These have been done by Heath, by Sassenrath and Golub, and by Kalant. These studies all point to a persistent damaging effect on the mammalian brain of chronic cannabis usage in dosages reached in human consumption. A summary of these three studies follows.

The following resume of the experiments of Dr. Heath have been sent specifically for inclusion in this report:

"We have found in our studies of marihuana in rhesus monkeys that exposure to active marihuana smoke and to delta-9-THC at a frequency of five times per week induced changes in the behavior of the animals and, more importantly, in electroencephalographic (EEG) recordings from precise deep regions of the brain. Brain regions affected were those sites where activity has been correlated with emotional behavior. The EEG changes were of the kind that could account for the reduction in motivation and drive and the general apathy that one sees in chronic users of marihuana. Changes were not apparent on conventional scalp EEG's.

"When the monkeys had been exposed to the cannabis sativa derivatives for two to three months, lasting alterations in brain function occurred. After 6 months' exposure, we continued to follow the animals for an additional three-month period, and the recording abnormalities persisted. That early work has been reported.

"Our studies were carefully controlled. Some monkeys in the group were exposed to inert or inactivated marihuana on the same smoking schedule as those animals that were heavy smokers of active marihuana. None of the control monkeys showed behavioral or EEG changes. Other monkeys were given delta-9-THC intravenously and they showed the same changes in brain function as the animals that were heavy smokers of active marihuana. It was therefore evident that it was the active ingredient that was responsible for lasting brain changes.

"The criticism of our work has not been based on objective findings. Specifically, we have been criticized for giving the monkeys excessive doses of marihuana. This issue was discussed with Dr. Julius Axelrod, and he agreed that our dosages were comparable to those used by many human smokers of marihuana. Further, those criticisms did not take into account the fact that monkeys are inefficient "smokers". In contrast to the human, the monkey tends to stop in-

haling when exposed to smoke. In our recent studies, therefore, we have developed a method of smoking the monkeys more efficiently. A respirator was modified and a smoking procedure was established to simulate the pattern of human smokers. With this new method, we have been able to use smaller quantities of the active material.

"Some monkeys currently under study are now being exposed to one joint per day, five days per week. The active material in a joint is 0.25 grams. This is measured on a per weight basis and does not exceed the amount consumed by the average human marihuana smoker. With the new smoking method, simulating the human smoker, the monkeys are having a profound response, both in terms of behavior and EEG changes.

"We have also carried out some histopathologic studies on the brains of monkeys which were included in the first study. Extensive electron microscopic studies were done on precise brain regions of (1) monkeys exposed to active marihuana smoke, (2) monkeys exposed to inactive marihuana smoke (smoked at the same frequency and at the same dose level), (3) monkeys given delta-9-THC intravenously, and (4) "clean" monkeys which had not previously participated in any study. Brains of monkeys which received active material in the form of smoke or by intravenous injection showed distinct changes in the synaptic cleft in those regions—septal region, hippocampus, and amygdala—where EEG changes had occurred. Changes were (1) a widening of the cleft, (2) deposition of a dark opaque material in the cleft, and (3) a beginning clefting of the synaptic vesicles at the terminus of the axone. These changes all suggest incipient damage to the neurones. This electron microscopic study has been submitted to the *Journal of Neuroscience Research* and should be published sometime in the summer."

One might add that the monkeys treated with marihuana kept on eating, sleeping and performing their daily gymnastics.

A preliminary report by E. N. Sassenrath and Golub, further indicates that monkeys born to THC treated parents present alterations in locomotor activity and responsiveness, which could well indicate an alteration of their brain. This report reads as follows:

"As a result of a three-year breeding program using long-term THC-treated monkeys and controls, six infants have been born, one or both of whose parents had received daily THC for up to a year prior to conception. These infants have been tested along with control offspring matched for age, sex, and social experience.

"Two male offspring of THC-treated mothers born in 1974 and 1975 were tested after weaning (at 6 months) for social behavioral adaptation with control peers and for "functional intelligence" (i.e. retrieval of a desired object in a naturalistic problem situation). Both THC males scored significantly higher than four control cagemates on active affiliation (i.e. play and mounting) and significantly lower on passive affiliation (i.e. groom, huddle, and proximal spacing), although they showed no tendency to be more aggressive or more dominant than control peers. In the functional intelligence tests, the THC males solved more problems faster, with higher scores on approach and contract orientation to new problems.

"Four THC-offspring (two males, two females) have recently been tested prior to weaning at 3.5 months of age for behavioral and autonomic responsiveness to a brief separation from mother and exposure to a novel test environment. Initial analysis of the data indicates the offspring of THC-treated parents scored higher on measures of locomotor activity and cardiac and behavioral responsiveness to visual and auditory stimuli.

"These studies are continuing and will be augmented by observations of offspring from the current breeding season. However, the consistency of observations to date strongly suggests a non-specific heightening of locomotor activity and responsiveness to environmental stimuli in offspring of THC-treated parents." (This resembles the hyperkinetic syndrome of the growing child.)

Kehr and Kalant have also reported permanent learning impairment after chronic heavy exposure to cannabis in the rat. The dose of THC used orally for six months was 10mg/kg, which corresponds to heavy human use similar to that smoked in our studies at Columbia. The animals were visibly intoxicated for only 4 hr. after each dose, gained weight normally and were in good health throughout the experiments. After 6 months of treatment there was permanent

impairment of learning on 2 different tasks in a food motivated maze task. The authors state that "EEG changes in the present work tend to support the interpretation that we are dealing with organic damage for which histological confirmation is being sought".

As mentioned before, the extent at which chronic marijuana use will produce in man serious, permanent psychiatric illness such as psychosis, is still a matter of heated debate. However, most psychiatrists, at least at the Psychiatric Institute in New York, believe that marihuana should not be used by any person prone to mental illness such as schizophrenia which this drug might trigger or worsen.

#### SOCIAL ASPECTS

##### *Acceptance of a drug culture*

The decriminalization of marihuana in our society appears to be the first step towards the decriminalization and social acceptance of other "pleasurable drugs". The next step on the list appears to be cocaine which is the subject of a new book by Dr. Grinspoon, who is one of the early proponents of marihuana legalization. It is also the subject of many articles in "High Times", the journal of recreational drugs.

This term of recreational drug has come into vogue, as noted by Wikler, among the supporters of legalization of marihuana: By "recreational" is meant "pleasure-giving", without the compulsive need to repeat the experience, as in the case of addicting drugs. The pleasurable effects of marihuana are a learned derivative of the "high" which in turn is a derivative of mystical interpretations of the effects of marihuana on time-sense, logical thinking, and perception. The same may be said of many drugs (psychotomimetics, sedative hypnotics, and tranquilizers) which differ markedly in terms of their biological effects. Therefore, all that would be necessary to qualify an agent as a recreational drug would be social reinforcement of the concept of pleasurable as applied to the mystically perceived effects of such an agent. The social consequences of acceptance of the concept of recreational drug would be the permeation of our society by adherents of numerous cultists who derive primary reinforcement from varieties of drugs and secondary reinforcement from drug cult ideologies.

##### *Marihuana and the use of other drugs*

"Those who question "decriminalization" (a word which was invented in America in order to facilitate the repeal of marihuana laws) fear that such a measure would be accompanied by an increase in the number of casual users and inevitably of heavy users. The problems associated with the behavioral dependence on this drug would thereby increase. Accessibility to drugs is one of the basic predictors of adolescent drug use.

Furthermore, increasing use of marihuana would lead to an increasing use of other drugs already widely advertised by the publications of the drug culture (High Times, Head and Grass). As Pillard stated in 1970, "No one has failed to find a *statistical relation* between marihuana and the use of other drugs—legal or illegal".

A recent study by Kandel published in *Science* clearly documents the statistical relationship between the use of marihuana and other drugs ("Stages in Adolescent Involvement in Drug Use"). This survey was performed on 168 students grade 8 to 12 in New York State Schools and on 985 seniors, 6 months after graduation. It was "found that marihuana was a crucial step on the way to other illicit drugs", 26 percent of marihuana users progress to opiates or other potent drugs, while only 1% of non-drug users do so." This sequence is found in each of the 4 years in high school and in the year after graduation.

##### *Marihuana decriminalization (or "partial prohibition")*

The analysis of the medical effects of marihuana is an exceedingly difficult task; however, it is an easy one when compared to the subject of the decriminalization of this substance. The word is new in the English language and can not be found in any dictionary published before 1960; it was coined by the proponents of the liberalization of marihuana laws, such as the members of NORML who wish to "liberate marihuana". The word implies that penalties should be directed towards the supplier but not against the user (unless the former fits into the category of "small supplier-user" or "supplier-grower for personal use"). The word "partial prohibition" would have been a more candid

way of expressing the ambiguity of the new legislation now being considered. The fact that even proponents of reform acknowledge that with liberalization of the law in some states, marihuana use has increased, suggests that the legal sanctions had at least restrained experimentation. A significant number of non users of cannabis have given the illegal status of cannabis use as their reason for not using it. What appears as the hypocrisy of society in permitting the use of alcohol and nicotine, while at the same time prohibiting the use of cannabis, may indicate a prudence based on experience of the dangers of the two former drugs, and the difficulty of controlling their use once they have become widely used. If the personal use of marihuana were legalized, how could supply be morally condemned? Furthermore, on what basis could it be argued that the law against supply acts as a deterrent while that against possession is ineffective? Would not the same disrespect for a most ambiguous law also prevail? It seems likely that the faults of the present legislation would in time also plague any alternative method of control, with the important difference that use would almost certainly have increased and gained in social acceptance in the meantime. Any attempt to reduce the use of the drug would then be extremely difficult.

It would seem that an informal system of judicial discretion, as recommended in the present federal law, can permit more experimentation, even if the legal system within which it operates is "hard". In any event, "partial prohibition" (decriminalization) of marihuana should be associated with a policy designed to discourage its use, at least among the young who are not able to make an informed decision. Such a policy has not been advocated by the proponents of the "partial prohibition" of marihuana, such as the spokesmen for the Drug Abuse Council. This organization, according to its president Dr. Thomas Bryant, has "assumed a watchdog role by monitoring federal government programming in the area of drug abuse" (The U.S. Journal of Drug and Alcohol Dependence, March 1977). This organization has profoundly influenced American public opinion on the subject of decriminalization of marihuana. The policy of the Drug Abuse Council has been most ambiguous and ineffective in its avowed efforts to "cut into the growing misuse of drugs". It has advocated marihuana decriminalization and a tolerant attitude toward other drugs of abuse which can result only in an increase in their use. It has sponsored studies and publications which appear to be aimed at teaching potential drug users how not to use drugs, or how best to use and tolerate the drug of their choice. Such a policy reminds me of the little boy who got caught in the rain, and in order to avoid getting wet, jumped into the river. This policy will accelerate the growth of the billion dollar, federally funded "Drug Abuse-Information-Prevention Complex" which inflates every year following the increase in social tolerance, availability and use of all drugs.

#### CONCLUSION

Only longitudinal epidemiological studies of marihuana-smoking populations may document the pathologic effects of long-term cannabis usage. To my knowledge the literature does not contain a single autopsy report on a long-term chronic marihuana smoker. Therefore the human pathology of marihuana cannot be written before two or three decades. (It took sixty years for investigators to establish the pathology of tobacco smoking). Meanwhile, on the basis of their present short-term observations and past experience with other drugs, biologists and physicians can only make certain predictions about what this pathology might be.

I feel that I am here the spokesman for the biologists and physicians who have elected to take a cautionary view. We believe that the evidence at hand is sufficiently damaging to predict that widespread usage of marihuana, as brought about by further decriminalization, would result in an increase in pathology. We believe that there is a very high social cost in view.

The question, of course, is "Can we afford it?" I doubt it, if we are to maintain an energetic, progressive society.

The survival of a society which strives to provide world leadership in the most critical time of human history is predicated on the integrity of two major functions of man. The first one to be preserved is his brain function, the second is his reproductive capacity, for creating healthy offspring, the wave of the future. There is convincing evidence that both of these functions are seriously and perhaps irretrievably impaired by chronic marihuana use.

I wonder if the marihuana controversy is not, in Shakespeare's phrase in another context, "an expense of spirit in a waste of shame". And yet it is on our brain that we depend to solve such dilemmas.

No one wants to see a more generalized use of marihuana. Before taking the irreversible step of decriminalization, let us be quite sure that we have a better way of discouraging its use.

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## SUMMARY

1. A scientific estimation of patterns of use of marihuana indicates that prevalence of use in a given population is obligatorily associated with a high incidence of use in a fraction of this population. The more widespread the usage, the greater the fraction of heavy users. Marihuana use has followed such a pattern in the U.S.: 8% of the 1976 high school graduating class are daily marihuana smokers, while 53% of the same population used the drug during the same year.

2. Marihuana products (cannabinoids) like "THC" are fat soluble substances which remain in the body for at least 8 days after a single administration. Anyone who uses marihuana more than once a week can not be drug free.

3. In minute amounts, cannabinoids disrupt cellular metabolism, including the formation of DNA, RNA and proteins, the building blocks essential for proper cell division and growth.

4. Cannabinoids, whether psychoactive or not, decrease the rate of cell division when added in minute amounts to tissue culture of normal or abnormal (cancerous) cell lines. This decrease in cell division is associated with an increase in the number of abnormal cells which do not contain their proper amount of DNA, the chemical which carries the genetic code. Abnormal white blood cells and sperm cells have been sampled from chronic hashish users.

5. In a controlled study, 16 young men (in good mental and physical health) smoked 5 to 15 marihuana cigarettes daily for one month. After this time, they presented a decrease in sperm count, a decrease in motility of sperm, and a marked increase in abnormal forms of sperm cells. The possibility of a genetically transmitted abnormality as a result of daily marihuana usage is raised as a result of these observations.

6. The possibility of genetic damage is illustrated by a study on rhesus monkeys fed THC over a period of 3 years. Failure to conceive or resorptions were associated with THC treatment of the female parents; abortions, stillbirths and neonatal deaths were associated with THC treatment of male parents (raising the possibility of a drug effect transmitted via the sperm). Six male surviving offspring had abnormal locomotor activity and increased behavioral response to stimuli.

*These results indicate that women of child bearing age should not smoke marihuana*

7. THC might be useful in the treatment of asthma, glaucoma. Another cannabinoid, cannabidiol might be useful in the treatment of epilepsy.

8. THC acts on the septal area of the limbic system of the brain ("old brain") where structures controlling emotional behavior are located.

9. Monkeys who had deep electrodes implanted in the "limbic area" of their brains were studied for 6 months while they were exposed daily to marihuana

smoke. Abnormal brain wave patterns persisted 3 months after smoking was stopped. Microscopic studies of the brains of these monkeys showed lesions of the nerve cells in this septal limbic area which controls emotional behavior.

10. Many psychiatrists believe that marihuana should not be used by any person prone to mental illness or who has been treated for such an illness which this drug might trigger or worsen.

11. THC interacts with many other psychoactive drugs either by increasing their depressive properties or by decreasing their stimulant ones.

12. Daily users of marihuana develop a tolerance to the physiological and psychological effects of this drug.

13. Marihuana users, when they stop using the drug, do not present withdrawal symptoms similar to those occurring with opiates. However, with abstinence, changes in behavior and mood have been reported. Daily use of marihuana is associated with behavioral dependence and drug-seeking behavior.

14. Before taking the irreversible step of decriminalization, let us be quite sure that we have a better way of discouraging its use.

Mr. WOLFF. Thank you, Dr. Nahas.

Mr. Datt, of the American Farm Bureau, is our next witness.

### TESTIMONY OF JOHN C. DATT, DIRECTOR, WASHINGTON OFFICE, AMERICAN FARM BUREAU FEDERATION

Mr. DATT. Thank you very much, Mr. Chairman.

Mr. WOLFF. I wonder if we could ask you, as well, Mr. Datt, to summarize your statement?

Mr. DATT. Thank you very much, Mr. Chairman. I have a very brief statement.

My name is John C. Datt. I am the director of the Washington office for the American Farm Bureau Federation. I should make it clear at the outset, as far as scientific background and knowledge, as has been espoused by the previous witnesses, I do not claim to have that kind of scientific knowledge in this field. I come here this afternoon—

Mr. WOLFF. You mean you're not a grower? [Laughter.]

Mr. DATT. No, I'm not a grower.

I come here today as a representative of the Farm Bureau, which is the largest general farm organization in this country, and who, because we are in that capacity, have an interest—a serious interest—in this problem.

Mr. WOLFF. I thought, when counsel told me we were going to have the American Farm Bureau, I thought that you were going to come here for some sort of subsidy. [Laughter.]

Mr. DATT. Mr. Wolff, you and I have discussed that question on numerous occasions. I believe the record of the Farm Bureau on that score is pretty clear.

We appreciate the opportunity to appear before this committee and to present our views with regard to marihuana decriminalization.

The Farm Bureau is a general farm organization with a total membership of more than 2.6 million families in 49 States and Puerto Rico. It is supported by membership dues which are paid voluntarily by the member families each year. And let me just add that we have the most extensive policy development process of any private organization in this country, in that we have 3,000 county farm bureaus who participate each year in our policy development process.



Because of the concern of farm and ranch families with regard to the misuse of drugs and narcotics in our society, the voting delegates of the member State farm bureaus to the 1977 meeting of the American Farm Bureau Federation adopted the following policy on narcotics and drug abuse:

A great deal of work has been done nationally, statewide, and locally on the drug situation. However, the misuse of narcotics and harmful drugs has reached alarming proportions. It is a threat to health and a stimulus to crime. It has become serious in schools at all levels.

We encourage vigorous educational efforts to inform youth, parents, and others concerning the harmful effects of drug abuse.

We support effective enforcement of present laws and the enactment of new legislation where needed to prevent the importation, manufacture, and distribution of such materials.

We support realistic penalties for first-offense users. We urge courts and law enforcement officials to deal severely with those engaged in the illegal distribution and sale of alcoholic beverages, narcotics, and drugs. We oppose legalization of marihuana.

The problem of drug abuse—particularly among young people—has been recognized by Farm Bureau families as a serious matter for several years. We have seen an increase in the use of marihuana and other drugs among rural, as well as urban, young people, and we are deeply concerned by this.

Let me comment here that, for many years, many of the rural people felt that this was a problem that existed in the cities. But in recent years we've recognized that it is a problem that exists as much in our small towns and rural communities as it does in the city of New York, or some of the other major cities. And that is why I'm here this afternoon.

We feel that it would be most unwise for the Congress or any of the States to legalize the use of marihuana. At the same time we believe that penalties of first-offense users of this drug should be moderate. It would be most unwise to commit such a person to prison for a long term—and risk turning him into a hardened criminal.

We believe that the solution to the drug problem—insofar as it can be solved by legislation—is to deal severely with those engaged in the illegal manufacture, distribution, and sale of marihuana and other illegal drugs. We would support the authorization of increased funds to the Federal Bureau of Investigation and the Customs Service if the Congress feels that such funds are necessary for adequate enforcement of existing laws against the importation and sale of illegal drugs.

We thank the committee for the opportunity to present this statement.

As I indicated at the outset, I do not come here as a man of scientific knowledge in this particular area, but one representing the rural people of this country who feel very strongly about this particular issue.

Thank you very much.

Mr. WOLFF. Thank you, Mr. Datt.

I think that point you have made, Mr. Datt, in your final statement relative to reaching into the small rural communities of America is highly significant. It has indicated a spread of the overall prob-

lem of drug abuse into the small towns of America. No longer are we talking of the subject of just marihuana, but the whole question of drug use has progressed so far today that it is no longer solely the problem of urban America. One of the elements that I found most onerous when I first began to examine this problem was the fact that when the problem was defined in terms of the central cities of our Nation—the ghettos of our Nation—there wasn't very much attention paid to the problem, and it is only because of the fact that it has spread throughout the heartland of America that we are now taking a look at it. And I think that it is this situation that must be reversed, because those problems that begin in, if you will, the segregated areas of America, soon find their way into every corner of America. I don't think we can any longer afford to ignore these problems.

So I'm very happy to see the Farm Bureau here represented at this panel.

One other factor I should like to make known is the fact that I have great faith in the young people of this country. I think most of us in the Congress have faith in the young people of this country. But the problem that we do find, however, is the fact that there is essentially no conclusive evidence and information with which we have been furnished, especially in the area of marihuana.

I do know one thing, that when the young people heard about the fact that there was genetic damage that could result from cyclamates—and I don't know how they established that as quickly as they did and they can't establish it so far as marihuana is concerned—when they learned this they were the first people to give up diet drinks. A good number of young people in this country today no longer smoke cigarettes because of the fact the Surgeon General has put on each package of cigarettes the admonition that cigarettes are harmful to the health of the individual.

Now, here we have been faced for 3 days now with conflicting scientific evidence as to what the effects of marihuana on health really are.

I would like to ask both Dr. Raskin and Dr. Nahas, why is it that we have not been able to achieve some sort of conclusive evidence on this subject? Is it because we have not funded these programs sufficiently, or is it that we have not directed sufficient attention to it? Why is it that we have failed to produce conclusive evidence as to the harm or lack of harm that may come from the use or abuse or marihuana?

Dr. NAHAS. I think you have an answer in the tobacco situation. It took 60 years before tobacco could be statistically linked with an increased incidence of cancer of the lung or heart disease. When I went to medical school 30 years ago, this controversy was raging. I was not at all convinced at that time that tobacco—the tobacco cigarette was harmful.

So we are, I think, in a similar situation with the marihuana problem. It takes a long time before a substance which has a low degree of toxicity, like marihuana, will produce lesions. What we need are dead bodies to examine, and we don't have them yet. As in the case of tobacco, it takes 10, 20, 30, or 40 years of steady use of a low-grade

poison before death might occur, and the body might reach the autopsy table. Until then we have to make an educated guess as to what type of pathology we might expect from long-term chronic marihuana users.

And in this respect the studies that were made in Jamaica or in Costa Rica are not really very helpful because they are not based on long-term studies. They do not follow the same subject year after year for long periods of time.

This is also the reason, for instance, why the Costa Rica and Jamaica studies did not find any link between heavy tobacco smoking and cancer of the lung, though all of the ganja or marihuana smokers also smoked tobacco heavily.

Mr. WOLFF. Thank you, Dr. Nahas.

Dr. Raskin?

Dr. RASKIN. I think the point that Dr. Nahas makes is a good one, and this is one of the reasons that the American Medical Association still equivocates in the sense that adequate research has yet to be accomplished. There have been many studies in terms of short-term effects, and most of these have been relatively negative. The real problem is what if an individual were to smoke daily, very heavy, over a good many years. Obviously, research in this vein is going to take a good many years. We don't know the answer.

At this point we do know, using the correlative thinking of tobacco smoking, that again it is a dose-frequency base. It has been very well demonstrated that if an individual limited himself to maybe 5 cigarettes a day, 10 cigarettes a day, that the probability of there being any significant pathological change is extremely slim. But if he smokes four packages a day, the evidence now will demonstrate that the statistical probability increases tremendously.

Mr. WOLFF. One final point here, and that is the question of psychological dependence, as you have mentioned in your statement.

Is there anything that we can use in this connection to indicate, rather than just the physical changes that we have been looking for, psychological dependence, either positive or a negative?

Every time a witness has come before us he or she talks about the fact that they don't see any physical changes in an individual, as in brain structure, and here again I plead guilty to not being a doctor—I earlier pled guilty to not being an attorney and not being someone who uses marihuana, and here I am pleading guilty to the fact that I'm not a doctor, so perhaps the questions are very naive.

But it seems to me there should be some way of our making a determination. And if it need be—one of the functions of this committee is to recommend funding or lack of funding in particular areas—that there has to be a crash study on this, then I think that it is up to this committee to recommend such funding for such a study, because this problem unfortunately is one that has been totally obscured by emotionalism.

Dr. RASKIN. Now, when you broach the subject of drug dependence, Mr. Wolff, in relation to the drug substance, marihuana, there is practically no problem. There is no physical dependence that develops within the person's physiology on marihuana.

Mr. WOLFF. Excuse me. May I just refer you to the statement that was made by Dr. Nahas on the question of buildup. And I did read an item of recent date on the buildup of the substance in the fatty tissue.

Dr. RASKIN. This half-life retention and cumulative effect is something other than a physical, physiological dependence, such as is found in the depressant drugs, the opiate drugs and the barbiturate and barbiturate-like drugs.

Furthermore, there is very little, if any, psychological dependence that develops, and when it does, it is usually of a very mild level.

Let's not forget that psychological dependence is not a function of the drug. Psychological dependence is a function of the person who is taking the drug by whatever means. And those individuals where psychological dependence upon a drug substance because of that person's malfunctioning, he is going to be found to have moved away from marihuana into other drug substances in the sense of the dependence, because marihuana isn't going to provide him with the pharmacological effects that he is seeking.

So as far as the problem of drug dependence is concerned with marihuana, you can practically forget it as a complicating feature.

The unanswered questions to date in terms of what possible physiological, if not biochemical, physical changes, tissue changes might yet be determined, as we noted before, the research is not yet complete, not long enough conducted. This is still an open-ended question which is why we in the AMA remain open-ended on this particular point.

I would like to go back and point to what Mr. Rangel had said before. We are in full agreement in the AMA, and we are speaking as professional citizens of the community, you might say. We feel that there are many modalities, there are many methods by which we as a society can demonstrate that a substance is of possible harm if misused in a particular fashion without making criminals out of these people who otherwise—again, speaking as a psychiatrist—as far as personality function structure, psychological patterns, are in no way antisocial, the criminal personality, so to speak. This is where we speak toward the decriminalization; but yet at the same time conveying, be careful.

Here is a social mandate. Here is a type of social philosophy and social principle that says we don't know everything there is to know about this substance yet. Learn about it. Make your own self-informed decision in terms of whether you are going to use it or not. Be well aware of what the potential consequences are, if you do use it. And in those instances that inevitably have to develop where individuals, because of their own psychological malfunctioning, are going to run into serious difficulty, whether it be with high doses, seeking high toxic effects of marihuana or any other psychotropic substance, that we then be ready to deal with them as the medical/social problem that results.

But we don't have to make criminals out of people in this fashion, where the law becomes more destructive than beneficial.

If I can take another moment. John Bellizzi and I have been friends for many years. As a matter of fact, I have been a member

of INEOA for quite a while, and even as a member he wouldn't listen to me. But it is very easy to say that if we decriminalize—I'm not speaking of legalizing—legalizing is an other type of sanction altogether—it is another type modality of approval—it is a horse of another color.

In terms of decriminalization, though, it's easy to assume that if we took marihuana control out of criminal statutes, say put them into civil control, that all of a sudden everybody is going to take off hell bent for election because now—because it is no longer a crime, that means it's good, it's safe, let's everybody get happy, anybody can use it without equivocation, you don't even have to think about it anymore.

I don't agree with that. For the past 27 years I have been very closely involved in this whole area of drug abuse problems with continuing contact and relationship with youngsters and people of all ages. The legal structure, the social orientation, the social relationship represented by teenagers and early adult groups is that our drug laws in general are ludicrous, that particularly, as far as marihuana is concerned, the function of law with a capital L, the structure and function of a particular statute as both a signal and a deterrent—a signal that something is dangerous, and that is why we don't want you to do a behavior, or as a deterrent because we feel that you should not be doing it so strongly that we are going to punish the hell out of you if you do—has so revised itself over the past 10 years—5 years, especially—that whether this law were in the criminal law or not, the general marihuana using population could care less. It isn't going to make any difference as far as its deterrent value or signal value is concerned.

As a matter of fact, a certain group of youngsters will not use marihuana simply because it is no longer a forbidden object, because it is no longer a crime to do so. This is going to be very minimal, and I don't want to stress that aspect of it. But any person who is going to be permitting himself to experiment with, try, and then perhaps use marihuana, in my opinion—and now I'm speaking personally and not for the AMA—is going to pursue this pattern of behavior whether the sanction is in a criminal sphere or in a civil sphere. And to take this kind of person and potentially make a legal felon and criminal out of him, we feel is totally out of line.

Mr. WOLFF. Thank you.

Yes, Dr. Nahas?

My time has expired.

Dr. NAHAS. I want to add a comment on the question that you asked concerning dependence on marihuana, and express the disagreement which does occur among physicians in the area of marihuana.

I would not go so far as Dr. Raskin to say that marihuana does not produce any psychological dependence. I would be of the opinion of one of your colleagues, Dr. Abraham Wickler, who has studied this problem of dependence on marihuana a great deal. I think as he does that there is a misconception which has penetrated the minds of many who identify addiction, meaning physical dependence to a drug as the main criterion by which potential harm of a drug to the individual should be gaged.

Addiction to a drug is not only a function of the ability of drugs like the opiates or amphetamines to produce withdrawal symptoms, which are painful; but also a function of a reproducible interaction between the brain of an individual, and a pleasure-inducing biologically active molecule.

This interaction of drug-brain leads to what Wickler calls drug-seeking behavior. I think that drug-seeking behavior, or behavioral dependence, has probably also a physiological basis which we do not know, and we cannot distinguish firmly between physiological and psychological factors in the brain because every thought is underpinned by biochemical reactions. The common denominator of all drug dependence is the psychological reinforcement that results from the reward associated with past individual drug interactions, and the subsequent increase in desire for repeated reinforcement.

On this basis, I think it is deceptive to categorize marihuana as a drug which does not create any dependence. It could not explain why in the countries where marihuana use leads to long jail terms—Egypt, Greece, and other countries—chronic marihuana users would risk such high penalties just to have the pleasure of using the drug.

Mr. WOLFF. Thank you, Dr. Nahas.

Mr. Beard?

Mr. BEARD. Thank you, Mr. Chairman.

Mr. SEVILLA, I would like your input to something that was presented to be—or shown to be—which was supposedly fairly successful, the Sacramento plan—the Citation Diversion Act. I think one of the barrister groups wrote that. It was an excellent plan, and I just wondered if you were familiar with that.

Mr. SEVILLA. Not specifically with Sacramento's diversion plan, but California has had diversions since at least 1972. Between 1972 and 1976, people who were arrested for marihuana possession of small amounts would be diverted from the criminal justice system into alternate programs, which were civil in nature. If they successfully completed the program, that would end the criminal prosecution and the case would be dismissed.

Diversion in California has had a huge degree of success. That is why it was renewed every 2 years in California Legislature. Because of the experience of California in 1976, whereby people arrested or cited for possessing marihuana in small amounts, are taken out of the diversion process, the diversion programs are now seeing the influx of people who are violating the laws against use of harder drugs. The diversion program in California will continue this change in the next couple of years.

Mr. BEARD. The thing that impressed me about their program—and as one who does not feel, as I said earlier, that people should be sent to prison, or whatever; I don't think that is the answer. But, by the same token, everyone has indicated that we need to strongly discourage the use of marihuana, while saying that we should decriminalize it.

The thing that I think we may be escaping—what I would like to see accomplished—and that is that somewhere along the line we get the message to young people, middle-aged people, or whoever, that something might go wrong, or something is kind of still bad

about this particular drug: And the fact that alcohol and cigarettes are bad for you, so why not this? I don't think two wrongs—or three wrongs, make a right.

And what impressed me about it is the fact that, at least in the citation diversion plan, at least when they caught someone with marihuana, they took him—they didn't penalize him. The penalty being that he would have to sit there; and they were going to be able to have some people show some of the potential dangers of it.

Now I think that is kind of nice. But yet all the decriminalization talk I hear, no one mentions that.

Mr. SEVILLA. Well that's really a function of education which should have been left to the family, primarily; and it is unfortunate that it is not taking place there, or in the schools.

And as Dr. Nahas has indicated, 9 percent of the high school graduates are full-time users of marihuana even though there has been a great increase in the educational programs in the schools.

Mr. BEARD. Look at who these families are, though.

When I went to school, or growing up—and I'm part of the "families" now—and I don't know what the symptoms are.

My kid could be doing whatever, and I don't even know enough about it to tell him. It's just something I've heard about. So I can't say that I'm an authority, but the last person, in a lot of cases, the kids listen to are their own mothers and fathers where, here's a guy with a "Doctor" in front of his name, or here's a guy that's associated with a drug control squad, or something, and he is talking to this kid. That has a little bit more impact in a lot of cases.

Mr. SEVILLA. I think authority figures, be they parents or law enforcement, would perhaps have the same impact. But I would like to make one comment—

Mr. BEARD. Well, other kids; just some kind of communication.

Mr. SEVILLA. You're saying you don't want kids to go to prison, but let's talk about the Federal law enforcement scheme as it is now set forth in statutes under 21 U.S.C.A. 844. Someone arrested for a marihuana violation can go to jail for 1 year. If that person is a juvenile, they can spend up to 1 year in juvenile facilities such as the one in Englewood, Colo. If they're between the ages of 18 and 23, they can be convicted under the Young Adult Offender Act, or the Youth Corrections Act, which allows for 6 years incarceration.

Now I'm not saying it's happening routinely, across the country; it's not. But it does allow for selective enforcement and selective prosecution; thus, it could happen. It would be very unfortunate if someone went to jail because he was 18 years old and possessed an ounce of marihuana and was committed under 5010(b) of the Youth Corrections Act, and spent a year or two in such a facility.

That can occur now, under the Federal scheme, and that should be changed.

Mr. BEARD. Well I would like to submit to the committee, a copy of a bill that was introduced—when I get a copy of the bill—of the plan, the Sacramento plan, for the consideration.

[The information referred to is in the committee files.]

Also, Doctor, I would like to ask: Yesterday, Dr. Grinspoon—and you probably have covered this a little bit, but it made an im-

pact on me, about the Jamaica study—and I'm not that familiar with it—but he pretty well said, there is no real harm.

He threw at us the Jamaica study, a great deal, which would reassure everyone that there was no harm. I don't even know what it is. Do you have any input on that?

Mr. NAHAS. Yes, I have some information. I have been to Jamaica several times to study this problem. I have also seen—this is the Jamaica report, which was released a year ago. It was a study performed under the sponsorship of NIDA. And, by the way, I think NIDA has done excellent work in sponsoring studies everywhere in this area of marihuana use and gathering data relatively rapidly—it doesn't seem fast for you, but it's been very impressive and useful type of work that's been collected, and it has to go on.

In any event, this study was performed in 1970-71, under the direction of Dr. Vera Rubin, who is a social anthropologist. It is a study of 30 chronic marihuana users in Jamaica, mostly from the farm belt. Their mental and physical status is compared with that of farmers who did not smoke marihuana.

It is a good study, but there are two basic flaws. The first one is the method of sampling. It is a study which is not a long-term followup study. It just picks up a number of marihuana users, without being able to determine exactly what is their story, and how these marihuana users compare to someone who would not use marihuana all his life.

The danger of such a study is that one will sample the most resistant group of marihuana smokers. Those who during the course of marihuana smoking of 15 or 20 years' duration become sick, are omitted from the sample. And this criticism was expressed to me by Dr. John Hall—who is a Jamaican internist at Kingston Hospital.

The second criticism is that this study is short of modern methodological methods, which would clarify what we have done, for instance, at Columbia—finding out if the sperm cells of the subjects are altered, finding out if the white blood cells are altered. In this respect, I hope that these marihuana smokers will be studied further, in Jamaica, because some of the investigators who did this study do realize its shortcomings and would like to continue this investigation, especially Dr. Thorburn who did the study on cytogenetics—which she admits is quite incomplete.

I must say, that in Jamaica there is some evidence of the harmful effects of marihuana on brain function. Dr. Frank Knight, professor of psychiatry at the University of the West Indies, has described some acute mental disturbances among heavy ganja users, who have had to be hospitalized and treated with antipsychotic drugs.

This Jamaica study was performed in 1970-72 and one cannot consider it to be definitive. It is an interesting study that indicates, as I have observed myself, that when one goes down to those remote places and observes people smoking marihuana, they function, they eat, they cut their cane sugar, and they seem to be in good health. But this might be true only of their outward appearance.

Mr. WOLFF. Mr. Rangel?



Mr. RANGEL. Thank you, Mr. Chairman.

And let me thank the doctors for their expert testimony before this committee, before I zero in on my dear friend John Bellizzi, who I have had the opportunity to work with over a number of years, and would want the record to indicate that your organization has certainly provided the leadership, even ahead of the Congress and the Nation, in pointing out the dangers of narcotics violations.

And I have read your paper, and I did not have to read it to know what your position would be. And I just can't understand how, if you go as far as to talk about reducing the penalty to such an extent that an attorney can come in and plea bargain with the district attorney and agree with the judge that the case is going to be put off, for the purpose of going back to court and having the case dismissed, then if I got you this far down the road—and this is a giant step for your organization—why we could not find some way to work together, as Congressman Beard indicated, in finding out how we can serve an educational function and to say what we know to be the dangers of marihuana; the research that we are doing, to point out perhaps unknown dangers; and to say that we can find no useful purpose; to say that we can't find how we are aiding society, as a whole, in placing anybody in jail for attempting to destroy himself.

I think, John, that with the reputation that your association has in New York State and indeed in the Nation, that it is not that far down the road that you have to travel.

Mr. BELLIZZI. I'm inclined to agree with you. Nobody in enforcement likes to place anybody in prison.

Mr. RANGEL. Let's not say that, John. You're under oath. [Laughter.]

Mr. BELLIZZI. Most narcotic officers don't do that. You know that.

Mr. RANGEL. In lieu of increases in salary, I can think of nothing more exciting than a long jail term for a perpetrator. [Laughter.]

Dr. RASKIN. John is saying they don't enjoy it.

Mr. BELLIZZI. I think we recognize that it serves no point to place a young person in prison because he has possession of a few marihuana cigarettes. And I think we should work together. This committee, I think, can do the job of formulating perhaps the model act that could be adopted universally by the States to provide a mechanism for handling such situations. And I will do everything I can to work with the committee. I will offer our support and any assistance that we can to come to that end. I would be very happy to do that.

Mr. RANGEL. Thank you, Mr. Chairman. And again, I thank the entire panel. I did not mean to omit the Farm Bureau, who I have not had the opportunity to work too closely with, but I'm certainly glad for your testimony and the rest of the panel.

Mr. WOLFF. One observation I would like to make is that I don't think the law enforcement people of this country are in an adversary position, and I don't want the record to erroneously convey the idea that there is an adversary position that the law enforcement agencies have with any other people who are attempting to solve this problem.

Mr. DE LA GARZA. I don't know what the chairman meant by adversary position—

Mr. WOLFF. Just the allusion that the gentleman from New York made with respect to putting somebody in jail.

Mr. RANGEL. As a former prosecutor, I've had an opportunity to talk with those who are not a part of law enforcement, and it was with a great deal of pleasure that we removed the evils from society by having them jailed.

Mr. WOLFF. Mr. de la Garza.

Mr. DE LA GARZA. No, thank you.

Mr. WOLFF. Mr. Nellis.

Mr. NELLIS. Thank you, sir. Mr. Sevilla, on the day before yesterday, Chief Davis of Los Angeles testified before our committee. He made a statement that I found very interesting and I'm sure you would as well. He said that no young people have been incarcerated in Los Angeles for possession of marihuana over the past 6 or 7 years. Are you familiar enough with the facts to comment on that?

Mr. SEVILLA. For possession of marihuana in the last 7 years?

Mr. NELLIS. Six or seven years, I believe he said.

Mr. SEVILLA. Right now, I can say I don't have statistical information, but I would be happy to supply the committee with some information that may be contrary to that statement.

Mr. NELLIS. I'm not just looking for contrary information.

Mr. SEVILLA. I tend to doubt that statement. In 1970, if we can go back 7 years, neither the public mood, the judicial mood, nor the prosecutorial mood was such as it is today toward marihuana. I would doubt that statement.

I remember in Santa Clara County in 1969 when I was in the public defender's office, an 18-year-old went to jail for 1 full year for possession of one marihuana cigarette; I don't think that was unusual. I doubt the situation was much different in Los Angeles.

Mr. NELLIS. You anticipated my next question. Could you supply the committee with any information regarding the number of juveniles that might be incarcerated within the State of California for the possession of a small amount of marihuana, having been put there by previous judicial action?

Mr. BEARD. May I ask for that question and the prior question as far as the numbers. What are we going to consider as far as possession?

Mr. NELLIS. I don't know what Chief Davis meant. He used the phrase "possession of marihuana."

Mr. SEVILLA. I'm certain that he meant something other than possession for sale, just straight possession. Even with straight possession convictions with plea bargaining being what it is, a defendant could bargain down from possession for sale charges to simple possession and then go to county jail.

With respect to juveniles, even under the new statute in 1976, juveniles were technically subject to incarceration under the new statute, because it was still a public offense. New legislation in 1977 prohibits this today.

Mr. NELLIS. It is a misdemeanor still, isn't it?

Mr. SEVILLA. It's a misdemeanor and a public offense. Under juvenile law, of course, one is not incarcerated under criminal jurisdic-

tion; it is civil, and one could be made a ward of the court for a variety of reasons and taken out of the home. One of those reasons could be the possession of marihuana.

I don't have on the tip of my tongue statistics on juveniles. I will try to obtain this information and send it to the committee within the next week. I think the committee would be interested, particularly since California has now had a year's experience with reduction of penalty.

[The information referred to follows:]

STATE OF CALIFORNIA,  
OFFICE OF THE STATE PUBLIC DEFENDER,  
Los Angeles, Calif., March 24, 1977.

LESTER L. WOLFF,  
Chairman, Select Committee on Narcotics Abuse and Control, House of Representatives, House Office Building, Annex 2, Washington, D.C.

DEAR CONGRESSMAN WOLFF: On March 16, 1977, I had the opportunity to speak on behalf of the California State Public Defender before your Committee on the subject of decriminalization of the possession of small amounts of marijuana. During my presentation, I was requested to supply information to the Committee which this letter seeks to provide. To reiterate our position, we believe that the Federal Government should act to decriminalize its current statute (21 U.S.C. § 844) along the lines of California's new law. California Health and Safety Code section 11357. One of the questions from the Committee addressed to me during my presentation was a product of a comment made by Chief of Police Edward Davis. I was asked to respond to Chief Davis' comment that no one was being incarcerated in Los Angeles for possession of small amounts of marijuana and, in fact, no such incarcerations had taken place over the last seven years. At the time, I did not have any statistical information available although I expressed my grave reservations about the accuracy of such a comment. Upon my return to Los Angeles, I contacted individuals working within the criminal justice system in order to obtain statistical information concerning this issue.

The following is a breakdown of arrests of individuals under Health and Safety Code 11357(b) of defendants taken directly to jail for possession of less than one ounce of marijuana solely because they were unable to produce satisfactory evidence of identity to the arresting officer.

Period	Total number arrested and incarcerated	Cases accepted for prosecution	Cases rejected for prosecution
Jan. 1, 1976 through Jan. 31, 1976	62	36	26
Feb. 1, 1976 through Feb. 28, 1976	64	42	22
Feb. 29, 1976 through Mar. 27, 1976	61	44	17
Mar. 28, 1976 through Apr. 24, 1976	64	51	13
Apr. 25, 1976 through May 22, 1976	56	48	8
May 23, 1976 through June 30, 1976	59	48	11
July 1, 1976 through July 31, 1976	134	119	15
Aug. 1, 1976 through Aug. 28, 1976	88	66	22
Total	588	454	134

The above statistics reflect the number of persons who were taken into custody for possession of less than one ounce of marijuana solely because they did not possess identification satisfactory to the police officer. These filings were made in the municipal court of the Los Angeles Judicial District.

In conducting this statistical investigation, we were quite frankly shocked to learn that hundreds of individuals are being incarcerated under the new California statute for possession of less than one ounce of marijuana simply because they fail to produce identification satisfactory to a police officer. This practice by the Los Angeles Police Department, in our opinion, violates the intent of the statute that no person be incarcerated for violating section 11357(b). In California, it is not against the law for a citizen to walk the streets without

identification papers. Even our loitering statute, Penal Code section 647(e), only allows incarceration for individuals who loiter and refuse to identify themselves.

To determine whether or not the above trend continues into the present year, I examined the orders for release made by the municipal court, Los Angeles Judicial District, for the time period March 1 through March 10, 1977. During that 10-day period, I found 21 persons arrested and incarcerated for violations of section 11357(b). Of course, these individuals were released at their first court appearance since there is no provision permitting continued incarceration. It appears that the Los Angeles Police Department is interpreting the provision concerning "satisfactory identification" as a license to take violators of section 11357(b) to the police station for booking, processing, and delivery to county jail to await a court calendar. This tactic certainly violates legislative intent because even if an individual has no identification, and the officer believes that the name given is suspect, the appropriate action would be to take the person promptly to a magistrate rather than to the police station and jail. Because of the revelations of this research, this office is now seriously considering filing a class action to clarify the meaning of the term "satisfactory identification."

I was also asked during my testimony about the status of juvenile offenders of section 11357(b). During the year 1976, it was generally considered lawful for juvenile courts to gain jurisdiction over a juvenile who violated section 11357(b). See Uelmen, "California's New Marijuana Law: A Sailing Guide for Uncharted Waters," 51 *Cal.S.Bar J.* 27, 79 (1976). However, A.B. 3121 amended Welfare and Institutions Code sections 726 and 731 to provide that a minor may not be removed from the home in a section 602 case (which provides for wardship for those juveniles violating the laws of the State) for any time period in excess of the maximum term of imprisonment which could be imposed upon an adult. Thus, a juvenile violating section 11357(b) today should not receive any term of confinement.

Because of the misscheduling problem for my appearance, I was unable to respond to the testimony of Eugene Hollingsworth, Chief of the Bureau of Investigation and Narcotic Enforcement within the Department of Justice for the State of California. His report cites the recent study by the California Health and Welfare Agency, State Office of Narcotics and Drug Abuse, entitled "A First Report of the Impact of California's New Marijuana Law (S.B. 95)." His comment that the study demonstrates "a significant increase in the use of marijuana" is a gross distortion of the results of the study. The study quite specifically stated:

"The reduction in penalties for possession of marijuana for personal use does not appear to have been a major factor in people's decision to use or not use the drug. Less than three percent of the people surveyed had first tried marijuana within the past year, since the new law became effective, but only one in eight of these new experimentors or users indicated more willingness to try marijuana because legal penalties have been reduced. In the total adult population, this represents three people out of a thousand."

The above quote is taken from page 11 of the very report from which Mr. Hollingsworth cites as evidence of a significant increase in use of marijuana brought about by the reduction in penalties for possession of marijuana. It is quite evident that any increase in usage in California or nation-wide is completely unrelated to the relative harshness of penalties for possession of marijuana.

Mr. Hollingsworth cites "a considerable body of evidence to suggest that the use of marijuana is indeed harmful." It may more safely be said that the jury is out on the alleged harmful effects of heavy marijuana use. What offends most young people today concerning their government's approach toward marijuana is the hypocrisy of jailing marijuana users while at the same time condoning, and perhaps even promoting, two other recreational drugs that are proven killers, cigarettes and alcohol. With millions of people considering marijuana use on a recreational basis a satisfying experience, and without any proven harmful side effects resulting, it makes absolutely no sense to strip such users of their civil liberties. Perhaps this is why 61 percent of the people polled in California approve of the new statute. (See report, *supra* p. 19-20.) Mr. Hollingsworth's statement that "we in California strongly urge the retention of current federal law, . . ." reflects at most a law enforcement bias and not the representative feeling of the people of the State of California who whole-

heartedly support the current California legislation. The California experience demonstrates that states which decriminalize possession of small amounts of marijuana give law enforcement officials the time and opportunity to focus their efforts on major offenders. As a consequence, the courts are provided with an opportunity to provide speedy trials to major offenders. Recognizing that the decriminalization of marijuana on a federal level will not produce great time or money savings at the federal level, it would serve as a symbolic gesture to the states that a sane approach to this controversial social issue is appropriate. Contrary to the position of Mr. Hollingsworth that "federal decriminalization would impose a federal standard that would make it impossible for the individual states to adjust their own laws to meet their own needs," federal decriminalization would do nothing more than serve a symbolic function. Unless decriminalization is coupled with a constitutional amendment to abolish our federal system, individual states would maintain their sovereignty to maintain their current laws.

Although the importance of a federal change is largely a symbolic one, it is not entirely so. Under current legislation, an individual may be incarcerated for one year and/or fined up to \$5,000 for possession of less than an ounce of marijuana. Further, if the individual is between 18 and 23, he may be treated as a young adult offender for this misdemeanor violation in some federal jurisdictions. If incarcerated under the Federal Youth Corrections Act, 18 U.S.C. section 5010A or the Young Adult Offender Act, 18 U.S.C. section 4209, an individual may be incarcerated in a federal institution for as long as six years. Conviction under 21 U.S.C. section 844 for possession of less than one ounce of marijuana could also result in the deportation of a permanent resident alien under 8 U.S.C. section 1251(a) (11). Federal law with respect to possession of minor amounts of marijuana is today largely unenforced for many of the reasons which have been expressed before this Committee. Therefore, federal law should be made proportionate to the transgression and preferably along the lines of California's statute. This would eliminate the possibility of selective federal prosecution.

We appreciate having this opportunity to supplement our views on the proposed decriminalization of marijuana. I hope the Committee finds the materials of use in attempting to resolve this difficult and controversial issue. I enclose a copy of the report prepared by the State Office of Narcotics and Drug Abuse which should be part of the record.

Yours truly,

CHARLES M. SEVILLA,  
*Chief Assistant State Public Defender.*

Mr. NELLIS. I would like to ask another question about California, Mr. Sevilla. What is the exact handling of a citation for the misdemeanor that now exists? A policeman stops a car and finds a youngster or anyone between the age of zero to 23 in possession of less than an ounce of marihuana, what does the officer do?

Mr. SEVILLA. Basically, writes out something the equivalent of a traffic ticket. The person is cited to come to court. He confiscates the marihuana, of course.

Mr. NELLIS. And then this person is free to go?

Mr. SEVILLA. Correct. He cannot be arrested.

Mr. NELLIS. What happens if he accumulates three or four of these citations and ignores the summons of the court?

Mr. SEVILLA. Well, there is a very peculiar aspect to the California law in that after the fourth citation one must be diverted. The diversion eventually results in a dismissal of the criminal prosecution. So, actually, for the fourth violation there is a lesser penalty because the fourth time you are diverted; and if you successfully complete the diversion program the citation is dismissed. Whereas, for the first three offenses you at least have the citation on your record.

Mr. NELLIS. Are you saying that under your law you can ignore four citations and be better off than if you went to court and paid the penalty for the first one?

Mr. SEVILLA. If you commit four violations, and you pay your first three fines, and then commit the fourth offense, you must be diverted. If you successfully complete the diversion program, the fourth violation will be dismissed.

Mr. NELLIS. What happens if you ignore the first three citations?

Mr. SEVILLA. And do not pay the fine?

Mr. NELLIS. That's right; you do not show up. They are called scofflaws in traffic courts—do you call them scoffpots?

Mr. SEVILLA. The results from Alameda County indicate there's a much lower no-show ratio. But if they do not show, simply the procedure followed with the traffic tickets is followed. You would be arrested.

Mr. NELLIS. Is there a bench warrant and they are brought in? What is the charge, contempt of court?

Mr. SEVILLA. Yes.

Mr. NELLIS. You go to jail as a criminal for contempt of court, is that right?

Mr. SEVILLA. Yes.

Mr. NELLIS. Thank you, Mr. Sevilla.

Mr. SEVILLA. I think that is a very good question, because there is a question in some people's mind that people never pay the fines and nothing is ever going to happen to them. But most people pay their traffic fine because they don't want that same thing to happen to them.

Mr. WOLFF. Excuse me. On that subject, is the fine the same for a second offense?

Mr. SEVILLA. Well, it's up to \$100, so it depends on what the judge gives. I might add, with respect to the educational program, too, the judge could say, I'm going to fine you \$100, but in lieu of that \$100 fine you can go to this program for a couple of days and that would be the sentence in lieu of the fine. There is a possibility for using the current citation procedure in California for an education program, and that may be what the barristers have sponsored in Sacramento, Calif.

Mr. NELLIS. Mr. Bellizzi, I had an experience recently involving this committee in Harlem. We went through Harlem in an undercover van and I had the pleasure of riding with Mr. Rangel, so that meant I had an excellent guide.

Mr. Bellizzi, New York has probably the most severe anti-drug laws in the Nation, am I correct?

Mr. BELLIZZU. That's correct.

Mr. NELLIS. Technically, if you're caught with a stick of marihuana, you can go to jail for a lot of years, isn't that right?

Mr. BELLIZZU. A stick of marihuana is a misdemeanor, subject to just 1 year penalty, unless you sell it.

Mr. NELLIS. If you tear it in half, it could be more than 1 year. These laws, according to Mr. Sterling Johnson in sworn testimony before this committee, have had virtually no deterrent effect whatsoever. The sale of marihuana on the streets of New York out in the

open is as prevalent today as it ever was before Mr. Rockefeller had these laws passed. Am I correct in that?

Mr. BELLIZZI. That is the general impression, that the tough laws have not really acted as a deterrent that they thought that they would act. Perhaps they went too far over to the other side in attempting to deter. They sort of defeated the purpose.

Mr. NELLIS. We can agree then that harsh penalties do not necessarily act as deterrents, right?

Mr. BELLIZZI. That's correct. I would agree to that.

Mr. NELLIS. If that is true, why would the Narcotic Officers Association, whose membership I respect greatly, not be in a position to say that if we have laws on the books which are not enforced or are not enforceable, that the sensible thing to do is remove them and then accept the situation that is de facto anyway. Why can't you take that position?

Mr. BELLIZZI. Well, have you come up with an acceptable or workable alternative? That's the problem. Now, the ticket citation thing, I don't think could be too effective. You pointed out the problem of the scofflaw. We have approximately 20,000 marihuana arrests in the city of New York and I would venture to say that if we adopted the ticket citation procedure, you would probably have to give out 200,000 citations a year. And where are you going to get the people to give those out? And furthermore where are you going to get the people to do the paperwork that is connected with giving out the citations?

Two hundred thousand—and where are you going to get the people to handle the scofflaws who will defiantly not show up in answer to the citation? I think it's going to create more of a problem.

Mr. NELLIS. More of a problem than the present situation in which people are ignoring the law?

Mr. BELLIZZI. But with respect to the fact that people, proponents, say it is going to relieve the police officer to do something that he should be doing of a more serious nature. I don't think it is going to do that.

As I have pointed out in my paper, this is not a simple issue. It is a paradox. You're damned if you do and you're damned if you don't.

But until we come up with something that is acceptable, something that is workable, I think that we have to move slowly because otherwise we might be doing exactly what the tough penalties for narcotics in New York did—nothing.

[Copies of International Narcotic Enforcement Officers Association, Inc., publications indicating their position on the marihuana decriminalization issue are in the committee files.]

Mr. NELLIS. Mr. Datt, have you any information as to how youngsters in rural areas get marihuana? Do they go to the cities and then come back, or is there a traveling salesman of some kind that goes around to these rural areas and dispenses these drugs? Have you any information with regard to that?

Mr. DATT. I don't have any firsthand information. I don't think that you would say that there is a traveling salesman or anything like that. It seems to move from one part of the country to the

other, whether it is moving from a city to a rural area or whatever the case may be. I would say that the situation in a rural community in terms of dispensing of it is really no different than it is in a major city.

I would like to make one observation if I could. Because while I've indicated that I serve as director of the Washington office for the Farm Bureau and I've lived in this area, and I wanted to comment on what Mr. Beard was referring to earlier. My other interest involves the athletic program of one of the high schools in suburban Maryland as well as one of the local boys clubs. We've run into this very problem. And I've become convinced that there's no substitute for education and getting an understanding among these kids as to what the dangers are, and I've been involved firsthand in that now for over 20 years myself.

It is a peer thing. If somebody wants to try it, they try it because somebody else said they ought to try it, and so on and so forth. And we have had pretty good success, particularly as it relates to young boys who are interested in athletics, in making it clear to them that if you really want to be a good athlete, you get to horsing around with this stuff and you're in trouble and you're never going to make it.

And I don't know that that is the way to approach it, but I would just say that as a personal observation I have had some experience as it relates to my own.

Mr. NELLIS. Mr. Datt, would you attempt to supply the committee with any information you might have with respect to the distribution in rural areas? That is an area we know very little about, and I would like to know more.

Mr. BEARD. I will be glad to give you any testimony, being from a rural area.

Mr. NELLIS. Do you know the local candyman? [Laughter.]

Mr. BEARD. Unfortunately, a lot of the local law enforcement officers know the local candyman, but it is very difficult as a result of all the judicial procedures to get him.

Mr. DATT. I will try to supply you that information. We can get together with Mr. Beard and maybe between the two of us, we can help you out.

[The information referred to is not available.]

Mr. WOLFF. This brings to a close the present series of hearings. However, I just want to say that I think what has developed here is the fact that we really don't have any simplistic answers to this very complex problem. The pervasiveness of it, however, indicates we had better develop solutions and in fairly rapid order.

I don't think it is sufficient to say that laws are unenforceable because we don't have the resources to enforce them. That is, as someone said, a copout. Why are these laws being not enforced? Why do we have laws upon the books that are not enforced. If they are unenforceable laws, that is one thing. But if it is because of a lack of resources, that is something else. And where it was said that there should be sufficient funding for experimental programs and the like and for law enforcement programs, there should also undoubtedly be consideration given to funding of other programs



that relieve some of the frustrations of some of the young people of our country that bring them into the drug scene in the first place. I'm talking about the very social programs that perhaps have not been adequately funded in this country that contribute to the problem and contribute to its growing nature.

The Vietnam war has been blamed as to why we saw such a large increase in the number of people using drugs and marihuana in the first place. That has been removed from the scene and yet frustrations still remain. I think that we as a committee have a duty and an obligation to look into this situation as well. Because if it is a question of our saying that because the problem is unenforceable, because we haven't got the facilities, we would then let all of these 3,500 or so high-level trafficker fugitives go free? We could just say, let them all go because we can't enforce the law. I don't think that's the position we should take.

The one element, however, that troubles me that we have not even addressed here in this hearing is the fact that there are stores that are openly selling devices which promote or facilitate the use and abuse of these substances; that openly admit that they are used only in connection with an abused substance. I think that if we have and continue to have laws on our books that make it a crime to use a substance, then I think it is about time that we closed these stores down. I do not think they should be permitted to exist. I think it's about time. We can't look two ways at the same time. Unfortunately, politicians are prone to talk out of both sides of their mouth, but it is very difficult to look in both directions at the same time.

The future activity of this committee relative to the handling of these hearings will be for us to get the material together which has been given to us by the various witnesses who have appeared. We will then discuss what further procedures shall be taken, and forward our recommendations to both the Judiciary Committee and the Committee on Interstate and Foreign Commerce for further action.

We thank you all for coming. We thank the media representatives who have been sitting here through 3 days of hearings, for their diligence and their patience. And we thank all of you for your interest in this very important problem.

The committee stands adjourned.

[Whereupon, at 4:05 p.m., the committee adjourned, subject to the call of the Chair.]



## APPENDIX

The following information was submitted for the record by organizations and people who were unable to testify at the decriminalization hearings. Also appearing here are papers furnished by witnesses who did appear but volunteered to furnish documents which would be of use to the committee in their report.

STATEMENT BY HARRY TOUSSAINT ALEXANDER, PRESIDENT, WASHINGTON  
CHAPTER, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. Chairman and Members of the Committee: It is indeed a privilege and pleasure to testify before this distinguished Committee. The House Select Committee on Narcotics Abuse and Control. For many years as a Prosecutor in the Office of the U. S. Attorney, as a Defense Attorney, and particularly as a Judge for 10 years on the General Sessions Court and Superior Court of the District of Columbia, I have been tremendously concerned with drugs in the Nation's Capital and their effect upon citizens of various strata of life. Among those drugs, as well as their ramifications, I have studied is marijuana. For one month while sitting as Arraignment Judge in the Arraignment Branch of Superior Court I had the occasion to visit daily men and women in the cell blocks of our Court; both to lecture to them respecting how crime does not pay, and to learn from them the reasons for their involvement in criminality and drugs in particular.

Similarly I had the occasion to visit with juveniles, boys and girls during a month's assignment in a branch of the Court entitled New Referrals, the Arraignment Section of our Juvenile Branch of the Court. In addition, for study and experimental purposes, I have had the occasion to be incarcerated in Lorton Reformatory; visited the District of Columbia Jail on many occasions; visited the Women's Detention Center on several occasions where I once quelled a riot; visited the Youth Center and most of the half-way houses and shelter houses in our City. In addition I have had the occasion to visit the Last Renaissance, St. Elizabeth's Drug Program, and to sit in on group therapy sessions. I have also visited RAP Incorporated where I am a member of the Board of Directors.

During my studies conducted as Arraignment Judge and the New Referral Judge in the Superior Court of the District of Columbia, I had the occasion to visit with more than 500 men and women, to study the history of drugs, drug related offenses, and to confer with men, women and children respecting their use and addiction to drugs including the use of marijuana.

My studies left several inescapable conclusions:

1. Marijuana is at least psychologically addictive to some people, men, women and children;
2. Some people have been introduced to marijuana during very tender years in elementary school, as well as in junior high school;
3. No segment nor section of the city as well as suburb is immune from marijuana;
4. There are various tolerance levels using marijuana socially.
5. A vast majority of persons who become addicted to hard core drugs began with the use of marijuana;
6. Marijuana is generally used and found in circles of people having various levels of economic, social and educational backgrounds; each circle tending to be united in the several respective criteria;
7. Many circles seem to have at least one member who has experimented with other drugs and who is more than willing to pass this experience on to other members of the circle.

8. Members of the circle of least strength and will power will succumb to the test of educational drugs, principally hard core drugs;

9. Circles in the lower economic levels generally produce more addiction to hard core drugs, principally, heroin, cocaine, and morphine;

10. Members of the lower economic strata seem to find it more difficult to resist temptation of hard core drugs, principally because of dissatisfaction with life, economic conditions, educational level, poverty, and a general feeling of "what's the use" or "it really doesn't matter."

11. Marijuana laws are not equally enforced; in Kenilworth, a youth is usually prosecuted for possession of a joint; in Georgetown the youth may be warned or referred to his parents. At no time have I imposed a sentence of incarceration of persons found guilty of possession of marijuana. This includes two families who grew marijuana; in a yard, and upon a roof in Georgetown.

12. For persons in the lower economic level of the ladder, marijuana is expensive. Sold in nickel and dime bags (\$5 and \$10 a bag) drugs can ill be afforded by poverty stricken people. Persons in the middle income and higher level of our economy have not revealed to me any significant percentage of graduating to hard core drugs. To many people in the middle income and higher echelon of society marijuana is a fad, and is present virtually everywhere, the same as alcoholic beverages.

13. In some instances rather than alcohol being the beverage of the party, pot becomes the substitute. Many have experienced that pot produces a somewhat euphoric condition which renders one incapable of serious contemplation and produces a care-free, lackadaisical mental condition.

From the foregoing I conclude that marijuana is a problem. To many in the lower economic level in our society it is a more serious problem. The conditions and reasons for its great production of addicts and graduation to hard core drugs must be dealt with. By the same token hard core drugs must no longer be permitted to permeate our neighborhoods, communities and cities.

I am inclined to believe that decriminalization is perhaps the wiser method to deal with marijuana. However, the serious consequences to poor and oppressed people cause me a great dilemma. Criminalization of marijuana has been to me the only means to argue to youth against the use of marijuana's psychological addiction and graduation to hard core drugs. To this extent it has served a useful purpose. However, the vast wide-spread use of marijuana among youth of our population and the apparent lack of serious consequences to them present another dilemma. Both nevertheless argue for decriminalization.

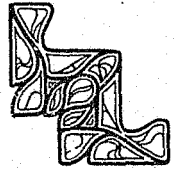
It must be remembered that time was when only poor oppressed Black people and members of other minority races were prosecuted for marijuana. Not until it spread its tentacles into the majority section of society in their schools, neighborhoods, and universities did there become a hue and cry for decriminalization. This did not come, however, until countless Black, poor and oppressed people had been sentenced to countless numbers of years in prison. This too gives me some dilemma, but it does not prejudice my mind.

If marijuana is to be decriminalized there must be some form of education to be administered to our youth respecting the use and abuse of marijuana. I would propose educational programs in the curricula of our schools including enlightened teaching on the subject matter. Without any knowledge of what deterrents the Committee would legislate causes me to be reluctant to recommend decriminalization. However, since some of the same problems are occasioned by the use of alcohol, which per se is not criminalized, I must in conscience recommend decriminalization of marijuana.

This recommendation does not come easily. If I may add a caveat, it is that some study be made with respect to those who are inclined to become psychologically addicted, then experimenters, and finally addicted to hard core drugs. The conditions of which these results are likely to be bred must be treated with a sincere effort to eradicate these substandard evils.

If I can be of further service to the Committee, please do not hesitate to contact me, or to require my personal testimony.

Thank you for the privilege.



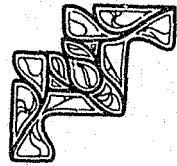
A First Report  
of the Impact of  
California's New  
Marijuana Law (SB 95)

AS REQUESTED BY THE LEGISLATURE

HEALTH AND WELFARE AGENCY

STATE OFFICE OF NARCOTICS AND DRUG ABUSE

JANUARY, 1977



ACKNOWLEDGMENTS

Many local criminal justice and drug abuse agencies contributed the information needed to pull this report together. Their effort is appreciated.

The State Office of Narcotics took primary responsibility for the preparation of this impact report. The Department of Justice's Bureau of Investigation and Narcotics Enforcement, and Bureau of Criminal Statistics provided considerable data and other assistance. The Department of Health's Division of Substance Abuse also gathered data and reviewed the report.

Dr. Kenneth B. Budman of the State Office of Narcotics and Drug Abuse analyzed the data and was responsible for the preparation of the report.

CONTENTS

	<u>PAGE</u>
I. INTRODUCTION	
II. SUMMARY AND OVERVIEW.....	1
III. IMPACT OF SENATE BILL 95.....	3
A. ENFORCEMENT OF DRUG LAWS.....	3
1. ENFORCEMENT OF MARIJUANA POSSESSION LAWS.....	3
2. ENFORCEMENT OF THE MARIJUANA TRAFFICKING LAWS.....	7
3. ENFORCEMENT OF OTHER DRUG LAWS.....	8
B. USE OF MARIJUANA.....	10
C. DRUG OFFENDER DIVERSION PROGRAM.....	13
1. DRUG PROGRAM RESPONSE TO P.C. 1000.....	13
2. THE NEW DIVERSION PROGRAM.....	15
D. REVENUE TO STATE AND LOCAL GOVERNMENT.....	16
E. IMPACT OF SB 95 ON STATE AGENCIES.....	17
IV. PUBLIC ATTITUDES TOWARD THE MARIJUANA LAW.....	19
V. TABLES.....	21
VI. APPENDICES.....	1-1
VII. REFERENCE DOCUMENTS	

## I. INTRODUCTION

Senate Bill 95 was enacted in July 1975 following debate over reducing criminal penalties for possession of marijuana. Prior to SB 95, possession of any amount of marijuana for personal use was a possible felony carrying a penalty of up to 10 years in state prison, with stiffer punishment for succeeding offenses. The new law makes possession of one ounce or less of marijuana a citable misdemeanor with a maximum penalty of \$100. There is no incarceration and no increased punishment for recidivists. Possession of more than one ounce for personal use is a straight misdemeanor, and possession of concentrated cannabis (hashish) remains an alternate felony/misdemeanor. Cultivation of any amount of marijuana remains a straight felony offense, as does possession for sale, importing or transporting more than one ounce. Record destruction provisions were included in SB 95 for both current and past arrests and convictions for marijuana possession.<sup>1</sup>

A major objective of the legislation was to reduce the estimated \$100 million in costs to the criminal justice system for handling marijuana offenders. In addition to promoting cost savings, the bill's supporters believed their proposal would continue the policy of discouraging the use of marijuana, but would more realistically punish those who choose to ignore the policy. On the other side, opponents of SB 95 saw the measure as a green light to Californians to use and misuse a drug whose long term effects are still debated in the medical journals.

This report is an attempt to assess one year's experience under SB 95. The impetus for this report was twofold: First, the legislature in 1976-77 budget hearings in the spring of 1976 decided to restore a proposed \$1.5 million drug abuse program budget cut which had been based on assumptions about reduced workloads in the drug abuse treatment system as a result of SB 95. Because the new law had been in effect for only two or three months when the decision was made to restore these funds, the Legislature requested an impact report from the Department of Health and the Department of Justice.<sup>2</sup> The second reason this study was undertaken was the realization that a law of this magnitude affecting thousands of people and millions of dollars demands close scrutiny from a public policy point of view.

The questions addressed in this study relate to changes in marijuana law enforcement, criminal justice system costs, drug treatment program enrollments, marijuana usage, public attitudes toward criminal sanctions, and other related matters. A variety of sources such as arrest and citation data, workload and impact surveys, budgets and revenues, and public opinion polls have been reviewed and analyzed. Since much of the source data is not normally published, the report is organized to provide a short summary and conclusions, more detailed sections highlighting the conclusions, and tables and appendices presenting the data and analyses. We hope this will serve the needs of both the general reader and the researcher.

<sup>1</sup> Appendix 1 provides a summary of SB 95 (Chapter 248, Statutes of 1975) and the later modifications of record destruction provisions as enacted in AB 3050 (Chapter 952, Statutes of 1976).

<sup>2</sup> Appendix 2 summarizes the history of the budget hearings which led to the Legislature's request for this report.



## II. SUMMARY AND OVERVIEW

Senate Bill 95 was enacted in July, 1975. It made possession of one ounce or less of marijuana a citable misdemeanor instead of a possible felony. Possession of more than one ounce for personal use was also made a misdemeanor.

A statewide survey of attitudes toward the new marijuana law shows that six in ten (61%) California adults either approve of SB 95 or believe that possession of small amounts of marijuana should be legalized. Even among those individuals who have never used marijuana, either legalization or the current approach is preferred over the reinstitution of stiffer penalties.

The survey also asked people about their experience with marijuana. While thirty-five percent of adults reported that they had at least tried marijuana, fourteen percent considered themselves current users. This is an increase over survey results obtained nearly two years earlier. However, less than three percent of respondents in the latest poll reported they had first tried marijuana within the past year, and only one in eight of them indicated that they were more willing to try or to use the drug because penalties had been reduced.

Analysis of available arrest and citation data shows that changes have occurred under SB 95. In the first six months of 1976, reported marijuana possession offenses were reduced by nearly half compared to the same period in 1975. Concurrently, arrests of heroin addicts and other drug offenders increased significantly. Comparative marijuana trafficking arrests and amounts of the drug seized actually show a small but measurable decline.

The costs to enforce the marijuana laws was a major impetus for enactment of SB 95. Estimated costs were compared between the first half of 1976 and the same period in 1975, and although the data are incomplete, and probably conservative, there has been a reduction of approximately 75% in law enforcement and judicial system costs. Some law enforcement agencies have pointed out that changing possession of marijuana from a felony to a citable misdemeanor has reduced their ability to conduct searches and make arrests for other suspected offenses. While workloads have been reduced, there has been some direct SB 95 cost augmentation among police agencies stemming from record destruction requirements. Prosecutors, public defenders and the courts have also experienced diminished workloads as a result of fewer offenders and the abbreviated handling of citation and other misdemeanor marijuana cases. Probation departments see far fewer marijuana cases for investigation and supervision because of significantly reduced Drug Offender Diversion Program referrals.

In reviewing the SB 95 impact on state funded drug treatment program enrollments, available client and cost data indicate an overall moderate decrease in marijuana related diversion referrals. However, there were large variations among counties in the use of drug programs for serving divertees, with many using probation or school-based drug education classes instead of treatment programs. In addition, enactment of AB 1274 extended the diversion program to include eligibility for heroin addicts and cultivation of marijuana for personal use. The loss of a marijuana workload in some of the larger counties' drug programs has been supplanted by treatment placements stemming from increased non-marijuana arrests in 1976 combined with greater willingness on the part of the courts to use community treatment alternatives for drug abusers eligible for diversion under AB 1274.

At the state level, the Controller's Office provided revenue information from which we have estimated an SB 95 related increase of several hundred thousand dollars to the State General Fund. Other state departments reported minimal affects from SB 95. While the Department of Justice decreased its personnel in the criminal records section, record destruction petitions have been held up pending resolution of constitutional questions. In general, the impact on state departments such as Corrections, Youth Authority and Motor Vehicles has reportedly been minimal. Based on drug program data, there has been little overall fiscal impact on the Department of Health.

## III. THE IMPACT OF SENATE BILL 95

## A. Enforcement of Drug Laws

Under SB 95, there has been a substantial reduction in reported marijuana possession offenses, based on comparative 1975 and 1976 arrest and citation data. In addition to savings resulting from decreased enforcement, the new procedure of issuing citations instead of making felony arrests has significantly reduced costs per case. The judicial system has experienced an even more substantial workload reduction because of decreased prosecutions and diversions.

There appears to be minimal SB 95 impact on the supply side of the marijuana question, as little change has occurred in marijuana trafficking arrests. A sample of large agencies in California reveals a small decrease in marijuana seizures.

Concurrently, there has been a substantial increase in arrests for narcotics and other drug offenses, including heroin addicts. This may reflect a shift in drug enforcement emphasis. Additionally, arrests for persons driving under the influence of a drug have increased considerably in the first half of 1976 compared to the same period in 1975, although the intoxicating drug is not revealed in the data.

## 1. Enforcement of Marijuana Possession Laws

Arrests and Citations

Total known arrests and citations for marijuana possession in the first six months of 1976 have decreased 47% for adults and 14.8% for juveniles compared to arrests for marijuana possession during the first six months of 1975.

Table 1, page 21, provides a review of arrest rates in recent years, showing that 1974 was the peak for both adult and juvenile felony marijuana arrests with almost 100,000. Nearly one in four adult felony arrests in 1974 involved marijuana, while for juveniles the ratio was one in five. In 1975 there was a 10.9% reduction of such adult arrests, and a 20.1% reduction in juvenile marijuana arrests. Thus, any assessment of the impact of SB 95 must take into account reductions in arrest rates which occurred prior to its enactment.

Comparative arrest data by region of the state is shown in Table 4, page 24. Of the seven largest Southern California Counties, the data show an average decrease of 32.2% for arrests and citations for possession and cultivation of marijuana in the first half of 1976 compared to the same period in 1975. In the seven largest Bay Area Counties arrests and citations decreased an average of 59.0%. A sample of the larger Central Valley and Central Coast Counties indicate an average 40.7% fewer arrests and citations for marijuana possession and cultivation, while the rest of the State's smaller counties showed a decrease of 63.4%.

Senate Bill 95 also decriminalized three misdemeanor drug law violations with respect to marijuana. These are 11364 H&S (possession of drug paraphernalia), 11365 H&S (visiting a place where drugs are being used), and 11550 H&S (being under the influence of a controlled substance). Adult arrests for possession of drug paraphernalia declined 37.1% in the first half of 1976 compared to the same period in 1975, and juvenile arrests decreased 88.5%. There was a dramatic decrease of more than 90% in both adult and juvenile arrests for 11365 H&S in the comparative time frames. The third offense decriminalized as it pertains to marijuana is 11550 H&S, which has been reserved almost exclusively for heroin addicts, and carries a ninety-day mandatory minimum jail sentence. Marijuana offenders have not been directly affected by this change in the law. Tables 2 and 3 on pages 22 and 23 provide a distribution of comparative offenses for adults and juveniles, respectively.

There are several reasons that our data should be qualified, and these are described in detail in Appendix 3. Briefly, in comparing 1976 to 1975 statistics, it is estimated that up to 7.2% of 1976 arrests and citations might not be counted in the statewide data collection system, although they would have been counted in the 1975 data. Only the most serious offense in a multiple-charge arrest incident is entered in the data, so that a felony marijuana charge in 1975 generally took precedence over others; but its low level misdemeanor status in 1976 means that some other concurrent felony or misdemeanor charge would be counted statistically. Another qualifying factor is that in 1975 a number of large law enforcement agencies were not yet reporting on the Bureau of Criminal Statistics arrest register, and are therefore excluded from the comparative data. Since six months is a short time span to assess enforcement trends, we compared the arrest and citation data between the first quarter and the second quarter of 1976, and found a significant increase suggesting a possible upward trend. Finally, marijuana record destruction requirements in SB 95 appear to discourage some agencies from issuing citations or making marijuana arrests in conjunction with other offenses. Despite these qualifications of the data, the decline in statewide arrests and citations is clear.

#### Law Enforcement Costs

It is estimated that police agency costs to enforce the marijuana possession laws for adults in the first half of 1975 were \$7.6 million compared to \$2.3 million in the same period of 1976.

Before 1976, marijuana offenders were arrested as felons, transported to the jail for booking, and incarcerated for one or two days pending possible release on their own recognizance or upon the posting of bail. We compared those procedures to SB 95 citation and misdemeanor procedures used by a survey sample of large police agencies, and derived approximate cost figures from a variety of sources. The calculations are described in detail in Appendix 4.

Each of the 24,351 custody arrests for marijuana possession offenses in the first half of 1975 and the 3,811 custody arrests in the first half of 1976 represented a cost of \$222 (estimated using a method developed by the Legislative Analyst and the Bureau of Criminal Statistics in 1972). Total marijuana custody arrest costs were therefore \$5.4 million from January through June, 1975, and \$850,000 for the same period in 1976. Using law enforcement agency survey responses, the cost of a citation was roughly estimated to be 59% of the cost of an arrest. We computed the cost of 9,102 citations at \$131 each, or \$1.2 million. Pretrial incarceration costs were estimated at \$2.2 million for the first half of 1975 and \$300,000 in the same period in 1976.

The cost impact of SB 95 on law enforcement has been more than just costs of arresting or citing and processing offenders. The costs associated with record destruction provisions of the act were addressed by a large proportion of the police agencies questioned about workload changes. Separate filing systems had to be created so that records could be easily identified for destruction after two years. Microfilming or automated record indexing procedures had to be modified in many of the large departments. Record problems were also noted in dealing with multiple-offense cases where marijuana is only one of the charges.

Another point addressed by some police agencies is the reduced authority an officer has to conduct a general investigation of a suspected misdemeanor marijuana offender under the new law. Prior to SB 95, the felony classification of marijuana allowed for an in-custody or booking search for possibly other drugs, stolen property or other evidence of criminal activity. Under the new misdemeanor categories, particularly in one ounce citation cases, a police officer is more limited in his authority to conduct a search without probable cause to believe that other drugs or stolen property are possessed by the suspect.

#### Judicial System Costs

It is estimated that SB 95 has brought about a reduction in marijuana case processing costs in the court system from \$9.4 million in the first half of 1975 to \$2.0 million in the first six months of 1976.

From 1973 through 1975, over half the adults charged with possession of marijuana avoided full prosecution by participating in the Drug Offender Diversion Program (Penal Code Section 1000 et. seq.).

Except for a large increase in probation department workloads, the rest of the court system enjoyed some reduction in effort per case under P.C. 1000. A diversion cost impact study has been used in conjunction with a relatively new Bureau of Criminal Statistics data system and a survey of district attorneys as the sources for calculating comparative judicial system costs.

The comparative reduction in costs is conservative, because jail and probation costs for convicted offenders in both years were not included, and Tables 5 and 6, pages 25 and 26, show a much larger number convicted and sentenced in 1975 than in 1976. A discussion of the judicial system cost computations is included in Appendix 4. To summarize, we estimated that prosecutor costs in the first half of 1975 were \$2.9 million compared to nearly \$700,000 during the same period in 1976. Public defender costs were approximately \$2.1 million compared to \$500,000 in the same period while court costs are estimated at nearly \$600,000 for the first six months of 1975 and \$136,000 for January to June, 1976. Probation department (diversion only) costs were estimated at \$3.9 million compared to \$700,000.

We were unable to estimate the cost of processing citation cases. For example, twenty-two prosecutors responded to a survey question about their review of 11357b H&S (possession of one ounce or less) cases---ten review all of them while nine review only 10% or less. The average was a little over 50%. For the most part, district attorneys do not have to prepare complaints nor prosecute many one ounce citation cases. In our survey, the majority of prosecutors noted the reduction in workload for marijuana possession cases, citing decreases in such areas as clerical effort and case preparation as well as deputy district attorney time in evidentiary hearings and trials.

#### Criminal Justice System Cost Savings

Overall, the data indicate substantial cost savings in the criminal justice system as a result of SB 95. If we add the estimated law enforcement costs to the known judicial costs, our total of \$17 million for half of 1975 compared to \$4.4 million for half of 1976 represents a 74% reduction in costs. While the exact amount of the reduction is subject to interpretation of incomplete or estimated data, the general direction and magnitude of cost changes are clear.

In reviewing law enforcement and court costs, the lack of any statewide uniformity in the handling of juvenile offenders, either under SB 95 or in previous years, has discouraged any effort in this report to address a comparable procedural, workload or cost comparison of the juvenile justice system similar to the foregoing analysis.

## 2. Enforcement of the Marijuana Trafficking Laws

### Arrests for Trafficking Offenses

Table 2, page 22, shows a decrease of 5.0% in the comparative arrests for adults for the marijuana trafficking offenses, including possession for sale (11359 H&S), selling, transporting or importing marijuana (11360 H&S), or using a minor to sell, receive or use marijuana (11361 H&S). These offenses represent 16.5% of total adult marijuana arrests and citations in the 1976 data compared to less than 10% of total 1975 marijuana arrests.

For juveniles, Table 3 on page 23 indicates the comparative arrests of 622 marijuana trafficking offenders in the first half of 1975 and 763 in the same period of 1976, an increase of 22.7%. As in the case of adults, the ratio of juvenile trafficking arrests to total marijuana arrests rose between 1975 and 1976 from 4.5% to 6.4%.

SB 95 did not change the penalty structure for trafficking offenses, and thus required no new procedures for law enforcement agencies. In comparing the trafficking arrests for adults in the first three months with those in the second quarter of 1976, there was actually a slight decline, unlike the trend found with possession arrests. Nevertheless, data are missing from several agencies which have reported increases in trafficking arrests and seizures of marijuana. Overall, our available data seem to indicate little change in enforcement emphasis.

### Marijuana Seizures

Based on available marijuana seizure data, there has been an 11% decrease in the amount of marijuana seized in California between 1975 and 1976.

In looking at the trafficking, or supply side of the marijuana question, it is essential to ask about the amount of the drug entering the illicit market. Nationally, the United States Customs Service reported a 62% increase in the amount of marijuana seized during fiscal year 1975-76 compared to the previous year. For California data, the Bureau of Investigations and Narcotic Enforcement in the California Department of Justice surveyed federal, state, and local agencies. Their findings in Appendix 5 were computed in pounds and corrected for time discrepancies to show seizures of 337,489 pounds in 1975 compared to 300,837 pounds in 1976, a decrease of approximately 18 tons of marijuana.

In general, seizure data has to be viewed in perspective, because one large confiscation of contraband can swing the data dramatically, particularly in one agency or county. While our information cannot be considered definitive, we cannot discount its direction, nor can we presume any causal relationship between marijuana seizures and enactment of SB 95.

### 3. Enforcement of Other Drug Laws

#### Narcotics and Dangerous Drugs

Adult arrests for non-marijuana felony drug offenses increased 18%, and for persons under the influence of heroin, arrests increased 48.2% between the first half of 1975 and the first half of 1976.

We do not have enough incidence and prevalence information about current drug usage to determine whether or not these increased arrest figures (shown in Table 2, page 22) reflect a change in the number of drug users. Based on recent national drug use surveys, it seems unlikely. A more probable explanation is that greater police concentration on hard drug offenders has resulted in increased arrests. A recent report from the Department of Justice has identified eighteen geographical areas of the state where multi-agency drug enforcement units have been created. Where heroin addicts are the target population of these intensified drug enforcement efforts, increased arrests are the result.

Table 3 on page 23 shows a 13.7% decrease in non-marijuana felony drug arrests of juveniles, coming on the heels of a nearly 40% decrease between 1974 and 1975. Less drug use may be the reason for this, although some observers believe youngsters are becoming more sophisticated and less readily detected in their usage. Optimism may yet be justified when these decreasing drug arrests are reviewed side by side with the results of recent local and national drug usage surveys of youth which indicate a reduction in use of all drugs (with the possible exception of marijuana, depending upon the survey consulted).

#### Driving Under the Influence of a Drug

Arrests of adults and juveniles driving under the influence of a drug in the first half of 1976 increased 46.2% and 71.4%, respectively, over the same period in 1975, although the data do not indicate which drug was used.

A primary social concern about the use of marijuana relates to the qualitative, if not the quantitative, scientific evidence that a person's motor coordination, reaction time, and judgment are often reduced when he or she is intoxicated by marijuana. One of the recent Senate subcommittee hearings on alcoholism addressed the increasingly deadly problem of mixing driving, alcohol and sedatives. The combination of alcohol and marijuana may have similar if less documented detrimental effects on driving. At present, we are totally lacking in information necessary to draw any conclusions regarding any relationship between the increase in driving arrests and the smoking of marijuana.



Appendix 6 describes comparative arrest data for drug and alcohol related vehicle code offenses. Narrative and anecdotal reports from local law enforcement agencies and the California Highway Patrol suggest that the number of drivers using drugs alone or in combination with alcohol has been increasing. The significant change in arrests for Section 23105 of the Vehicle Code (driving under the influence of a drug) is further evidence of this apparent trend among motorists. Unfortunately, the data do not assist us in determining what class of drugs such intoxicated drivers were using.

Whatever part marijuana use plays in this trend -- although it appears to be of a lesser order than use of sedatives alone or in combination with alcohol -- should be closely monitored and vigorously discouraged. Public education efforts pointing out the wisdom of not driving while intoxicated on marijuana should accompany other such campaigns to reduce slaughter on the highways by alcohol and drug users.<sup>1</sup>

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<sup>1</sup> While a test for THC (the active ingredient in marijuana) in the blood is in the developmental stages, it may not be available for law enforcement use for several years. Because marijuana intoxication is difficult to prove in court, it has been pointed out that arrests and particularly prosecutions for 23105 CVC (where marijuana is the only apparent intoxicant) are probably not occurring as often as they would be if physical proof were easily ascertainable.

## B. Use of Marijuana

It was anticipated by both opponents and proponents of SB 95 that reducing marijuana penalties might result in some increased willingness on the part of Californians to experiment with marijuana. A survey conducted by the Field Research Corporation in November, 1976 found that while thirty-five percent of adults report having at least tried marijuana, fourteen percent consider themselves current users. Less than 3% reported that they first tried marijuana within the past year, and only one in eight of this number said they were more willing to try marijuana or to use it more often because penalties have been reduced.

These findings are being compared with the results of a similar survey conducted in February, 1975, before the new law went into effect. The earlier poll (taken 21 months before the current poll) indicated that twenty-eight percent of those surveyed had tried marijuana and nine percent considered themselves current users at that time. Change in usage has not been uniform by age group or region, with notable increases occurring among people between the ages of 30 and 59, and among residents of Southern California and Northern Californians living outside the Bay Area.

MARIJUANA USAGE

	<u>Have Used</u>		<u>Currently Use</u>	
	<u>Feb., 1975</u>	<u>Nov., 1976</u>	<u>Feb., 1975</u>	<u>Nov., 1976</u>
	%	%	%	%
<u>Total Adults</u>	28	35	9	14
<u>By Age</u>				
18-29	54	66	24	31
30-39	35	47	5	16
40-49	10	19	1	4
50-59	6	12	-	2
60 & over	6	5	1	2
<u>By Sex</u>				
Male	34	42	13	18
Female	21	28	6	10
<u>By Area</u>				
Southern California	27	35	8	14
Los Angeles-Orange	25	36	8	15
Other Southern	32	32	10	9
Northern California	29	35	11	14
Bay Area	35	35	15	14
Other Northern	21	35	6	13

The current survey can also be compared to a nationwide survey of non-medical drug use conducted from January through April, 1976. Findings from this National Institute on Drug Abuse survey indicate that 11% of adults in the Western Region of the United States currently use marijuana, with "current use"

defined as use of the drug within the last month.\* When this definition is applied to the November, 1976 California survey for purposes of comparison with the federal survey results, current users comprise only thirteen percent of the California adult population instead of fourteen percent.

The reduction in penalties for possession of marijuana for personal use does not appear to have been a major factor in people's decision to use or not to use the drug. Less than three percent of the people surveyed had first tried marijuana within the past year, since the new law became effective, but only one in eight of these new experimenters or users indicated more willingness to try marijuana because legal penalties have been reduced. In the total adult population, this represents three people out of a thousand. These survey responses are consistent with responses in the February, 1975 survey in which only eight percent of those who did not then currently use marijuana said that fear of legal prosecution was their primary reason. Conversely, in the latest poll, lack of interest was by far the most prevalent reason given by those who had never used marijuana, or had not used it in the past year.

#### REASON FOR NOT CURRENTLY USING MARIJUANA

	<u>February, 1975*</u>	<u>November, 1976</u>
	<u>N</u>	<u>N</u>
Possibility of legal prosecution	8	2
Not available / not exposed	4	2
Not interested / don't need it	50	73
It might be dangerous to my health	38	14
Other reasons	16	7

\*Adds to over 100 percent since some respondents gave more than one reason.

The survey also sought information about the frequency of use among California adults who consider themselves current users. Nearly 60% of persons in this category reported that they currently use marijuana about once a week or less often. The remaining 41% of current users do so a few times a week or more. Compared to the earlier survey results, frequency of use appears to have decreased somewhat, suggesting that the increase in users may include a large proportion of experimenters.

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\*Dr. Ira Cisin, Social Research Group, George Washington University, Washington, D.C., "Nonmedical Use of Psychoactive Substances: Main Findings." Western Region includes California, Oregon, Washington, Arizona, New Mexico, Nevada, Utah, Idaho, Montana, Colorado and Wyoming.

FREQUENCY OF MARIJUANA USECurrent Users

	<u>February, 1975</u>	<u>November, 1976</u>
	<u>N</u>	<u>N</u>
More than once a day	8	13
About once a day	18	6
A few times a week	20	22
About once a week	14	14
2-3 times a month	19	12
Once a month or less	18	31

Unfortunately, a survey of marijuana usage among youth could not be done concurrently with the adult poll. Results from other surveys will be helpful in this regard. The tenth consecutive year of the San Mateo County Survey of Student Drug Use for 1977 will provide some future insight into the comparative change under SB 95. Since 1972, the survey has shown that over 50% of high school seniors had at least tried marijuana and over 30% had used it approximately once a month, on the average. Similar findings among a large national sample of high school seniors show increased use of marijuana between 1975 and 1976, with 53% reporting at least some use in the latter year and 32% reporting use in the last thirty days.\* However, since this study does not deal with California alone, the matter of the SB 95 impact on juvenile drug use will have to be deferred until more data are obtained.

The Drug Abuse Council in 1974 estimated from a national survey that 29 million Americans had tried marijuana, and over twelve million of them were current users. In California in 1976, this latest state survey indicates that more than five million adults have tried marijuana, with over two million of them currently using it.

The self-reported survey data suggest that SB 95 has not been a significant factor in the use of marijuana by California adults. Since experimentation and use of marijuana among high school youngsters is apparently higher than among adults, a future increase in the number of adults who have at least tried it can be anticipated as the younger generation matures. Nevertheless, in 1976, nearly two out of three adults had not tried marijuana, and those who do use it seem to make that choice regardless of government's efforts to discourage its use.

\*Ms. Lilian Blackford, San Mateo Department of Public Health and Welfare, 225 - 37th Avenue, San Mateo, CA 94403, "Summary Report - Surveys of Student Drug Use, San Mateo County, California."

Dr. Lloyd Johnston, 2039 Institute for Social Research, Box 1248, Ann Arbor, Michigan 48106, "Monitoring the Future: A Continuing Study of the Lifestyles and Values of Youth."

### C. Drug Offender Diversion Program

In providing treatment services to drug abusers, most counties considered marijuana-related diversion referrals from the courts as a low priority target population. Probation departments either had to use or develop drug education programs, or they selectively sent divertees to existing outpatient or community services programs.

In 1975, statewide diversions were 85% (20,540) marijuana related and 15% (3,691) hard drug related, while in 1976 diversions were 50% (5,954) marijuana related and 50% (5,979) hard drug related. SB 95 and AB 1274 changed the nature of the diversion program.

#### 1. Drug Program Response to P.C. 1000

A majority of divertees participated in probation or school based drug education classes rather than community treatment programs.

The Drug Offender Diversion Statute (Penal Code 1000 et. seq.) was only one section of Senate Bill 714, the Campbell-Moretti-Deukmejian comprehensive Drug Abuse Treatment Act passed and signed as emergency legislation in December 1972. In that bill, the sum of \$14,344,252.00 was appropriated without regard to fiscal years, to be allocated to the counties by the State Department of Health. Although diversion clients were expected to be a high priority target population, SB 714 created county drug program administrators and advisory committees to plan for and distribute funds based on their community's drug abuse treatment and prevention needs.

From 1973 through 1975, P.C. 1000 was the vehicle for removing nearly 75,000 drug possession offenders from conventional criminal prosecution channels into programs of education, treatment or rehabilitation. For the first three years, almost 85% of these divertees were marijuana offenders, and 86% of all divertees successfully completed their programs and had their charges dismissed. P.C. 1000 has enjoyed broad general approval. Originally given a two year life, the experimental diversion law was renewed for two more years in 1974, and in 1975 it was expanded and renewed until January 1, 1979 by enactment of AB 1274 (Appendix 7).

In 1973 the State Office of Narcotics and Drug Abuse funded a survey of county diversion procedures. In reviewing funding matters, the researchers wrote:

The overall picture we have derived by talking to officials in the larger counties is that for the most part, only a minor percentage of the 714 money is being spent on what are considered 'diversion programs' (i.e., treatment and education programs to which P.C. 1000 divertees are referred).\*

\* Robert Berke and Michael L. Dillard, "Drug Offender Diversion in California: the First Year of Penal Code 1000", January 1974, page 49.

The reasons are not difficult to assess. SB 714 was passed as emergency legislation to deal with the state's "epidemic" drug abuse problem. Treating drug addicts seemed to be the counties' first priority; detoxification, emergency services, methadone maintenance, residential 24-hour care, and outpatient treatment had to take precedence over the treatment, counseling or educational needs of marijuana offenders.

Because we lack the data for a statewide accounting of diversion-targeted drug abuse treatment funds, we have pulled together Table 8, page 28, to provide a combination of drug program survey estimates and probation department diversion data for the fourteen largest counties representing over 85% of diversions statewide. In these counties, approximately 36% (7,462 of 20,859) of the divertees were sent to state funded drug programs. The four largest Bay Area Counties representing 17% of the diversions in this sample used almost no Short-Doyle resources for diversion clients. Less than 1 in 4 of Los Angeles County's diversions representing 39% of the sample, went to state funded Short-Doyle programs. San Diego and Orange together had 27% of the divertees among the largest fourteen counties, and their courts placed two-thirds of their divertees in state funded drug programs.

In Appendix 8 we have calculated the combined diversion drug program costs for Los Angeles, San Diego and Orange Counties, representing 57% of statewide diversions and up to two-thirds of divertees in treatment programs. They received 1975-76 Short-Doyle Drug Abuse allocations of \$4.3 million out of approximately \$10 million allocated statewide. Based on information provided by County Drug Program Coordinators in each county, we estimated that diversion costs in 1975 were \$956,520 to treat or educate 5,607 divertees, including 2,116 hard drug offenders. Average cost was \$171 per person, but those heavily involved in drugs took a greater proportion of drug program resources. Since the average cost of persons served in outpatient drug-free treatment programs is estimated at over \$900 in the 1975 annual report of the Department of Health, Substance Abuse Program, it is clear that the majority of divertees received minimal drug education-type programming, probably commensurate with individual needs.

Although the data are incomplete for the state, the three largest counties appear generally representative of those counties which provided drug program resources to the criminal justice system when thousands of marijuana offenders were in need of some kind of education, treatment or rehabilitation programs. According to probation department information sent to the Bureau of Criminal Statistics, nearly 90% of divertees attended some type of drug education program. Most of them entered large probation or school based drug education classes such as those provided for up to 75% of Los Angeles, Riverside and San Bernardino County divertees and nearly all divertees in Contra Costa and San Francisco Counties.

In general, drug program resources used for social and recreational marijuana divertees were minimized in most counties. The reduction in marijuana divertees resulting from enactment of SB 95 had a marginal effect on the need for statewide drug abuse programming, but the expansion of P.C. 1000 under AB 1274 meant that programs which had been serving large numbers of marijuana divertees would have to restructure themselves to receive a lesser number of more heavily drug-involved clients.

## 2. The New Diversion Program

On the whole, any SB 95 related reduction in drug treatment program effort in handling diverttees has been offset by program referrals from the courts as a result of substantial increases in hard drug arrests and diversions.

AB 1274 could be viewed as an additional statement of legislative intent about the diversion program. In 1974 the California Supreme Court discussed the purpose of diversion in part as a program which "permits the courts to identify the experimental or tentative user before he becomes deeply involved in drugs...". Although the original statute included for diversion eligibility the possessor of narcotics or dangerous drugs, it was overwhelmingly a marijuana program in most counties. The law and the courts specifically excluded persons charged with Section 11550 H&S (under the influence of heroin). AB 1274 now includes this offense, and many counties are handling a significant proportion of addicts.

Table 7, page 27, and Appendix 8 provide a breakdown of diversion offenses as reported by county probation departments. Overall, between 1975 and 1976, the diversion population was reduced by 14,586 marijuana offenders and increased by almost 2,300 hard drug offenders including over 2,000 heroin addicts. These figures are consistent with 1976 arrest statistics.

In comparing drug program costs in 1976 with those in 1975, we return to data provided by Los Angeles, San Diego and Orange Counties, which have experienced an even larger proportion of the state's diversions and treatment program requirements. Estimated Short-Doyle Drug Abuse funds used for diversion in 1976 are slightly over \$1,000,000 for the three counties to serve a diversion population of 3,964, down nearly 30%, but including an estimated 1,200 heroin addicts. Average cost is \$253 per diverttee, but again this is considerably lower than costs estimated at over \$900 per client in outpatient, drug-free Short-Doyle programs. Since this data is based on the first half of 1976, it does not take into consideration the increased time and effort needed to treat more heavily involved drug abusers. In short, our diversion data, though incomplete, shows that while SB 95 may have reduced somewhat the enrollments in programs serving marijuana diverttees, the enactment of AB 1274 and the increased arrests of hard drug offenders have more than offset any savings to the state's drug abuse program.

The evolution of the Drug Offender Diversion Program is reflective of the strong interdependence between the criminal justice system and the drug abuse treatment system. As the courts have shown less inclination to simply incarcerate drug abusers in recent years, diversion has been one mechanism for placing such individuals under supervision and in community treatment programs. Where diversion has been inappropriate for some offenders, and a conviction is obtained, there has been no reduction in the courts' needs in 1976 for treatment alternatives for drug abusers.

#### D. Revenue to State and Local Government

It is estimated that the State General Fund will receive \$818,000 in fine and bail forfeiture money for marijuana possession offenses in 1976, an increase of approximately \$361,000 over the previous year. County and city general funds will share an estimated \$120,000 in additional revenue.

Prior to SB 95, many counties had been exacting a fine against marijuana possession offenders. Under Section 11502 H&S, 75% of all fines and bail forfeitures for violations of Division 10 of the Health and Safety Code are required to be sent by the county treasurer to the State General Fund, and the remaining 25% goes to the city general fund if the offense occurred in a city, or is kept by the county general fund if the offense occurred in an unincorporated area. This mechanism for distributing these revenues was not changed by SB 95.

According to the State Controller's Office, approximately \$695,000 was remitted to the State under Section 11502 H&S from January through September 1975. For the same period in 1976 the State received \$1,227,000, an increase of 79%. We had to estimate the SB 95 impact because the State Controller does not have a breakdown of funds collected by offense. Sacramento and Los Angeles Counties assisted with more detailed information.

The Sacramento County Municipal Courts sent a total of \$5,453 to the State from January through September 1976, compared to \$2,422 for the same period in 1975. Nearly all of it was for marijuana possession. On the other hand, from January through September 1976, Los Angeles sent \$265,964 to the State, but only 33% (\$87,923) was for marijuana possession offenses. Submissions for the same period in 1975 from Los Angeles were \$116,221 total, with \$45,132 identified as marijuana possession fines.

If we estimated that one half of all 11502 H&S revenue collected is for marijuana possession offenses, the extrapolated 1976 total amount would be \$818,000, while the same calculations for 1975 give us \$457,000 revenue collected. We therefore estimate that marijuana possession revenues collected by the State under SB 95 will increase \$361,000, or 79%.



## E. Impact of SB 95 on State Agencies

## 1. Department of Justice

The impact of SB 95 on the State agencies has been minimal except for the Bureau of Identification in the Department of Justice. It was anticipated in the Department of Finance analysis of SB 95 that there would be a savings in the Bureau of approximately \$286,000 because one ounce marijuana cases would no longer be booked and fingerprinted, and therefore records would not be sent to Sacramento. As a result, twenty-five positions were reportedly reduced in the Bureau in the 1976-77 budget. Our data shows that for adults, over 24,000 were arrested and booked for possession of marijuana in the first half of 1975 but in the same period in 1976 only approximately 4,000 were arrested and booked for possession of concentrated cannabis or marijuana.

Record destruction provisions covering over half a million prior marijuana arrestees resulted in 500 court orders in the Bureau of Identification, and they are being held pending a Supreme Court decision on the constitutionality of the provisions themselves. The SB 95 requirement for automatic destruction of marijuana records in two years for 1976 and later cases, established the need to create a record identification system for destroying those records.

## 2. Department of Youth Authority

The Youth Authority compared adult and juvenile wards committed in the first three quarters of 1976 with the same period in 1975 for all marijuana offenders. In 1975 there were 31 commitments for possession and possession for sale of marijuana compared to 13 through September of 1976. For other marijuana charges, there were 20 commitments compared to 6. The Youth Authority Director attributed the decrease in numbers to a general change in the orientation of the courts regarding marijuana, rather than to SB 95 directly.

## 3. Department of Corrections

The Department found no significant change in commitments for possession of small amounts of marijuana, because they were negligible in number before SB 95. Possession of marijuana among inmates is still a felony, and among parolees the citation offense appears to be treated with about the same concern as the felony arrest in 1975 for the same offense. At the beginning of 1976 no more than 5 or 6 individuals in the Department of Corrections system were found to fall under offense sections of SB 95, and they were discharged. Finally, the record destruction provisions of SB 95, should they be sustained by the Supreme Court, are expected to have a significant impact on the Department's Records Section.

## 4. Department of Motor Vehicles

The primary impact of SB 95 on the Department of Motor Vehicles falls in the area of record purge and destruction requirements of the legislation. It was estimated by the Department that the increased costs

to modify and then maintain their records system is \$15,000 annually. Because of the relatively few marijuana record destruction petitions received in 1976, anticipated workload and costs in this area, as with the Department of Justice, have not materialized.

#### 5. California Highway Patrol

Arrests and citations made by the Highway Patrol for possession of marijuana are included in our data by county. They recently announced an increase of arrests and citations in the first ten months of 1976 of 5,425 compared to 4,295 in the same period of 1975. Even with this 26% increase, it would appear that overall reduced costs of handling the citation cases would leave a net savings in total workload and costs to the Highway Patrol.

## IV. PUBLIC ATTITUDES TOWARD THE MARIJUANA LAW

Having looked at the impact of SB 95 from a number of points of view -- enforcement, costs, usage, drug treatment, and revenue -- it remains to address the all-important question of what Californians think about the law. In the Field Research Corporation's survey of November 1976, results show that one in four California adults favor the approach of the new state law. A more liberal position of legalizing the sale or possession of a small amount of marijuana was taken by 38% of those responding, while 29% favored stiffer penalties.

The survey consisted of 1,033 personal in-home interviews representing a cross section of the California adult population. Interviews were conducted between November 13-24, 1976, and consisted of both attitudinal questions and the questions of marijuana usage addressed in an earlier section of this report.

When asked their opinion about what the law with regard to marijuana should be, younger adults and those who had used marijuana took a more liberal view. However, as depicted in the table below, except for those adults over 60 years old, every age group preferred either the present law or legalization. It is striking that among those who reported never having used marijuana, a minority favored stiffer penalties, with 27% favoring the current law and 19% preferring legalization. Among current users, 88% prefer legalization.

ATTITUDE TOWARD MARIJUANA LAW

	Possession & Sale of Small Amounts <u>Legal</u>	Possession of Small Amounts <u>Legal</u>	Law Remain <u>As is</u>	Stiffer Penalties
	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>
<u>Total Adults</u>	16	22	23	29
<u>By age</u>				
18-24	30	26	20	19
25-29	31	24	19	12
30-39	20	27	21	29
40-49	14	17	28	34
50-59	6	22	29	35
60 & over	2	16	22	43
<u>By area</u>				
Southern California	17	18	25	31
Los Angeles-Orange	19	19	25	29
Other Southern	13	16	25	37
Northern California	15	27	21	27
Bay Area	16	26	24	24
Other Northern	14	27	17	31
<u>By usage</u>				
Have used, not now	20	35	26	17
Now use	54	34	10	--
Never used	5	14	27	42

We were also interested in the public's knowledge of the marijuana law, since the State Office of Narcotics and Drug Abuse launched a media effort just prior to January, 1976 to inform the public that marijuana had not been legalized under SB 95. A majority (54%) of all survey respondents knew that possession of a small amount was a misdemeanor with a maximum \$100 fine, but more than one in four believed it had been legalized. Among current users, over 80% knew what the law is, but one in five believed SB 95 had removed all criminal sanctions on their use of marijuana.

Overall, public attitudes about marijuana have moved in parallel with the numbers who have tried and who currently use marijuana. Even those who do not use the drug seem to be adopting more liberal views toward the law. If such surveys are to be relied on for clues to the concerns of the public, it would appear that the marijuana issue has declined in the level of intensity it had two years ago when SB 95 was debated in the Legislature.

TABLE 1

A COMPARISON OF ADULT AND JUVENILE\* FELONY ARRESTS AND MARIJUANA FELONY ARRESTS.

<u>YEAR</u>	<u>TOTAL ADULT FELONY ARRESTS</u>	<u>TOTAL ADULT FELONY MARIJUANA ARRESTS</u>	<u>MARIJUANA % OF TOTAL</u>
1970	214,836	44,718	20.8%
1971	229,476	42,745	18.6%
1972	240,231	52,027	21.7%
1973	239,395	58,456	24.4%
1974	267,904	66,641	24.9%
1975	265,816	59,408	22.3%

<u>YEAR</u>	<u>TOTAL JUVENILE FELONY ARRESTS</u>	<u>TOTAL JUVENILE FELONY MARIJUANA ARRESTS</u>	<u>MARIJUANA % OF TOTAL</u>
1973	118,629	29,654	25.0%
1974	134,517	32,956	24.5%
1975	127,842	26,349	20.6%

\*Data for 1973, 1974 and 1975 for juveniles is not comparable with data of prior years because of offense group changes.



**CONTINUED**

**6 OF 7**

TABLE 2  
ADULT DRUG ARRESTS

	TOTAL 1975	FIRST HALF 1975	FIRST HALF 1976	% CHANGE
ALL MARIJUANA (1)	59,408	30,033	17,171	-42.8%
Possession	48,193*	24,351*	12,913*	-47.0%
11357 a (concentrated)			2,203*	
11357 b (1 ounce or less)			8,944	
11357 c (>1 ounce)			1,750	
11360 c (1 ounce or less)			16	
Cultivation (2)	5,355*	2,706*	1,436*	-46.9%
Trafficking (3)	5,860	2,976	2,827	-5.0%
OTHER FELONY DRUGS (4)	33,161	15,786	18,621	+18.0%
OTHER MISDEMEANOR DRUGS (5)	25,821	12,725	14,143	+11.1%
11364 (Paraphernalia)	3,630	1,800	1,127	-37.4%
11365 (In & About)	3,749	1,979	373	-81.2%
11550 (Under Influence)	8,589	4,077	6,041	+48.2%
23105 (Driving Under Influence Drugs)	4,616	2,228	3,258	+46.2%
Other	5,237	2,641	3,344	+26.6%
TOTAL	118,390	58,544	49,935	-14.7%

\*\*\*\*\*

- (1) Marijuana figures for both years were derived from Bureau of Criminal Statistics monthly arrest and citation register agencies representing 70.358% of total adult marijuana arrests.
- (2) BCS categorized marijuana possession (11357 H & S) and cultivation (11358 H & S) together in 1975 and prior years. We estimated that one of ten of the combined number were cultivation arrests. For 1976, BCS put cultivation in with 11357a (concentrated cannabis). Our 10% estimate for cultivation results in an estimate that nearly 40% of 11357a arrests in 1976 are for cultivation.
- (3) Marijuana trafficking includes 11359 H & S (possession for sale); 11360 H & S (sale, importing or transporting) and 11361 H & S (involving a minor in sales or use).
- (4) Other felony drug figures for both years were derived from BCS arrest and citation register agencies representing 77.24% of total other felony drug arrests.
- (5) Figures for the misdemeanor offenses were derived by using arrest and citation register offenses as representing 66.6% of the state total.

\* Based on Los Angeles Police Department arrest figures for cultivation, compared to possession, we estimated these numbers - See note (2) above.



TABLE 3  
JUVENILE DRUG ARRESTS

	TOTAL 1975	First Half 1975	First Half 1976	% CHANGE
ALL MARIJUANA (1)	26,349	13,808	12,000	-13.1%
Possession	23,807*	12,527*	10,675*	-14.8%
11357 a (concentrated)			1,151*	
11357 b (1 ounce or less)			7,697	
11357 c (>1 ounce)			1,813	
11360 c (1 ounce or less)			14	
Cultivation (2)	1,252*	659*	562*	-14.7%
Trafficking (3)	1,290	622	763	+22.7%
OTHER FELONY DRUGS (4)	3,158	1,661	1,434	-13.7%
OTHER MISDEMEANOR DRUGS (5)	7,443	4,156	1,411	-66.0%
11364 (Paraphernalia)	1,813	958	110	-88.5%
11365 (In & About)	3,601	2,093	140	-93.3%
11550 (Under Influence)	954	551	394	-28.5%
23105 (CVC-Driving Under Influence Drugs)	236	105	180	+71.4%
Other	839	449	587	+30.7%
TOTAL	36,950	19,625	14,845	-24.4%

\* \* \* \* \*

- (1) Marijuana figures for both years were derived from Bureau of Criminal Statistics monthly arrest and citation register agencies representing 79.86% of the total juvenile marijuana arrests statewide. The figures in this table are extrapolated from that 79.86% sample of the state and coincide with the totals found in Dept. of Justice, Bureau of Criminal Statistics, Crime & Delinquency in California, 1975.
- (2) The Bureau of Criminal Statistics combined marijuana possession (11357 H & S) and cultivation (11358 H & S), in 1975 and in prior years. They currently combine concentrated cannabis (11357 H & S) with cultivation. For juveniles it was estimated that 5% of the combined figures were actually cultivation arrests.
- (3) Trafficking offenses include 11359 H & S (possession for sale), 11360 H & S (sale, importing or transporting), and 11361 H & S (involving a minor in sale or use).
- (4) 65.55% of the other felony drug arrests are on the arrest register. The statewide figures here are derived by extrapolating to 100%.
- (5) Misdemeanor drug offenses on the BCS register for 1975 and 1976 represent 65.54% of total arrests in this category. The figures above were derived by dividing the arrest register figure by .6554.

\* Based on Los Angeles Police Department and other data for cultivation arrests, we estimated these figures - See note (2) above.

TABLE 4  
ADULT  
MARIJUANA POSSESSION AND  
CULTIVATION ARRESTS AND CITATIONS  
IN SELECTED COUNTIES (1)

COUNTY	---MARIJUANA POSSESSION & CULTIVATION-----			% CHANGE
	Full 1975	1st Half 1975	1st Half 1976	
<u>Southern California</u>				
Los Angeles *	15,373	7,925	3,926	- 50.5
Orange *	3,577	1,477	1,429	- 3.2
Riverside	1,287	699	532	- 23.9
San Bernardino	1,674	857	326	- 62.0
San Diego *	1,809	906	594	- 34.4
Santa Barbara *	307	154	73	- 52.6
Ventura *	331	181	182	+ .6
<u>Bay Area</u>				
Alameda *	1,739	863	412	- 52.3
San Francisco	746	433	114	- 73.7
Santa Clara *	948	473	179	- 62.2
Contra Costa *	1,078	564	218	- 61.3
San Mateo	743	374	137	- 63.4
Marin	306	155	75	- 51.6
Solano	447	228	118	- 48.2
<u>Central California</u>				
Fresno *	385	111	81	- 27.0
Kern	886	412	236	- 2.7
Merced	308	182	99	- 45.6
San Joaquin	454	241	66	- 72.6
Stanislaus	533	261	151	- 42.1
Sacramento	916	480	278	- 42.1
Monterey	326	157	96	- 38.9
Santa Cruz	350	155	132	- 14.8
<u>Other Counties</u>	3,152	1,749	641	- 63.4
TOTAL	37,675	19,037	10,095	- 47.0
(1) Data does not include approximately 30% of the state's marijuana possession arrests by agencies which were not on the Bureau of Criminal Statistics arrest register in both 1975 and 1976. Totals are not complete for the starred (*) counties, but those agencies which reported in both years can be compared in the incomplete counties as well as in the complete counties.				

TABLE 5  
OBIS DATA AVAILABLE  
FELONY ARREST DISPOSITION SUMMARY: POSSESSION AND CULTIVATION OF MARIJUANA OFFENSES  
77.2 PERCENT OF THE STATE  
JANUARY 1, 1975 THROUGH DECEMBER 31, 1975

Not Convicted			Convicted		
Total not convicted.....	28,910	70.1	Total convicted.....	12,330	29.9
Released by law enforcement.....	1,341	3.3	Lower court (misdemeanor complaint).....	10,819	26.2
Complaint denied by district attorney or city attorney.....	5,604	13.6	Lower court (felony complaint).....	895	2.2
Dismissed, acquitted, juvenile remand, diverted, etc.....	21,965	53.2	Superior court.....	616	1.5
Lower court (misdemeanor complaint)...	19,399	47.0			
Lower court (felony complaint).....	1,933	4.7			
Superior court.....	633	1.5			

		Sentenced (convicted)								
		Total	Prison	CRC	CYA	Straight Probation	Prob. & Jail	Jail Only	Fine Only	Other
Number	Total.....	12,330	19	2	10	5,854	2,318	1,631	2,494	2
	Lower court (misdemeanor comp)...	10,819	-	-	1	5,100	1,881	1,458	2,377	2
	Lower court (felony complaint)...	895	-	-	-	467	211	111	106	0
	Superior court.....	616	19	2	9	287	226	62	11	0
Percent	Total.....	29.9	0.0	0.0	0.0	14.2	5.6	4.0	6.1	0.0
	Lower court (misdemeanor comp)...	26.2	-	-	0.0	12.4	4.6	3.5	5.8	0.0
	Lower court (felony complaint)...	2.2	-	-	-	1.1	.5	.3	.3	-
	Superior court.....	1.5	0.0	0.0	0.0	.7	.5	.2	0.0	-

Note: Percentages may not total to 100.0 percent due to rounding.

TABLE 6

COMPARATIVE CRIMINAL JUSTICE DISTRIBUTION  
OF MARIJUANA POSSESSION AND CULTIVATION OFFENSES

PROCEDURE	FIRST HALF OF 1975		FIRST HALF OF 1976		TOTAL	%
	TOTAL	%	11357 a & c & 11358 H&S	11357b& 11360c		
Custody Arrest	27,057		5,127	48	5,175	
Citations	-		262	8,512	8,774	
TOTAL	27,057		5,389	8,560	13,949	
Prosecutions (83.1%)	22,484	83.1%	4,478	-	4,478	% of
Prosecutions of Citations (90%)	-	of	-	7,704	7,704	arrests
TOTAL	22,484	arrests	4,478	7,704	12,182	87.3%
		% of				
Court Processing	22,484	prosecutions	4,478	7,704	12,182	% of pro-
						secutions
Diverted	13,824	61.5%	2,031	484	2,515	20.6%
Dismissed, etc.	465	2.1%	94	UNK	UNK	
Acquitted	115	.5%	22	UNK	UNK	
Convicted by trial	156	.7%	94	UNK	UNK	
Pled guilty or nolo	7,924	35.2%	2,237	UNK	UNK	

TABLE 7  
DRUG DIVERSIONS BY OFFENSE CATEGORY\*

OFFENSES	1973-74**	%	1975***	%	1976****	%
MARIJUANA - TOTAL	24,840	77.5	11,174	76.1	2,319	48.9
11357 H & S (possession)	24,840	77.5	11,174	76.1	1,605*****	33.8
11357b H & S (1 oz. or less)	-	-	-	-	389	8.2
11358 H & S (cultivation)	-	-	-	-	325	6.9
"HARD" DRUG OFFENSES-TOTAL	3,541	11.0	1,688	11.5	2,232	47.1
11350 H & S (poss.narc.)	1,933	6.0	494	3.4	487	10.3
11377 H & S (poss.dang.drugs)	1,608	5.0	1,194	8.1	907	19.1
11550 H & S (under infl.)	-	-	-	-	838	17.7
OTHER DRUG OFFENSES - TOTAL	3,399	10.6	1,784	12.2	192	4.0
11364 H & S (paraphernalia)	1,180	3.7	879	6.0	-	-
11365 H & S (visiting)	1,703	5.3	826	5.6	-	-
Other	516	1.6	79	.6	-	-
NON-DRUG OFFENSES	284	.9	34	.2	-	-
TOTALS	32,064	100.0	14,680	100.0	4,743	100.0

-27-

- \* Numbers are not comparable across years because Los Angeles County data was not available for 1973-1975, and Alameda County data was not collected in 1975.
- \*\* The 1973-74 total represents 63% of the diversions, and excludes approximately 18,859 Los Angeles County diversions. Because an estimated 69.8% of Los Angeles diversions were for marijuana, the actual statewide percentage of marijuana diversions for 1973-74 would be  $18,859 \times .698 = 13,164 + 24,840 = 38,004 \div (32,064 + 18,859 = 50,923) = 74.6\%$  rather than 77.5%.
- \*\*\* The 1975 total represents 60.5% of the diversions, and excludes 1,475 Alameda County diversions and approximately 8,125 Los Angeles County diversions. Applying the Alameda County marijuana percentage for 1974 of 81.3% to 1975, and the 69.8% figure for Los Angeles, we can calculate a revised statewide marijuana percentage of  $(1,475 \times .813 = 1,199) + (8,125 \times .698 = 5,671) + 11,174 = 18,044 \div (14,680 + 1,475 + 8,125 = 24,280) = 74.3\%$  rather than 76.1%.
- \*\*\*\* The 1976 figures represent 83.7% of the diversions in which the offense is known for the April through September period. Total known diversions for 1976 are 8,914 through September. We can add an estimated 36 diversions for about a dozen counties which did not report all or part of 1976, to bring the total to 8,950. If we project this 9 month total to twelve months  $(8,950 \div .75)$ , we can estimate that there will be 11,933 diversions in 1976.
- \*\*\*\*\* This figure includes diversions coded by the probation departments as 11357, 11357(a) or 11357(c) H & S.

**TABLE 8**  
**DIVERSION PROGRAM DATA - LARGEST COUNTIES**

COUNTY	NUMBER DIVERTED			CLIENTS IN STATE-FUNDED PROGRAMS (a)			% OF DIVERSION CLIENTS IN STATE-FUNDED PROGRAMS			% OF "HARD DRUG" DIVERTEES IN STATE-FUNDED PROGRAMS		
	1974	1975	1976*	1974	1975	1976*	1974	1975	1976*	1974	1975	1976*
Los Angeles	9,954	8,125	2,872	1,656	1,861	686(c)	16.6%	22.9%	31.7%(c)	21.5%	32.1%	41.8%
San Diego	4,556	3,428	838	4,075	2,306	1,055	89.4%	67.3%	100.0%	31.0%	54.0%	57.0%
Orange	3,398	2,242	953	1,945	1,440	673	57.2%	64.2%	70.6%	15.0%	19.0%	36.0%
Alameda	1,558	1,475	430	X	X	X	---	---	---	---	---	---
Santa Clara	1,222	1,059	498	X	X	X	---	---	---	---	---	---
San Bernardino	1,132	703	302	UNK.	UNK.	UNK.	---	---	---	---	---	---
Contra Costa	857	629	203	0		0	---	---	---	---	---	---
Riverside	739	672	172	195	225	85	26.4%	33.5%	43.6%	19.4%	16.3%	31.2%
Sacramento	549	477	126	572	486	162	100.0%	100.0%	100.0%	10.0%	3.0%	90.0%
San Mateo (b)	517	540	152	408	559	355	78.9%	100.0%	100.0%	22.0%	20.8%	82.8%
Ventura	524	377	142	0	0	0	---	---	---	---	---	---
San Francisco	493	458	131	X	42	80	---	9.2%	61.1%	---	42.0%	67.0%
Santa Barbara	495	338	67	419	284	41	84.6%	84.0%	61.2%	0	6.0%	22.0%
Kern	378	336	120	289	259	57	76.5%	77.1%	77.5%	31.0%	36.0%	86.8%
TOTAL	26,372	20,859	7,006	* January-August, 1976; X These counties only occasionally use treatment programs for divertees.								
% of State	86.5%	85.9%	88.0%									

(c) Since Los Angeles County drug program clients are only counted through June of 1976, we calculated the percentage by dividing 686 by 2,166, the number of diversions in Los Angeles through June, 1976.

APPENDIX 1CALIFORNIA'S NEW MARIJUANA LAWSB 95, CHAPTER 248, STATUTES OF 1975

(Record destruction provisions modified by AB 3050, Chapter 952, Statutes of 1976)

1. Possession of one ounce or less of marijuana is a misdemeanor.
  - A. Police will issue a citation for an alleged offender to appear in court. If the individual signs the promise to appear, and properly identifies himself, he will not be fingerprinted or photographed and will not be taken into custody.
  - B. Procedurally there are options left to the local magistrate, and hence, to the alleged offender.
    - 1) If the magistrate sets bail for alleged offenders, those who have no prior convictions for possession of marijuana may choose to forfeit bail and avoid any further proceedings. An alleged offender with such a prior conviction may forfeit bail only if the magistrate determines that requiring a court appearance will cause him undue hardship.
    - 2) If the magistrate decides not to set bail and authorize the above procedures, an alleged offender will appear in court and be apprised of his right to an attorney, his right to test the evidence against him and his right to a speedy trial. He may also be eligible to participate in the Drug Offender Diversion Program (P.C. 1000).
  - C. The maximum fine for conviction is \$100.00.
  - D. After three or more convictions for this offense within a two-year period, the fourth conviction requires the offender to enter the Drug Offender Diversion Program, if a program will accept him.
  - E. All records of the event - the citation, court proceedings, conviction, etc. - will be destroyed or permanently obliterated after two years.
2. Simple possession of more than one ounce of marijuana is a misdemeanor. (Possession of marijuana for sale is a felony.)
  - A. Police have an option to arrest or to cite an alleged offender.
  - B. As in current procedures, an alleged offender is arraigned on the charges and is apprised of his right to an attorney, his right to test the evidence against him and his right to a speedy trial. He may also be eligible to participate in the Drug Offender Diversion Program.

- C. The maximum penalty is six months in county jail and/or \$500.00 fine.
- D. The same records destruction procedures apply as above, including the destruction or permanent obliteration of state "RAP" sheets in the Department of Justice.
- 3. Simple possession of any amount of "concentrated cannabis" may be prosecuted as either a felony or a misdemeanor. Concentrated cannabis is defined as "the separated resin, whether crude or purified, obtained from marijuana". (Includes hashish and hash oil.)
  - A. Police will arrest an alleged offender and take him into custody as a felon.
  - B. The district attorney or the court will determine whether the case will be handled as a misdemeanor or a felony.
  - C. The same rights and court procedures apply as in 2.B. above.
  - D. The maximum penalty is one year in county jail and/or \$500.00 fine, or state prison for one to five years.
  - E. Records destruction provisions do not apply.
- 4. Transporting or giving away one ounce or less of marijuana is treated the same as possessing one ounce or less, except that the diversion provision (1.D. above) is not mentioned.
- 5. It will no longer be unlawful to possess marijuana smoking paraphernalia, nor will it be a violation to visit a place where marijuana is being used.
- 6. While marijuana intoxication in public will still remain a violation, being under the influence of marijuana will no longer be a Health and Safety Code violation with a mandatory minimum ninety-day jail sentence.
- 7. Any person who was arrested and/or convicted of a marijuana possession or specified misdemeanor marijuana offense prior to January 1, 1976, can have certain arrest, citation and court records destroyed or permanently obliterated.
  - A. The procedure begins with an application to the California Department of Justice.
  - B. The Department, upon verifying the applicant's identity and offense, and upon the applicant's payment of not more than \$37.50, shall notify the Federal Bureau of Identification of the destruction of the records, and shall destroy its own records and request that the appropriate law enforcement agency, probation department and Department of Motor Vehicles destroy their records. The petition and order itself will also be destroyed.



8. No marijuana record over two years old which is subject to destruction under these provisions shall be deemed an accurate or relevant record. No employer may ask a potential employee about an arrest or conviction for such a marijuana offense more than two years from the date of its occurrence.
9. Diversion under Penal Code Section 1000 et. seq. remains an option for qualified offenders charged with any of the three marijuana sections (1, 2 or 3 above).

APPENDIX 2SB 95 AND THE 1976-77 DRUG ABUSE BUDGET

Early in 1976 the Legislature held hearings on the Governor's proposed 1976-77 budget. Because the budget has to be presented well before the effects of new legislation can be determined, recommended budgetary changes based on recently enacted legislation are necessarily founded on assumptions and projections. Some assumptions were made about the effects of California's new marijuana law (SB 95-Moscone) as it relates to the need for community drug treatment programs for persons diverted by the courts under the Drug Offender Diversion Statute (Penal Code 1000, et. seq.). Specifically, under Item 286 in the proposed budget for the State Office of Narcotics and Drug Abuse, page 695, it was stated that "Legislation passed in 1975-76 will reduce the number of persons apprehended for possession of marijuana and enable the reduction of \$1,500,000 currently budgeted for marijuana diversion programs."

The history of this proposed \$1.5 million cut in the Short-Doyle drug abuse budget began when Department of Health analysts working on budgetary matters made some assumptions about the impact of Senate Bill 95, the marijuana reform measure signed by the Governor on July 9, 1975 (Chapter 248). The first assumption was that persons cited for possession of one ounce or less would no longer choose to participate in the Drug Offender Diversion Program in lieu of a small fine.

The second assumption was that the need for drug programs would decrease commensurately. As these assumptions related to drug abuse program funding, the corollary supposition followed that the counties had been using a significant portion of their Short-Doyle allocations to fund programs which were treating or counseling marijuana diverttees. While the decrease in marijuana diversions was evident at the time of the hearings, the assumptions about marijuana-related program funding, and more significantly, county drug program needs, were seriously questioned by county drug program administrators and others at the time of the budget hearings.

Additionally, there was evidently no consideration given during the budget preparation to the impact of Assembly Bill 1274 (Sieroty), signed on October 1, 1975 (Chapter 1267). This bill expanded the number of divertible offenses to include cultivators of marijuana and persons prosecuted for 11550 H&S, for being under the influence of narcotics. It was not anticipated that the additional number of persons diverted as a result of AB 1274 would offset the large numbers of marijuana possessors who would prefer a small fine to diversion. However, at the time of the Legislative hearings on the drug budget, preliminary diversion data for January and February 1976, indicated that individuals who were more heavily involved in hard drugs were being diverted by the courts, thereby requiring more intensive drug treatment resources in many communities.

These issues surfaced during Legislative hearings on the drug abuse budget in February and March 1976. There was a great deal of resistance to the proposed budget cut from public health and local government officials who perceived it as a threat to the very existence of already overcrowded drug treatment programs. Following considerable testimony from county drug program coordinators and administrators, as well as a large number of current and former addicts, the Legislature agreed to restore the proposed \$1.5 million reduction in the drug abuse budget. However, it was requested that the Department of Health and the Department of Justice prepare a report on the effects of the new marijuana law, in time for the Legislative Analyst to include a review of the report in the analysis of the 1977-78 budget bill. This report is submitted in response to that request.

APPENDIX 3ARREST AND CITATION DATA

There are a number of reasons why we must qualify the statewide arrest and citation data upon which a part of this report is based. First, in the collection of data from law enforcement agencies by the Department of Justice, Bureau of Criminal Statistics, a system is used for counting multiple offenses. For coding purposes, to avoid counting an offender more than once, the Bureau uses a hierarchy system for capturing in the data only the most serious offense in each incident. For example, marijuana possession in 1975 was a felony arrest, the penalty being a possible ten years in state prison. If an individual was arrested for possession of a concealed weapon, or driving under the influence of a drug, both misdemeanors, and he or she had an ounce of marijuana in a pocket or purse found at the time of detention or during the booking search, the marijuana offense would go into the data system, with the weapon or driving offense lost statistically. By way of contrast, under SB 95, the same incident would result in the marijuana citation being lost statistically because it is a low-level misdemeanor. We tried to determine how this hierarchy data collection system would affect our comparative data.

From 34 of the state's largest law enforcement agencies, we received estimates on the type of marijuana-related cases they are encountering under SB 95:

1. Out of 100 marijuana incidents encountered this year by your department, estimate the percentage of each type of case (Categories A through H will be used to describe types of cases below.).

A. 11357b (one ounce or less) offense only	47.6%
B. 11357c (more than one ounce) offense only	9.0%
C. 11357b plus additional traffic infraction	10.4%
D. 11357c plus additional traffic infraction	1.8%
E. 11357b plus additional misdemeanor offense	16.2%
F. 11357c plus additional misdemeanor offense	2.7%
G. 11357b plus additional felony offense	7.3%
H. 11357c plus additional felony offense	5.0%

100.0%

According to these estimates, 68.8% of all the marijuana possession offenders are arrested or cited either solely for the marijuana, or are stopped for an additional traffic infraction which presumably would not result in a custody arrest. At the other extreme, the estimated 12.3% of marijuana incidents occurring in conjunction with felonies are definitely not reflected in the data in 1976, but would probably not be reflected in the data in 1975 either because most other felonies were considered more significant than possession of marijuana, and carried a more severe penalty. Therefore, for our purposes, approximately 81% of the statewide arrest and citation data are validated for comparison in both 1975 and 1976 despite the hierarchy system.

Our concern regarding arrest coding rests with the estimated 19% misdemeanor offenses occurring in conjunction with a marijuana offense. In 1975, 100% of these incidents would presumably have been counted as marijuana arrests, whereas in 1976 the one ounce misdemeanor citations are not being counted. Additionally, for the 11357c misdemeanors, we can estimate that half will be lower than the concurrent other misdemeanor, and half higher.

We can use the law enforcement estimates above and the adult arrest data from Table 2 to calculate a potential difference in 1975 and 1976 half year arrest data resulting from the Bureau of Criminal Statistics hierarchy data collection system. We have 8,944 citations for 11357b counted in the data. If there are another 16.2% of the total citations which are not counted, then 8,944 represents only 83.8% of the citations, and there should be an additional 1,729 11357b citations for a total in the first six months of 1976 of 10,673. If we do the same type of computation for the 11357c cases, we estimate that 1,750 arrests in our data are 97.3% of the total, with 49 cases which occur in conjunction with other misdemeanors. Estimating that half of the other misdemeanors are of a higher level than the 11357c H&S offense, an estimated 25 cases might be lost to the data in the first half of 1976 which would have been included in 1975. If we add 1,729 - 11357b and 25 - 11357c offenders to the 1976 data, it would increase the 12,913 possession cases to 14,667.

If we used this new 1976 figure in calculating the difference between arrests and citations in the first half of 1975 and arrests in 1975, the percentage decrease in enforcement in the two years would be 39.8% instead of 47.0%. We thus estimate that possibly 7.2% of the marijuana possession arrests and citations for adults are being lost statistically in 1976 which would have been counted in 1975. However, because of the speculative nature of these computations, we will use the original data figures in further analyses.

A second reason to be cautious about drawing definitive conclusions based on the comparison of half year 1975 with half year 1976 arrest register arrests is that all of the data for both years was not available from such large law enforcement agencies as the Los Angeles, Orange, Alameda, Ventura and San Diego County sheriff's departments, and the Long Beach, San Diego, Oakland and San Jose city police departments, among others. The reason these agencies are missing in the comparative data is that they had not yet been reporting individual arrests on the Bureau's monthly arrest and citation register in 1975. While our data include the same law enforcement agencies for both years, there are reports to suggest that inclusion of several of these large agencies might require some modifications of the percentage change between our 1975 and 1976 data. However, it does not appear that such agencies are moving contrary to the overall trend toward reduction of enforcement of the marijuana possession laws.

We offer two further comments to qualify the data presented. The arrest and citation data for the first six months of 1976 may not ultimately represent half of the year's arrests and citations. It has been pointed out by more than one law enforcement observer who noted the reduced level of arrests and citations early in 1976, that police and sheriff's departments got off to a slow start under the new law. This assertion is borne

out by the data when the first quarter of the year is compared to the second quarter. Of the 10,095 arrests and citations in 1976 for marijuana possession and cultivation on the Bureau of Criminal Statistics' monthly arrest and citation register, 4,334 or 42.8% occurred in January through March, while 5,761 or 57.2% occurred in April, May and June.

And finally, a healthy suspicion about the short-term results of a data collection system of the magnitude employed in California should be one tool of the analyst, particularly when a new law creates new reporting requirements. For example, the possibility exists that some marijuana citations are not being recorded by law enforcement because of their low status. Also, the record destruction provisions of SB 95 have reportedly encouraged many agencies to avoid the necessity of creating certain records at all.

While none of the data qualifications discussed in this appendix should be ignored, the very considerable data used as a basis for report findings indicate a significant decrease in marijuana possession offenders arrested or cited in 1976 compared to arrests in previous years.

APPENDIX 4CRIMINAL JUSTICE COSTS

If we look only at the reduced number of individuals arrested for possession of marijuana between 1975 and the first half of 1976, we would expect a significant decrease in fiscal costs and workload at each stage of the criminal process. A survey of law enforcement agencies and district attorneys will provide assistance in comparing 1976 with 1975 criminal justice processing costs. However, the data in this section is derived from rough estimates, and therefore should be taken as qualitative trend information rather than a conclusive quantitative cost analysis.

Law Enforcement Costs

In the report of the California Senate Select Committee on the Control of Marijuana, it was estimated that the 1972 cost of an arrest was \$171. The basic method used to calculate this figure was developed by the Legislative Analyst and the Bureau of Criminal Statistics by estimating that 25% of law enforcement costs were for criminal activity prevention, and 6% of felony and misdemeanor arrests were for marijuana. If we update this \$171 per case cost by the 30% increase in law enforcement expenditures since 1972, a more accurate figure would be \$222 per arrest in 1975-76. The custody arrest of 24,351 adult marijuana possessors therefore generated a cost to local enforcement agencies of approximately \$5,405,922 ( $24,351 \times \$222$ ) in the first half of 1975. By comparison, for the same time period in 1976, the custody arrest costs for 3,811 marijuana offenders would be \$846,042 ( $3,811 \times \$222$ ).

The numbers of marijuana offenders are summarized below:

	First Half 1975	First Half of 1976		
	11357	11357a&c	11357b & 11360c	Total
Custody Arrests	24,351	3,761	50	3,811
Citations		191	8,910	9,102
TOTAL	24,351	3,953	8,960	12,913

The cost of issuing a citation appears to be significantly less than a custody arrest. A California Highway Patrol representative estimated that one and a half hours is required to transport and book a suspected felon in the nearest jail. Because of distance it may be less time for local police departments. We got some very rough estimates of processing times for 11357b citation cases compared to 11357 felony arrests in 1975 from

30 law enforcement agencies. While the responses varied greatly, the average case handling time for the citation was 166 minutes, compared to an average of 282 minutes for 11357 H&S felony arrests in 1975. If we apply this ratio to the \$222 custody arrest cost, we can estimate that processing one citation case costs law enforcement \$131, and the cost for 9,102 citations in the first half of 1976 is approximately \$1,192,362.

Besides the arrest or citation processing cost differential, time served in jail prior to trial occurred for 1975 offenders but not for the 1976 cited marijuana possessors. Incarceration data is difficult to obtain because records by offense apparently are not kept. Estimates from 17 law enforcement agencies asked about the number of prearrest days of incarceration for 11357 H&S offenders in 1975, averaged out to 1½ days. For pretrial days of incarceration, their estimate was an average of 9 days.

Using an average \$15 per day for county jail costs per man (it is somewhat higher for women), prearrest incarceration for marijuana possessors in the first half of 1975 would be \$547,898 ( $24,351 \times 1\frac{1}{2} \times \$15$ ). The 9 days of pretrial detention appears high in light of the diversion grants and lenient misdemeanor dispositions ultimately meted out, particularly in the larger counties. By arbitrarily reducing this estimate by half, the costs would still be an additional \$1,643,693 ( $24,351 \times 4\frac{1}{2} \times \$15$ ). Comparative costs for 1976 offenders would be similar per person rates for 11357a H&S (concentrated cannabis) offenders, or \$223,054 ( $2,203 \times 4\frac{1}{2} \times \$15$ ). The 1,750 arrested as misdemeanants for 11357c H&S (possession of more than one ounce) according to the survey, spent less time in jail than similar offenders the previous year. If we estimate that they spent only half as long, we can calculate a cost of \$78,750 ( $1,750 \times 3 \text{ days} \times \$15$ ).

The overall costs to law enforcement agencies for arresting and citing marijuana possession offenders is estimated at \$7,597,513 ( $\$5,405,922 + \$547,898 + \$1,643,693$ ) for the first half of 1975, and \$2,340,208 ( $\$846,042 + \$1,192,362 + \$223,054 + \$78,750$ ) for the first half of 1976. In looking at the comparative figures for estimating the impact of SB 95 upon enforcement of the marijuana laws, the 1975 figure should be considered conservative because it does not include the costs for 11364 H&S (paraphernalia) and 11365 H&S (visiting) arrests. Possibly up to 2,000 such arrests of adults did not occur in 1976 as a result of decriminalization of these offenses as they pertain to marijuana. Because of wide variations in the handling of juveniles, both before SB 95 and under SB 95, cost estimates for juvenile marijuana offenders have not been attempted.

#### Judicial System Costs

The Senate Select Committee on Control of Marijuana report in dealing with fiscal costs of enforcing marijuana laws noted that the cost of arrests was merely the tip of the iceberg. Using data from 1972 and earlier, it was estimated that the criminal justice system costs beyond the arrest range from \$1,200 to \$2,800 per arrest. A large proportion of these



estimated costs pertained to trial costs and particularly incarceration costs, both of which in 1975 appear to be somewhat lower. For example, our disposition data from the Bureau of Criminal Statistics indicates that for 11357 H&S (possession) and 11358 H&S (cultivation) offenders in 1975, there were a total of 479 trials in lower court and 57 trials in superior court compared to a Senate Select Committee report estimate of 1,510 trials. Tables 5 and 6 break out marijuana case processing in the court system.\*

The diversion impact study completed by Touche Ross and Company computed diversion case costs by criminal justice agency and compared these costs to pre-diversion costs for similar cases. Thus, it was found from survey and interview data that diversion case processing costs the district attorneys \$95 instead of \$190; public defenders \$50 instead of \$160; probation departments \$280 instead of \$390, and the courts \$20 instead of \$35.\*\* We used these figures to compute the 1975 and 1976 criminal justice costs for diverting marijuana offenders:

#### COMPARATIVE DIVERSION CASE COSTS

	<u>First Half of 1975</u>	<u>First Half of 1976</u>
District Attorney Costs	13,824 x \$ 90 = \$1,244,160	2,515 x \$ 90 = \$ 226,350
Public Defender Costs	13,824 x 50 = 691,200	2,515 x 50 = 125,750
Probation Costs	13,824 x 280 = 3,870,720	2,515 x 280 = 704,200
Court Costs	13,824 x 20 = 276,480	2,515 x 20 = 50,300
	<u>\$6,082,560</u>	<u>\$1,106,600</u>

For 1975 the 13,824 diversions for marijuana represented approximately 68% of marijuana possession cases prosecuted; in 1976 diversions represented only 20% of such cases prosecuted. We can use the Touche Ross figures to calculate costs for 11357 H&S cases not diverted in 1975, and 11357a and 11357c H&S cases not diverted in 1976, but these case costs will not apply to the 11357b H&S citation cases which were not diverted.

\* The Bureau of Criminal Statistics coded cultivation and possession cases together.

\*\* While \$20 sounds low, if we use 1975 California Judicial Council Court Impact Study findings for guidance, we learn on page 85 that an average case-related minute in municipal court costs \$1.42, meaning that the average diversion case would take 14 minutes. In practice, the larger courts may push them through more rapidly.

COMPARATIVE NON-DIVERSION CASE COSTS

	<u>First Half of 1975</u>	<u>First Half of 1976</u>
District Attorney Costs	8,660 x \$190 = \$1,645,400	2,447 x \$190 = \$464,930
Public Defender Costs	8,660 x 160 = 1,385,600	2,447 x 160 = 391,520
Court Costs	8,660 x 35 = 303,100	2,447 x 35 = 85,645
	<u>\$3,344,100</u>	<u>\$942,095</u>

The total costs for processing marijuana cases in the first half of 1975, except for court dispositions, was an estimated \$9,426,660 (\$6,082,560 + \$3,344,100). The total costs for the 1976 cases were approximately \$2,048,695 (\$1,106,600 + \$942,095), not counting court dispositions or the generally expeditious handling of 7,220 11357b H&S cases. The 1975 cost figures are quite conservative, because jail or probation dispositions for part of the 8,660 non-diverted convicted offenders would increase the costs significantly.

Marijuana Enforcement

If we add the law enforcement costs and the judicial system costs together, the savings appear quite substantial.

	<u>First Half 1975</u>	<u>First Half 1976</u>
Law Enforcement	\$ 7,597,513	\$2,340,208
Judicial System	<u>9,426,660</u>	<u>2,048,695</u>
	<u>\$17,024,173</u>	<u>\$4,388,903</u>

APPENDIX 5MARIJUANA SEIZURES

Seizure information from California law enforcement agencies is not routinely available from a single source. Therefore, for the purposes of this report, certain selected agencies were contacted and such seizure data as was available was obtained. It is tabulated below. Every effort was made to obtain the data from the larger agencies, and in as uniform a manner as possible. While data is included from the Department of Justice and from the Drug Enforcement Administration, it should be recognized that these agencies do not work at the street level and therefore would not be expected to reflect any changes due to the impact of Senate Bill 95. Data has been included from the Department of Justice Laboratories, which do receive material for analysis on a statewide basis from local agencies.

1. Department of Justice Laboratory Data

The Department of Justice Laboratories do not keep data or statistics showing weights of drugs submitted to their labs nor are they able to segregate the number of marijuana submissions to their labs. They do have the following figures showing total drug analysis workload.

	<u>Average</u>
January-June 1975 cases	1500/month
July-December 1975 cases	1400/month
January-June 1976 cases	1125/month

It is their belief that the drop in the latter part of 1975 and the further decrease in 1976 does reflect a lesser number of marijuana cases.

2. Bureau of Investigation and Narcotic Enforcement - Department of Justice1975 (full year)

1,886,763 grams

1975 (1st 10 months)

1,109,751 grams

1976 (1st 10 months)

756,364 grams

3. Drug Enforcement AdministrationWestern Region - California-Nevada-Hawaii

7-1-74 to 6-30-75  
7-1-75 to 6-30-76

298,555 lbs.  
213,406 lbs.

- Los Angeles Office
- |                   |             |
|-------------------|-------------|
| 7-1-74 to 6-30-75 | 15,023 lbs. |
| 7-1-75 to 6-30-76 | 54,425 lbs. |
4. Los Angeles Police Department
- |                    |            |
|--------------------|------------|
| 1-1-75 to 12-31-75 | 4,990 lbs. |
| 1-1-76 to 9-30-76  | 9,986 lbs. |
5. Los Angeles Sheriff's Department
- |                    |            |
|--------------------|------------|
| 1-1-75 to 12-31-75 | 2,560 lbs. |
| 1-1-76 to 9-30-76  | 6,650 lbs. |
6. Ventura Sheriff's Office
- |                   |             |
|-------------------|-------------|
| 7-1-75 to 6-30-76 | 42,000 lbs. |
|-------------------|-------------|
7. San Diego Police Department and Sheriff's Office Narcotic Task Force
- |                    |                 |
|--------------------|-----------------|
| 1-1-75 to 12-31-75 | 8,098,892 grams |
| 1-1-76 to 10-30-76 | 6,470,192 grams |
8. Orange County Sheriff's Office
- |                    |              |
|--------------------|--------------|
| 1-1-75 to 12-31-75 | 89,805 grams |
| 1-1-76 to 10-30-76 | 46,647 grams |
9. Anaheim Police Department
- |                    |               |
|--------------------|---------------|
| 1-1-75 to 12-31-75 | 262,893 grams |
| 1-1-76 to 10-30-76 | 79,596 grams  |
10. Santa Ana Police Department
- |   |             |
|---|-------------|
| 1-1-76 to 10-30-76<br>(1975 data unavailable) | 6,384 grams |
|---|-------------|
11. San Francisco Police Department
- |                                     |               |
|-------------------------------------|---------------|
| 1975                                | 217,468 grams |
| 1976 data unavailable at this time. |               |
12. Oakland Police Department
- |                                  |           |
|----------------------------------|-----------|
| 1975 (no seizure data available) | 982 cases |
| 1976 (1st 10 months)             | 833 cases |
13. San Jose Police Department
- No seizure data available.

14. Sacramento County Sheriff's Office

1975	45,570 grams
1976 (10 months)	36,010 grams

15. Sacramento Police Department

1975	127,397 grams
1976 (10 months)	50,772 grams

APPENDIX 6DRIVING UNDER THE INFLUENCE OF INTOXICANTS

There are four Vehicle Code offenses which involve drugs, or alcohol and drugs:

- 23101 CVC -- (felony) -- Driving under the influence of alcohol or alcohol and drugs combined, and causing death or bodily injury.
- 23102 CVC -- (misdemeanor) -- Driving under the influence of alcohol or alcohol and drugs combined.
- 23105 CVC -- (misdemeanor) -- Driving under the influence of any drug.
- 23106 CVC -- (felony) -- Driving under the influence of any drug and causing bodily injury.

ARRESTS FOR DRIVING UNDER THE  
INFLUENCE OF INTOXICANTS\*

	OFFENSE	TOTAL 1975	FIRST HALF OF 1975	FIRST HALF OF 1976	PERCENT CHANGE
Adults --	23101 CVC	3,621	1,746	2,093	+19.9%
	23102 CVC	252,120	128,044	130,132	+ 1.6%
	23105 CVC	4,616	2,228	3,258	+46.2%
	23106 CVC	146	61	43	-29.5%
Juveniles--	23101 CVC	184	71	98	+38.0%
	23102 CVC	4,213	2,060	2,154	+ 4.6%
	23105 CVC	236	105	180	+71.4%
	23106 CVC	13	8	-0-	-0-

\* While the percentages are based on comparative Department of Justice Arrest and Citation entries for both years, the number of arrests in all but the 23102 CVC categories are estimated.

The data indicate an increase in arrests between the first half of 1975 and the first half of 1976 for three of the four above offenses for both adults and juveniles, including a large increase in persons driving under the influence of a drug. It should be noted that these figures are subject to the previously described limitations in the statistical coding system used by the Bureau of Criminal Statistics (see Appendix 2). For example, a significant but unknown proportion of persons arrested for possession of marijuana come to the attention of law enforcement because of "erratic" driving. In 1975, marijuana possession was a felony, and although it was often an additional offense, possibly discovered during a search, it took precedence over a misdemeanor arrest for either 23102 or 23105 CVC in the statistics. In 1976, these two misdemeanor driving offenses reportedly take precedence over both 11357b and 11357c H&S. Therefore, if there were no change in the number of such "erratic driving" incidents, we would expect some relatively small increase in driving under the influence arrest data and a commensurate decrease in marijuana possession arrest statistics.

APPENDIX 7

## DRUG OFFENDER DIVERSION STATUTE

JANUARY 1, 1976 -

(Original statute amended by AB 1274, Chapter 1267, approved by Governor October 1, 1975, as follows:)

Section 1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the district attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged divertible offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics and restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he has been diverted pursuant to this chapter within five years prior to the alleged commission of the charged divertible offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged divertible offense.

(b) The district attorney shall review his file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) are applicable to the defendant. If the defendant is found ineligible the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his attorney.

Section 1000.1. (a) If the district attorney determines that this chapter may be applicable to the defendant, he shall advise the defendant and his attorney in writing of such determination. This notification shall include:

(1) A full description of the procedures of diversionary investigation.

(2) A general explanation of the roles and authorities of the probation department, the district attorney, the community program, and the court in the diversion process.

(3) A clear statement that the court may decide in a hearing not to divert the defendant and that he may have to stand trial for the alleged offense.



(4) A clear statement that should the defendant fail in meeting the terms of his diversion, or should he be convicted of a misdemeanor which reflects the divertee's propensity for violence, or should the divertee be convicted of any felony, he may be required, after a court hearing, to stand trial for the original alleged offense.

(5) An explanation of criminal record retention and disposition resulting from participation in the diversion and the divertee's rights relative to answering questions about his arrest and diversion following successful completion of the diversion program.

(b) If the defendant consents and waives his right to a speedy trial the district attorney shall refer the case to the probation department. The probation department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior controlled substance use, treatment history, if any, demonstrable motivation and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendation to the court.

(c) No statement, or any information procured therefrom, made by the defendant to any probation officer or drug treatment worker, which is made during the course of any investigation conducted by the probation department or drug treatment program pursuant to subdivision (b), and prior to the reporting of the probation department's findings and recommendations to the court, shall be admissible in any action or proceeding brought subsequent to the investigation.

No statement, or any information procured therefrom, with respect to the specific offense with which the defendant is charged, which is made to any probation officer or drug program worker subsequent to the granting of diversion, shall be admissible in any action or proceeding.

In the event that diversion is either denied, or is subsequently revoked once it has been granted, neither the probation investigation nor statements or information divulged during that investigation shall be used in any sentencing procedures.

Section 1000.2. The court shall hold a hearing and, after consideration of the probation department's report and any other information considered by the court to be relevant to its decision, shall determine if the defendant consents to further proceedings under this chapter and waives his right to a speedy trial and if the defendant should be diverted and referred for education, treatment, or rehabilitation. If the court does not deem the defendant a person who would be benefited by diversion, or if the defendant does not consent to participate, the proceedings shall continue as in any other case.

At such time that a defendant's case is diverted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of the defendant shall be exonerated, and the court shall enter an order so directing.

The period during which the further criminal proceedings against the defendant may be diverted shall be for no less than six months nor longer than two years. Progress reports shall be filed by the probation department with the court not less than every six months.

Section 1000.3. If it appears to the probation department that the divertee is performing unsatisfactorily in the assigned program, or that the divertee is not benefiting from education, treatment, or rehabilitation, or that the divertee is convicted of a misdemeanor which reflects the divertee's propensity for violence, or if the divertee is convicted of a felony, after notice to the divertee, the court shall hold a hearing to determine whether the criminal proceedings should be reinstituted. If the court finds that the divertee is not performing satisfactorily in the assigned program, or that the divertee is not benefiting from diversion, or the court finds that the divertee has been convicted of a crime as indicated above, the criminal case shall be referred back to the court for resumption of the criminal proceedings. If the divertee has performed satisfactorily during the period of diversion, at the end of the period of diversion, the criminal charges shall be dismissed.

Section 1000.4. This chapter shall remain in effect until January 1, 1979, and on such date is repealed.

Section 1000.5. Any record filed with the Department of Justice shall indicate the disposition in those cases diverted pursuant to this chapter. Upon successful completion of a diversion program the arrest upon which the diversion was based shall be deemed to have never occurred. The divertee may indicate in response to any question concerning his prior criminal record that he was not arrested or diverted for such offense. A record pertaining to an arrest resulting in successful completion of a diversion program shall not, without the divertee's consent, be used in any way which could result in the denial of any employment, benefit, license, or certificate.

Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities by this act such that related costs are incurred as a part of their normal operating procedures.

APPENDIX 8THE DRUG OFFENDER DIVERSION PROGRAMCriminal Justice System Diversion

Based on the data provided by county probation departments to the Bureau of Criminal Statistics from 1973 through 1975, Table 7 includes the data collected by individual diversion grants. We have calculated the offense categories for counties that are not included in order to obtain full year totals for 1973-75. For 1976, we have extrapolated the fourth quarter diversion based upon the data being collected by the State Office of Narcotics and Drug Abuse from the county probation departments. The following table is the result of these computations:

ESTIMATED DIVERSION TOTALS BY OFFENSE

	<u>1973-74</u>	<u>%</u>	<u>1975</u>	<u>%</u>	<u>1976</u>	<u>%</u>
Marijuana Offenses	37,989	74.6	18,040	74.3	5,835	48.9
"Hard" Drug Offenses	7,078	13.9	3,229	13.3	5,621	47.1
Other Drug Offenses	5,398	10.6	2,962	12.2	477	4.0
Non-Drug Offenses	458	.9	49	.2	-0-	-0-
TOTAL	<u>50,923</u>	<u>100.0</u>	<u>24,280</u>	<u>100.0</u>	<u>11,933</u>	<u>100.0</u>

We can reasonably estimate that at least 2,500 of the "other drug" offenses in 1975 were marijuana-related paraphernalia (11364 H&S) or visiting (11365 H&S) offenses. The remaining 462 "other" drug offenses could have been in the "hard" drug category. On the other hand, in 1976 the smaller "other" drug category is estimated to include at least 75% "hard" drug-related offenses. Therefore, for 1975 there were 18,040 marijuana possession diversions and 2,500 misdemeanor marijuana diversions, compared to 3,229 "hard" drug diversions and 462 "hard" drug-related diversions.

Drug Program Cost Data for Diversion

The Los Angeles County Drug Abuse Program Coordination Office developed a funding matrix for diversion costs by taking percentages of total program budgets for each program identified as having diversion referrals among

its clients. For calendar year 1975 the cost of diversion client services was \$371,966. In 1976 costs increased 20%, to \$446,184, despite the enactment of SB 95 and the reduction of court diversions for marijuana offenses. If we conservatively estimate that it costs twice as much on the average to treat or counsel a hard drug diverteer than a marijuana diverteer, we can estimate that 1975 program costs were \$190,864 for marijuana diverttees and \$180,891 for hard drug diverttees. The 1976 breakdown is calculated at \$182,971 for marijuana diverttees and \$262,434 for hard drug diverttees.

The San Diego Drug Abuse Office provided similar program data. In 1975 it cost state funded drug programs approximately \$248,570 to handle 2,306 diverttees, or \$74,270 for marijuana offenders and \$174,300 for hard drug offenders. In 1976 there was a 38% reduction of resources spent for diversion clients, or a total of \$155,200. We assumed again that hard drug offenders would take twice the program resources as marijuana diverttees. Therefore marijuana diverttees cost an estimated \$42,160 and hard drug diverttees cost about \$113,040.

Orange County drug program costs for diverttees increased 19% between 1975 and 1976, from \$335,840 to \$400,414. In 1975, marijuana diverteer costs are estimated at \$228,536, while hard drug costs were \$107,304. Under SB 95, marijuana diversions dropped by 45% and costs decreased to \$188,632. Treatment and counseling for hard drug diverttees cost an estimated \$211,782. These figures are based on budgetary data from the county drug program coordinator's office.

Combining the data from these three counties, we find that comparative costs for handling marijuana diverttees between 1975 and 1976 decreased 16%, from \$493,670 to \$413,763. The same comparison for hard drug diverteer costs shows an increase of 27%, from \$462,495 to \$587,256. Overall diversion client costs for education, treatment or rehabilitation in state funded drug programs were approximately \$956,165 in 1975 and \$1,001,000 in 1976, an increase of nearly 5%.

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UNIVERSITY OF CALIFORNIA, BERKELEY,  
Berkeley, Calif., March 9, 1977.

Congressman LESTER WOLFF,  
Chairman, Select Committee on Narcotics and Abuse,  
U.S. Congress.

DEAR CONGRESSMAN WOLFF: There was reason to expect, because of my experience in studying the problems of marijuana abuse, that I might have been invited to testify at the Hearings before your committee next week. In the absence of that opportunity, I respectfully request that you will publish these written remarks by me along with the statements of other witnesses.

#### OPINION OF THE EFFECTS OF LIBERALIZATION OF THE MARIJUANA LAWS

1. Surely the use of marijuana will increase and persons not presently involved will be drawn into the circle of users. In all of the many circumstances available to me to study use of marijuana, use does increase with availability. This has been the situation leading to heavy marijuana or hashish use by American enlisted men in our army in Southeast Asia and in Germany. There is not only spread in use but there is also increase in the frequency and dosage in taking the drug.

Since the liberalization of the marijuana laws in the state of Oregon, there has been steady indication of increase in prevalence of marijuana smoking, but since there has certainly been some increase in the United States as a whole, we were merely in doubt as to whether the increase in Oregon was similar or greater. Please refer to my discussion of this matter in *Sensual Drugs* (by H.B. & H.C. Jones, published by Cambridge University Press, 1977, copy attached) pages 275-296. On March 2, 1977, the latest survey of marijuana use by Oregonians became available. It was conducted by the firm of Bardsley and Hashler of Portland. The findings include a striking increase in the age group most likely to use marijuana. Of the 18-29 year-olds, 46% used marijuana according to the report completed two years ago while in the current report 62% were users. This is an increase by one-third in two years or more than 15% per year increase. It is distressing to read in the newspapers, today, entirely false accounts of the significance of the recent Oregon polling of marijuana use. An especially significant finding in the poll was that of non-users, only 7% abstained fearing health effects where two years ago this fraction was 22%. I attribute this change to the wide spread propaganda that marijuana smoking is without health consequences. The political movement to legalize marijuana has been irresponsible to the public and to our political leaders in that they have fabricated an entirely unsupported view of the hemp drugs. It is this same circle that is so heavily weighted in your list of witnesses.

2. Marijuana and the related hemp drugs are in a class by themselves in regard to the harm that may come to the average user. Genetic effects showing as malformed offspring are now an established risk of exposure to marijuana. There is also the direct hazard to the embryo when the pregnant mothers may smoke the drug. Damage to the brain is both reversible and non-reversible in kind and in the opinion of many of us directly experienced in studying marijuana users and their recovery during prolonged abstinence, there is reason to believe that serious brain damage occurs at all levels of regular marijuana use. There is no safe dose or frequency of exposure. The damage to the average person using this drug is frightful but is neglected merely because of the enthusiasm of the average user for this drug and his lack of insight as to the harms.

I believe that The Select Committee on Narcotics and Abuse is in serious error in consideration of liberalization of the marijuana laws without fully investigating the recent powerful evidence against marijuana. This evidence calls for prompt action to consider practical ways for educating against the use of this awful substance. Recently I prepared an account of this evidence for Senator Charles Percy and I attach a copy of that letter for your examination. For an expanded view of these matters and the scientific evidence involved in the clash of opinions over marijuana, I invite you to read *Sensual Drugs*.

Respectfully submitted.

HARDIN B. JONES,  
Professor of Medical Physics and Physiology.

Attachment.

UNIVERSITY OF CALIFORNIA, BERKELEY,  
Berkeley, Calif., February 3, 1977.

HON. CHARLES H. PERCY,  
Senator, U.S. Senate,  
Washington, D.C.

DEAR SENATOR PERCY: My reply to your letter of December thirteenth has been delayed by a succession of events—the holidays, my travel, and the time needed to prepare a thorough reply. The following discussion about marijuana is long; even so, I have shortened it by omitting details that can be found in the accompanying documents. Since I would like to keep confidential my comments about the ill-fated proposal to study sexual arousal in marijuana users, I am enclosing those comments in a separate letter.

Smoking or ingestion of hemp drugs is now endemic in the United States. No other country has or has had such a large fraction of the youthful population involved with these drugs. The hazards are many, are real, and are likely to expand catastrophically. A large fraction of children and young adults have lost much of their potential due to the stupefying effects of hemp drugs. This is one of the immediate problems. The gravest long-range problem is the genetic effect of marijuana smoking. Because of its duration, it is even more serious than the future societal burden of a few tens of millions of derelict persons—derelict because they have no capacity to be self-activating.

My statements obviously contradict the reports submitted by Governor Shafer and his Commission on Marijuana: Marijuana: A Signal of Misunderstanding. They were tragically misinformed. How prophetic is the title of their reports! Commissioner Brill has changed his views, and I predict most of the commissioners will do so at some time. Here are the factual issues.

The arguments used by those claiming that marijuana is safe often have little to do with the facts and tend to confuse the scientific discussion of the drug's effects. Some of the more common of these arguments are as follows:

1. Marijuana has no adverse effects.

This argument has gained currency because marijuana actually has no effect the first few times a user smokes it and because, once the user is taking the drug regularly, he can no longer perceive the effects. The user's first intoxication occurs only after he has smoked about five marijuana cigarettes (either all on the same occasion or over a period of several weeks). This delay occurs because the active ingredient is retained in the body and its effect is cumulative. Later, when the user has been seriously affected by the drug, he cannot perceive that his mental functions have been suppressed; he believes that he is better off and more mellow, though he actually has become more deranged.

2. There is very little chance of an overdose from marijuana smoking, whereas a drunk may die from over-consumption of alcohol.

This is true. The active ingredient of marijuana, THC, has very little effect on the vital centers that regulate breathing and the cardiovascular system; alcohol has a suppressive impact on these centers.

3. The effects of marijuana are transitory.

The focusing of attention on the effects of short-term exposure has given rise to this argument. Actually, almost every harmful substance can be taken in small doses or over short periods of time without causing detrimental effects. It is important, however, to investigate also the effects of long-term exposure. Short-term marijuana use has been known to cause such adverse effects as panic and schizophrenic reactions, but these occurrences are rare and hence less important than the inevitable long-term effects.

4. Scientific investigations have demonstrated the safety of marijuana.

In many investigations, the methods used are not capable of measuring what the observer claims to be measuring. There are many professionals who claim to have proved that marijuana was safe, but I have not found a single investigation that was not open to this criticism.

5. There is more evidence that marijuana is safe than evidence that marijuana is harmful.

There is a large-scale political movement to legalize marijuana (and other drugs). Lay and scientific books and journals have been affected by this movement. The funds for research on marijuana (and on the treatment of heroin addiction) have been channeled to minimize findings that would contradict the beliefs of those who espouse legalization. This explains the flood of informa-

tion favorable to marijuana and the paucity of information of a cautionary nature.

Cautionary information on the effects of marijuana should deal with the long-term consequences of its use. Here the evidence is strong; long-term exposure leads to characteristic behavioral changes. The change develops so slowly that it may be overlooked; but partial or complete recovery on abstinence is more clearly apparent. I have observed recovery in every regular marijuana user who has abstained for several months. The most striking recovery comes about in heavily affected persons, of course; but there is now much evidence that they may not gain full recovery.

The effects of marijuana on behavior are consistent with the most recent observations on the fate of THC in the body and its toxic impact on body cells. THC is not metabolized to inactive residues; it is retained in its active form (or with slight chemical changes) in the fatty structures. All cell surface membranes that have been examined (brain cells, white and red blood cells, liver cells, and spermatozoa) show major structural changes that can be explained by the physico-chemical properties of THC. On this subject, the major investigations have been conducted by Paton, Gill, and Pertwee of the Department of Pharmacology at Oxford University and Robert Heath at Tulane University. They have demonstrated that marijuana can damage the surface membrane of brain cells. Heath has actually shown synaptic clumping and alteration of the synaptic structure.

The cautionary information about marijuana should also include its impact on the genetic chemistry of cells. The synthesis of DNA, RNA, and proteins; cell division; and the immune response that depends on the genetic system are all suppressed. (The effect of marijuana on immune response was first shown by Nahas, who was severely attacked for his position. However, his findings have now been confirmed by investigators throughout the world.) Chromosome damage beyond normal expectation has been observed in marijuana smokers; the extent depends on the duration of marijuana use. There has also been evidence of the malformation of offspring in mice and rats exposed to marijuana.

The results of studies of long-term effects of marijuana in monkeys are now available, and there can be no doubt about the teratogenic effects of marijuana smoking. It was expected that THC would affect the process of cell division in the pregnant female; however, malformed offspring were found to occur just as frequently when the father monkey had been exposed. Thus, it appears that the malformation risk now identified is caused by induced genetic change.

Statistical tabulations on the number of malformed infants born in the United States over the past decade are now available. Although malformation had been on the decline in the United States for thirty years, since 1970 (coincident with the explosion of marijuana use into our population) there have been striking increases in certain kinds of malformations: defects of the hip joint and of the cardiovascular system. It will take several years to get a better evaluation of this lead, but I think it very likely that marijuana use is the cause of the epidemic of malformation.

The linkage of malformation to the hemp drugs is strengthened by this additional information not yet documented by professional articles:

(1) Two major unpublished studies show genetic damage following exposure of mice or rats to marijuana. One study examined transmission of defects to succeeding generations. Developmental abnormalities appeared in excess for two additional generations in the offspring of exposed animals. The other study concerned sex differences of effect. Developmental abnormalities were equally frequent in offspring of exposed males or females.

(2) Congenital malformations of the heart and of the major blood vessels have long been a special problem among the lower classes of Mexico, where marijuana smoking is largely confined to the lower classes. Corresponding observations are not available for other countries in which hemp drug use is also common. In the Middle-East, however, there are beliefs, in land-owning families, that use of the hemp drugs impairs descendants so that they cannot hold the land.

(3) In August, 1976, before I knew of the above signs of genetic effects, I wrote in an article for the Baltimore Sun (it was published later, in December, 1976): "All the cellular findings [about the effects of marijuana] suggest by the strongest evidence that there must be genetic consequences. All marijuana



users must face responsibility for impairment of health of offspring." It is therefore evident that genetic change was predictable on fundamental principles, following the observation of cellular changes induced by marijuana.

A further discussion of the effects of marijuana and the unwarranted controversy about it will be found in the attached articles. You might also like to read the book, *Sensual Drugs*, by my wife and me, recently published by Cambridge University Press. I am sending a copy. *Sensual Drugs* discusses the subject in considerable detail and explains the effects of marijuana and other psychoactive drugs in terms of changes in the brain.

The problems of marijuana use are grave. I would greatly appreciate your response and suggestions as to what might be done.

Sincerely,

HARDIN B. JONES.

# U.S. LABOR PARTY STATEMENT TO THE HEARINGS ON DECRIMINALIZATION OF MARIJUANA

(BY THE HOUSE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL)

Marijuana decriminalization represents one of the vilest threats to the national security and well being of the American people. Extensive scientific research confirms that the medical and psycho-social effects of this drug and its derivatives are extremely deleterious. So serious are the harmful effects of marijuana that an international agreement was drafted in 1971 and brought into force on August 16, 1976 by the United Nations Commission on Narcotic Drugs, specifically prohibiting the use of all forms of tetrahydrocannabinols (the active ingredient in marijuana) "except for scientific and very limited medical purposes by duly authorized persons, in medical or scientific establishments which are directly under the control of their governments or specifically only approved by them."

As recognized in the drafting and ratification of this agreement—the Convention on Psychotropic Substances—the availability and proliferation of drugs can only result in corroding the moral fiber and productive potential of our society—replacing the sense of individual and national purpose with an escape to stupefying fantasy. Two principal national security threats are of immediate concern: The first is an immediate threat to the Armed Forces. In the face of drug proliferation in the society, as the Vietnam experience indicates, the Armed Forces cannot prevent widespread drug use, and even addiction among their ranks. Secondly, drug use and trafficking is a fundamental *modus operandi* for the development and activity of terrorist groups in the United States, beginning with the transformation of alienated anarchist students like Mark Rudd and Bernadine Dohrn into the terrorist killers of the Weather Underground with the help of marijuana and LSD. Congressional investigations have already documented the involvement of Cuban exile terrorists and the Mexican "23rd of September League" in trafficking guns for drugs in their assassination operations.

More fundamentally, the labor power of the American skilled working force and its future generations including the scientists now being educated in American schools and universities is the most vital resource of our nation. Decriminalizing cocaine and marijuana as "recreational drugs" is antithetical to the continued development of the higher cognitive powers and skills of the American population. Every piece of competent scientific work in studying the effects of long-term marijuana and hashish use shows the psychological deterioration, decay and destruction of intellectual and cognitive abilities these drugs induce.

There is no doubt that a serious drug epidemic including marijuana, cocaine and other psychotropic drugs continues to afflict the nation, particularly high school youth. Followup studies on decriminalization indicate in fact that this policy has, perhaps irreversibly helped to escalate that epidemic in marijuana use.

Results were recently released in an Oregon study conducted in October 1976 at the request of the Drug Abuse Council by a private polling firm, Bardsley and Haslacher, Inc. This is the third annual survey of marijuana usage by this firm since decriminalization in Oregon in 1974. The findings, compared to 1974 are as follows:

In the crucial age group of 18-29, there were an alarming increase of 18 percent from 46 percent of the population in 1974, to 62 percent at present.

Of 805 adults in Oregon surveyed, 24 percent said that they have used marijuana, and 12 percent said they are now current users. This represents a 5 percent increase since 1974 in the first category (have tried it), and a 3 percent increase in current users.

The sharpest change in results was in the number of non-users who said they abstained for reasons of possible dangers to health. In 1974, 23 percent of non-users gave this reason; in 1976, only 7 percent gave this as a reason.

Despite attempted disclaimers, the rate of marijuana use is steadily rising among the most vulnerable section of the population: students under the age of 18. A recent survey conducted by the Institute for Social Research at the University of Michigan of 17,000 high school seniors from 130 high schools indicated that in the category of having used marijuana, the proportion increased from 48 percent in 1975 to 53 percent in 1976. The current users rose from 27 percent in 1975 to 32 percent in 1976. The proportion who perceived regular marijuana use as a health risk dropped from 45 percent in 1975 to 40 percent in 1976.

Clearly, the perceived sanction given to drug use by legislative bodies, and corresponding publicity has a definite effect on the population's perception of the dangers of drug use.

#### MEDICAL FINDINGS

The testimony before the Senate Internal Security Subcommittee on May 17, 1974 by Prof. M.I. Soueif, Chairman of the Department of Psychology and Philosophy at Cairo University in Egypt is of gravest concern:

"As to the relative magnitude of intellectual and psychomotor impairment associated with cannabis taking, we came recently to the conclusion that such impairment seems to vary in size according to the general level of pre-drug proficiency: the higher the initial level of proficiency, the bigger the amount of impairment (Soueif 1974; 1971). Those with a higher level of education—and/or intelligence—show the largest amount of deterioration; illiterates, almost no deterioration." (1)

In recognition of exactly this point. Third World nations, particularly those with the highest incidences of long-term indigenous marijuana-hashish use, have recently outlawed marijuana as a commitment to freeing their populations from drug addiction—a necessary condition for progress and industrialization. Only by abandoning the principle of scientific and technological development on which this nation was built, and standing by to watch the American skilled labor force sink to the social productivity levels of the most impoverished and backward cultures, can one justify the advocacy of drugging one's own population.

What Soueif describes is a fundamental finding of clinical studies into the behavioral effects of marijuana-hashish use: that there are personality changes; that there is significant psychological deterioration over time. In 1972, Dr. Louis J. West, used the term "amotivation syndrome" to describe a category of behavior he observed, including diminished drive, decreased motivation, and shortened attention span.

In a recent paper, *A Psychiatric Classification of Cannabis Intoxication*,<sup>"</sup> Dr. Roy Hart presents a summary of 75 of his own case studies, classifying mental disorders including paranoid psychosis that stem from use of cannabis products. Hart indicates that marijuana use seriously exacerbates existing mental disorders and can trigger an actual psychotic episode in individuals with a history of schizophrenia, etc.

In 1974 hearings held before the Senate Internal Security Committee on marijuana use, brought together the top international experts in marijuana research. The findings of these scientists, which have not been refuted or even competently critiqued in any subsequent biological or pharmacological studies established massive damage to the entire cellular process in the human body. This includes reduction and inhibition of DNA and RNA synthesis in the cell, reducing the rate at which cells reproduce. (2) Inhibition of the reproduction of T-lymphocytes, the cells involved in the immune process. (3) Destruction and damage of chromosomes in the human body. (4) THC (tetrahydrocannabinol—the active ingredient in marijuana) and other marijuana products are fat-soluble substances which accumulate in the brain and gonads. The half-life

of these marijuana products is eight days, that is, after eight days, 50 percent of the product is still in the body. (5) The basic inhibitory effect on DNA and RNA causes a sharp reduction in the rate of reproduction of male sperm cells. (6)

The clinical expressions of the bio-chemical effects created by THC are most obviously severely detrimental to the health of the individual: because of the fundamental effect of slowing down DNA and RNA production, the immune response (the body's ability to fight disease) particularly in the lungs is severely reduced. Damage to the sperm or egg cells which is so slight that the germ cell is not destroyed in the body, could lead not only to sterility, but also to birth defects. (7)

Studies with rhesus monkeys by Dr. Robert Heath, Chairman of the Department of Psychiatry and Neurology at Tulane University, have shown disruption of brain waves measured by electroencephalography, persisting even for eight months after all exposure to cannabis smoke ended. (8) This work strongly suggests long-term and perhaps even permanent brain damage, and for this reason has come under strong attack by pro-pot doctors, most recently in an article which appeared in *Psychology Today* by Dr. Norman Zinberg, an Advisory Board Member of NORML.

(Zinberg's article, a self-proclaimed rebuttal to all existing evidence of the deleterious effects and "summary" to show conclusively that marijuana is harmless, has already been refuted for its deliberate omissions and misrepresentations by Dr. Nahas, and by Dr. George Russell, Professor of Biology at Adelphi University.)

#### THE POLICY QUESTION

With this existing evidence, it would seem to be a scandal that Congress has even granted the decriminalization the dignity of Congressional hearings. Furthermore, marijuana "decriminalization" is simply a semantical construct which has as its underlying premise a conviction that permanent drug addiction is not deleterious to either an individual or society. Every advocate who actively lobbies for decriminalization of marijuana on close examination extends that to a policy of decriminalizing heroin and cocaine, and in fact legalizing drug addiction and making it an official function of the U.S. Government.

The public statements of Peter Bourne, the as-yet-unconfirmed Director of the Office of Drug Abuse Policy and a leading force behind decriminalization, are indicative of the total disregard for any criteria that define mental health and rehabilitation from the standpoint of maximizing the productive potential of each and every individual.

The logic is starkly laid out in "Methadone: Benefits and Shortcomings," a report prepared by Bourne for the Drug Abuse Council, a private Ford Foundation-created research outfit which specializes in studies condoning the legalization and government dissemination of marijuana, cocaine and morphine. Bourne has been a paid consultant for DAC for the past several years, DAC is the cornerstone of the drug decriminalization lobby, providing the pseudo-scientific backup for the National Organization for the Reform of Marijuana Laws (NORML).

On rehabilitation Bourne writes: "the accountability for a rehabilitation program extends only to restoring a person to whatever condition he was in prior to the development of his affliction." What sane human being, and particularly one who took an oath for the betterment of the human condition, would possibly argue that the degraded state at which an addict moves to a slow death in drugs is the goal of rehabilitation?"

On the merits of the drug maintenance system: "The nurse in the clinic has in fact become the surrogate for the street pusher; particularly for the older addict, this is a relatively easy transition to make . . . the methadone is obtained in the pleasant, accepting, supporting atmosphere of the clinic." This is the same argument made for the system of heroin maintenance by other Drug Abuse Council (DAC) experts. In fact, Bourne has gone on record for the viability of heroin maintenance on at least two occasions.

"After we have (decriminalization) and after we have an ideal drug treatment program nationwide, then I can see having an experimental heroin maintenance program." (9)

"This is really a radical proposal which is not politically acceptable at this time, but we may end up looking at something like a move toward worldwide decriminalization of the use of heroin." (10)

Once the U.S. government accepts as policy, as Peter Bourne has, that a psychoactive drug, with known harmful medical and psychological effects, administered to permanent addicted individuals is "not necessarily" deleterious, then it is simple to substitute heroin or morphine for methadone.

The history and nature of methadone bears directly in the broader motivation of drug criminals like Peter Bourne and the Trilateral Commission, who have made drug proliferation the first major leg of their domestic policy. Methadone was developed as a synthetic morphine substitute by Nazi doctors in Germany during the Hitler era. The applicability of methadone to maintain a zombie workforce in a perpetual state of passivity in which monotonous labor intensive tasks can be performed was perfected in the mid-1960s by the private institutions of the Rockefeller family—Rockefeller University and the Ford Foundation.

As the Carter Administration moves toward the same Schachtian economic policies of Hitler Germany, energy conservation, replacement of capital-intensive with labor-intensive production, coal gasification, and Civilian Conservation Corps "Arbeitsdienst" work camps, then the drugging of the workforce becomes a prerequisite for such economic policies.

#### THE SCIENTIFIC APPROACH

There can be no dispute that this nation is now faced with a serious drug epidemic that must be targeted by a systematic and scientific national detoxification program. The Carter Administration policy of legalization is not the solution. Rather, as we have documented, it is a willful and criminal perpetuation and expansion of the very problem.

There are four principal component elements that must be incorporated into any effective approach to ending the current drug epidemic. Such an approach must be directed towards the total wiping out of the plague of narcotic addiction from the national and global social arena, while at the same time recognizing that the narcotics problem is a predicate of the overall social decay fostered by monetarist policies.

1. An effective law enforcement assault on the machinery responsible for the drug proliferation must be conducted with the full support of the U.S. Congress and the Executive Branch.

2. A corollary policy of shutdown of all public and private agencies responsible in any way for drug proliferation must be enacted. Most projects run through the HEW, the LEAA, the NIMH and HUD and with funds from the Ford Foundation and Russell Sage Foundation immediately fit into this category.

3. An educational and research and development approach to the medical and social problems aimed at arming the population as a whole with the foundations for thoroughly rejecting the use of narcotics must be adopted.

4. A comprehensive drug detoxification program predicated on the objectives of full detoxification from any form of narcotic addiction—a program such as that spelled out by the U.S. Labor Party-authored Drug Detoxification Act of 1975—must be effected.

#### NOTES

- (1) "Marijuana-Hashish Epidemic and Its Impact on United States Security." Hearings Before the Senate Internal Security Subcommittee. May 9, 16, 17, 20, 21 and June 13, 1974 Testimony of Dr. M.I. Soueif (Referred to as: Senate Marijuana Hearings).

- (2) Senate Marijuana hearings, *op. cit.*, Dr. Gabriel Nahas, Dr. Akira Morishima.

- (3) *Ibid.*

- (4) Stenchever, Morton A., M.D., et al. "Chromosome Breakage in Users of Marijuana." *American Journal of Obstetrics and Gynecology*, January 1, 1974.

- (5) Senate Marijuana Hearings, *op. cit.*, Dr. Julius Axelrod.

- (6) Senate Marijuana Hearings, *op. cit.*, Dr. Robert Klodny, Prof. Cecile Leuchtenberger, Dr. John A.S. Hall.

- (7) *Executive Intelligence Review*, Vol. 4, No. 8, February 2, 1977.

- (8) *Ibid.*

- (9) *Washington Star*, January 15, 1977, page 1.

- (10) *Executive Intelligence Review*, Vol. 4, No. 8, February 2, 1977.

STATEMENT OF E. STANLEY RITTENHOUSE, LEGISLATIVE AIDE, LIBERTY LOBBY ON  
MARIJUANA DECRIMINALIZATION

Mr. Chairman and Members of the Committee: I am E. Stanley Rittenhouse, Legislative Aide for Liberty Lobby. I appreciate this opportunity to submit for the record the views of Liberty Lobby's 25,000-member Board of Policy, as well as the quarter of a million readers of our weekly newspaper, *The Spotlight*.

In 1974 Hon. James Eastland, the senior U.S. Senator from Mississippi, said, "Our country has become caught up in a marijuana-hasbish epidemic . . . (and) there is a trend towards national disaster." Liberty Lobby believes that the decriminalization of marijuana would make Senator Eastland's prediction come true.

Senator Eastland made the statement when he was chairman of the Senate Subcommittee on Internal Security, then conducting hearings on the impact of marijuana on America. This committee was one of the best kept secrets in Washington during 1974. There was no major coverage of the committee or its findings by any national media source.

Senator Eastland was aware that this might happen, even before he opened the hearings. He said there was a need for them because new studies had shown that "marijuana . . . may be far more hazardous than originally suspected" and that "almost 100% of all information reaching the people via the national media was pro-marijuana."

He added, "Taking advantage of the confusing and widespread ignorance, a variety of movements seeking the legalization of marijuana came into existence. They gathered strength rapidly. In fact, by early (1974) concerned scientists and government officials were almost ready to throw in the sponge because the battle looked so hopeless.

"All sections of society are affected (by marijuana)." The Senator also pointed out that the national media and leading academicians look upon marijuana as harmless and not "too much to worry about."

In the 1960's, studies generally ended with the opinion that marijuana was harmless, but new studies—conducted on a far more accurate basis—say that marijuana is far from harmless and is, in fact, an extremely dangerous drug.

Senator Eastland felt that since these new findings were not reaching the public, some method was needed to call attention to the danger of marijuana. He called prominent medical researchers and psychiatrists from many parts of the world. More than 20 scientists were invited to the hearings because "the pro-marijuana cabal could assail a single scientist whose research persuaded him that marijuana was a very dangerous drug."

Senator Eastland's committee spent most of the summer of 1974 investigating the danger of marijuana and during that time, and even for as long as a year afterwards, no major media source had reported on the committee findings. In the late fall of 1975, *The Spotlight* (which began publication Sept. 17, 1975) became the first national media source to report on the Eastland subcommittee.

I summarize *The Spotlight* series, based on the findings of Senator Eastland's committee. The collective testimony of 20 of the world's leading medical researchers unquestionably revealed that:

1. THC (the intoxicating chemical in marijuana) tends to accumulate in the brain, gonads and fatty tissues.
2. Marijuana causes massive damage to the entire cellular process.
3. The use of marijuana causes irreversible brain damage.
4. There is serious danger of genetic damage from marijuana use.
5. Chronic smoking (use of three "joints" or pipefuls a week) produces lung damage in six months equal to that of 20 years of heavy smoking of normal cigarettes.
6. The combination of marijuana and tobacco smoke are far more damaging to lung tissue than the use of either by itself.
7. Prolonged marijuana use results in emotional problems.

These were the findings of some of the world's most respected medical researchers. The medical evidence presented to the Eastland subcommittee filled 400 pages of the final report and detailed the dangers of marijuana. It would be impossible to report fully the medical evidence, but a few of the more significant statements were:

Dr. Julius Axelrod, a Nobel prize winner for this study of drugs and the brain, said, "Marijuana causes an irreversible damage to the brain."

Dr. Phillip Zeinbenberg, declared, "Chronic marijuana smoking causes bronchitis, diminished lung capacity and changes in lung tissue." He pointed out that the use of marijuana was "very much more dangerous" than he first suspected when he started his research on the drug.

In 1964, Dr. Harvey Powelson, a research psychiatrist at the University of California, at Berkeley, received vast publicity for his pro-marijuana views. When he changed his mind about the dangers of the drug in the early 1970's, he was attacked in the press. Dr. Powelson reversed his views as his psychiatric studies deepened. He found that marijuana disrupts the thinking process and that memory and time become distorted . . . that brain damage to chronic users "is permanent" and that three years of chronic smoking destroyed as much brain tissue as 10 years of heavy drinking.

Of even more concern are the findings of Dr. Henry Brill, regional director of the New York State Department of Mental Hygiene: "The effects of cannabis (marijuana): It is subtle and insidious, but harmful reactions in the hearts and circulatory systems are suspected, and there are indications of adverse reaction in the body's anti-infection chemistry."

But none of this was reported by the national media. The Washington Post, one of the nation's most influential newspapers, almost totally ignored the Eastland committee hearings and said "no respected body of opinion any longer holds that moderate consumption (of marijuana) is any more dangerous to the human body than consumption of tobacco or alcohol." The New York Times, perhaps the most powerful source in the American media, did not carry anything on the Eastland committee.

Dr. Hardin B. Jones, professor of medical physics, professor of physiology and assistant director of the Donner Laboratory at the University of California, acknowledged as one of the world's top medical scientists, who served as an adviser to the U.S. Army on drug abuse, pointed out his problems in getting his anti-marijuana views before the public.

He said that he has been showered with abuse and ridicule when he tried to express his anti-marijuana views. William Buckley, editor of a magazine, after saying that he supported decriminalization of marijuana, refused to allow Dr. Jones to respond, even after Buckley had invited the response. A three-hour debate with Dr. Lester Grinspoon, of Harvard University, one of the leading marijuana supporters, was edited to one hour and run on TV. "I appeared apparently agreeing with every outrageous point Grinspoon made," Dr. Jones lamented.

He said he was humiliated and attacked during his testimony before the Shafer Commission and "treated rudely and badly by Gov. Raymond Shafer himself" for his anti-marijuana opinions. The Shafer Commission was an attempt to appraise the use of marijuana and its effects, but the report was nothing but a well-orchestrated effort at praising marijuana and its use.

Dr. Jones said that the pro-marijuana people have had virtually free access to the nation's media and that the critics have been almost totally silenced. "If the principle of equal time were invoked, the networks would by now owe some hundreds of hours, at least, to scientists (opposing marijuana)," said Dr. Jones.

The dangers of marijuana are not new, but have been known for a long time.

The Scythians, according to most modern historians, lost their kingdom in 800 B.C. without a fight because of their addiction to heavy use of marijuana. Hippocrates wrote, "Scythians are inclined to laziness, fatness, gaiety . . . sexual impotence." All of which are accepted medical signs of marijuana use.

In the 13th century, an Arabian doctor, Ali al-Hariri, was writing about the dangers of marijuana. In 1893, the Indian Hemp Drug Commission urged "great caution" when it came to marijuana. In 1919, Mexico went on record as saying marijuana was strongly suspected as being a source of crime and deviant social behavior.

A modern example of the dangers of marijuana can be seen in the early 1970's in Jamaica, where drug laws were not rigidly enforced and marijuana was openly sold and smoked. Not long afterwards, Island officials reported a massive number of school dropouts, people with transient psychosis, and numerous cases of behavior disorders. A crackdown on marijuana started and the problems soon disappeared.

It is the drug culture that has been so devastating to the social mores of our country the past few years. The decline of morality results, leading to an ad-

verse effect on our national security. If society becomes more and more obsessed with an escape from reality, America is vulnerable indeed.

The Bible clearly warns against such a liberal policy concerning drugs: "Now the works of the flesh are manifest, which are these: . . . witchcraft (or sorcery) . . ." There words are from the greek *pharmakia*, which means drugs (see Galatians 5:19-20). The Bible goes on to warn, "of which I tell you before, as I have also told you in time past, that they who do such things shall not inherit the kingdom of God" (Gal. 5:21).

Liberty Lobby urges that this committee and Congress itself always oppose the legalization of marijuana since the lives of Americans and our nation's security are at stake.

Thank you again for this opportunity to submit our views for the record.

NATIONAL GRANGE,  
Washington, D.C., March 21, 1977.

HON. LESTER L. WOLFF,  
*Chairman, Select Committee on Narcotics Abuse and Control, U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The National Grange is in strong opposition to the decriminalization of marijuana because we feel that this is the first legislative step in the eventual legalization of this drug.

At each of our Annual Meetings in recent years, we have affirmed our opposition to the legalization of marijuana. Most recently, at our 110th Annual Session, held in November of 1976, the following resolution was adopted:

#### "MARIJUANA"

"We reaffirm existing policy which says in essence that we oppose legalizing the use of Marijuana."

We agree with those law enforcement officers that have stated before your committee that decriminalization of marijuana has not been of benefit to their cities or states. It stands to reason that by taking away the criminal punishment for the use and possession of marijuana and making possession of less than one ounce a misdemeanor, carrying only civil penalties, we are creating a legally-protected and lucrative market for the pusher of this and other more dangerous drugs.

The proponents of decriminalization of marijuana claim that the present laws are not effective and the possession and use of the drug is too widespread among pre-teenagers and teenagers, making enforcement almost impossible.

It is the fact that the present law enforcement has been lax—in fact, has not been enforced at all—that has led to the rapid growth in the use of the drug, especially among teenagers. The problem will not go away by relaxing the law. In fact, the use of marijuana has spread under decriminalization in the states that have such laws.

The National Grange passed the following resolution on drug abuse and criminal penalties at our last Annual Meeting:

#### "DRUG ABUSE"

"Whereas, illegally procured drugs are a serious problem in our nation, threatening the physical and mental well-being of our citizens; and

"Whereas, sellers and users of illegal drugs are convicted and then released after serving a short-term sentence or are given a suspended sentence; therefore, be it

*Resolved*, That the National Grange support legislation that would give long-term non-commutable sentences for repeat offenders convicted of selling illegal drugs; and be it further

*Resolved*, That the National Grange support laws which ban the use and sale of illegal drugs and demand that the federal government take meaningful action to stop the flow of illegal drugs into the United States."

Tighten down the laws and penalties for trafficking in drugs, enforce present laws on possession and we can save several generations of American youth. Our laxness has already lost one; let's not continue to neglect our responsibilities.

Thank you for permitting the National Grange to present our views. Please make this letter a part of the hearing record.

Sincerely,

JOHN W. SCOTT,  
Master.

PLAYBOY ENTERPRISES, INC.,  
Chicago, Ill., March 21, 1977.

MR. JOSEPH NELLIS,  
Chief Counsel, Select Committee on Narcotics Abuse and Control, House Office Building, Annex No. 2, Washington, D.C.

DEAR JOE: Accompanying this letter you'll find material from the Playboy Report on American Men, a study commissioned by our company and conducted by Louis Harris & Associates. I'm sending you the section pertinent to the work being done by your Select Committee.

The Report itself will not be published until September of this year, when it will be introduced at a major press conference in New York. However, in the interest of good citizenship, we are giving you permission to make this data public should you wish to do so, and if you feel it would help document your committee's findings.

This Report is the latest research done in the field among American males between the ages of 18 and 49. The full Report will be a landmark study which we expect will be used for years to come.

Sincerely,

LEE GOTTLIEB,  
Vice President and Director of Public Relations.

Attachment.

[From the Playboy Report on American Men]

#### INTRODUCTION

This report summarizes the findings of a major study of American men conducted by Louis Harris and Associates, Inc. for Playboy Enterprises. Harris interviewers spent a total of nearly 3,000 hours in the living rooms of a national cross-section of American men aged 18-49 in order to determine their values, their lifestyles, their aspirations and their moods. Much attention has been paid recently to the changing American female, to American youth, to American blacks and other minorities. But, until Playboy commissioned this study, social scientists and researchers had paid very little attention to the American male.

As in any undertaking of this magnitude, it is necessary and desirable to define one's boundaries. The objectives, assumptions and limitations guiding this research should be spelled out in advance:

(1) The current fashion in this type of endeavor is to highlight how roles, behavior and aspirations have changed for "today's people". A slightly exaggerated version of the image currently being projected in the popular media is as follows:

"We are living in a period of rapid social change which is so vast that, lacking common orientations and expectations, we are all victims of future shock. The old values have been uprooted and modern man search desperately for meaning in his new-found chaos, through exotic eastern religions, TM, consciousness-raising groups and various types of therapy. Plagued by feelings of alienation, he seeks alternate lifestyles to replace previous modes and patterns of living which have proven to be ineffective and limiting. God is dead, and the family is dying. With new methods of contraception and total sexual freedom, procreation is passe.

Without denying the validity of certain elements of this description, it is appropriate to ask, how faithful is it as a reflection of the average man. We hope in this report to provide some balance to current trends in reporting, noting social change where it may be occurring, but always in a context of the continuity of human experience.

(2) We chose to survey men between the ages of 18 and 49, on the assumption that the major problems of adaptation, and the major decisions (about marriage, children, work, etc.) are made during this period of life. While we acknowledge that there are significant facts to be learned about men outside



this age band, practical consideration dictated that such an inquiry be deferred at the present time.

(3) The material in this report is analyzed by age, a critical variable in our view. When differences do occur which are related to age, there is a choice of interpretation to be made: on the one hand, differences between young men and their older counterparts may reflect the process of social changes; on the other, differences may be indicative of maturational changes. (According to this latter hypothesis, men in their teens today will, twenty-five years from now, be very much like men now in their forties.) Since all research is invariably frozen in time—one still-frame in a movie which has been stopped for our purpose—it will not always be easy to untangle these forces.

#### METHODOLOGY

Between December 6, 1976 and January 12, 1977, 1,990 in-person interviews were conducted with men aged 18-49. The sample consists of a national cross-section of 1,810 respondents, and a sample of 180 college students living on campuses across the country. For the purpose of analysis, the sample was weighted according to the latest figures from the U.S. Bureau of Census, and is projectable to the entire male population 18-49 residing in the continental United States.

Throughout this report, data will be analyzed by key variables. The distribution is shown on the following table:

DIMENSIONS OF ANALYSIS<sup>1</sup>

	Number of Interviews	Percent of sample	Weighted percent of sample
Total.....	1,990	100	100
Age:			
18 to 19.....	214	11	9
20 to 24.....	482	24	20
25 to 29.....	335	17	17
30 to 34.....	270	14	14
35 to 39.....	217	11	12
40 to 49.....	447	22	27
Married.....	1,189	60	64
Single.....	684	34	30
Separated.....	34	2	2
Divorced.....	69	4	4
Widowed.....	8	(?)	(?)
Less than high school graduate.....	17	1	18
High school graduate/some college.....	1,222	61	60
College graduate.....	220	11	11
Post graduate.....	202	10	11
Under \$10,000.....	487	24	23
\$10,000 to \$14,999.....	385	19	19
\$15,000 to \$24,999.....	614	31	32
\$25,000 and over.....	370	19	19
Professional/manager.....	522	26	28
White collar.....	186	9	9
Skilled worker.....	355	18	18
Unskilled worker.....	369	19	19
Unemployed.....	179	9	9
Student.....	318	16	13
Protestant.....	1,061	53	54
Catholic.....	571	29	29
Jewish.....	53	3	3
Other religion.....	84	4	4
None.....	201	10	10
Race/ethnic:			
White.....	1,657	83	83
Other.....	333	17	17

<sup>1</sup> Numbers do not always add up to the total because of some nonresponse.

<sup>2</sup> Less than 0.5 pct.

<sup>3</sup> Combines 180 students interviewed on campuses and 138 interviewed at home as part of the cross-section.

#### DRUG USE AND ABUSE

In many quarters there is alarm about the degree to which Americans use and rely on exogenous substances in their daily lives. While there is undoubtedly a basis for such concern, American men in general have strong reservations

about many drugs and chemical substances. Approximately 1 in 3 approve (strongly or somewhat) of use by the general public of tranquilizers or sleeping pills, while support for the use of marijuana is slightly lower. Fewer than 1 man in 10 approve of the use of amphetamines, barbiturates or cocaine, and both hallucinogens and heroin meet with nearly total disapproval:

#### APPROVAL OF THE USE OF DRUGS AND CHEMICAL SUBSTANCES BY THE GENERAL PUBLIC

[In percent]

	Approve strongly	Approve somewhat	Disapprove somewhat	Disapprove strongly	It depends (volume)	Not sure
Tranquilizers.....	4	33	24	28	10	1
Sleeping pills.....	2	31	27	30	9	1
Marijuana.....	10	19	17	50	3	1
Amphetamines (ups).....	1	9	20	64	5	1
Barbiturates (downs).....	1	7	20	67	4	1
Cocaine.....	2	5	11	78	3	1
Hallucinogens (such as LSD, mes- caline).....	1	3	7	86	2	1
Heroin.....		1	5	91	2	1

Drug abuse is often associated with the young. The level of approval given to the use of tranquilizers or sleeping pills is not very different by age. Marijuana is approved of by nearly half of the men under 25, and drops off rapidly; only 8% of men in their 40's approve of the use of marijuana. The use of the other chemical substances is slightly more acceptable to young men than to older men, but the differences are quite small: among those 18-24, fewer than 1 in 5 approve of the use of "ups", "downs" or cocaine. The "more serious" drugs—hallucinogens (such as LSD and mescaline) and heroin—meet with very little approval among the young:

#### APPROVAL OF THE USE OF DRUGS AND CHEMICAL SUBSTANCES BY THE GENERAL PUBLIC

[Approved strongly or somewhat]

[In percent]

	Tranquil- izers	Sleeping pills	Mari- huana	Amphet- amines (ups)	Barbi- turates (downs)	Cocaine	Hallu- cinogens	Heroin
Total.....	37	33	29	10	8	7	4	1
Age:								
18 to 19.....	39	34	36	13	12	11	7	4
20 to 24.....	37	31	51	19	14	16	8	2
25 to 29.....	33	27	37	10	8	7	3	2
30 to 34.....	40	37	24	6	5	4	4	1
35 to 39.....	46	41	15	8	7	1	1	1
40 to 49.....	36	33	8	5	4	1	1	1
Education:								
Less than high school graduate.....	35	28	25	13	13	6	3	3
High school graduate/ some college.....	39	34	29	10	7	8	4	1
College graduate.....	37	34	37	10	9	6	6	2
Post graduate.....	37	32	25	6	6	3	1	1
Income:								
Under \$10,000.....	35	28	35	14	12	11	7	3
\$10,000 to \$14,999.....	40	33	28	9	8	6	3	1
\$15,000 to \$24,999.....	41	36	22	8	7	5	2	1
\$25,000 and over.....	42	36	36	10	8	6	4	1
Occupation:								
Professional/manager.....	38	32	28	9	8	5	3	1
White collar.....	43	43	30	10	8	8	3	1
Skilled worker.....	38	33	26	12	9	6	3	2
Unskilled worker.....	37	30	24	10	9	8	5	2
Unemployed.....	42	32	41	19	18	15	10	5
Student.....	34	31	49	13	8	13	7	3

## SUMMARY

It should be pointed out that these figures represent only approval of the various drugs and substances for use by the general public, and not the actual rate of drug use. We have seen elsewhere in this report that tolerance for alternate lifestyles and behavior is usually greater than personal acceptance of them, and it is likely that approval here is higher than actual use.

Having said that, it is clear the level of tolerance for such drugs is rather low among American men. Tolerance for marijuana is, of course, relatively high among the young, but even here a significant number (47%) of men 18-24 disapprove of its use by the general public. College students are fairly equally divided on the question, with fewer than 1 in 5 giving it their full endorsement:

*Approval of the use of marihuana by the general public among college students*

	College students (percent)
Approve strongly.....	19
Approve somewhat.....	30
Disapprove somewhat.....	19
Disapprove strongly.....	29
It depends (volume).....	2
Not sure.....	1

NEW YORK CITY AFFILIATE, INC.,  
NATIONAL COUNCIL ON ALCOHOLISM,  
New York, N.Y., April 7, 1977.

Hon. LESTER L. WOLFF,  
Committee on Narcotics Abuse and Control,  
House Office Building, Annex 2, Washington, D.C.

DEAR REPRESENTATIVE WOLFF: Thank you for your letter in response to my telegram. Unfortunately, the letter was inadvertently sent to the wrong address, and I didn't receive it until April 4. I appreciate your sending the list of witnesses and I was glad to see that the Committee did not weight the witnesses in either direction.

Although I received your letter after the deadline of March 30, I hope the Committee will include the enclosed material as part of the record on the issue of decriminalization. For your perusal, I am enclosing a piece I did for "The New York Times," which was never printed, a copy of a letter I wrote to the editor of "Newsweek," and a copy of a paper by Dr. George Russell.

Thank you for placing my name on your mailing list and also for your kind consideration.

Sincerely,

NICHOLAS A. PAGE, M.D., *President.*

THE MARIJUANA COVER-UP

A few days ago a report was released to the media by the National Institute of Drug Abuse which portrayed, in a pseudo-scientific manner, marijuana as a safer drug than alcohol or tobacco. Nothing could be further from the truth and it is time that the responsible medical community be allowed to be heard so that it may present the tremendous amount of medical evidence that shows the severe toxicity of marijuana.

As a practicing physician, assistant professor of medicine at New York University Medical Center and president of the New York City Affiliate of the National Council on Alcoholism, I have personally cared for two young people who became psychotic after using marijuana, in one case using only one joint and in the other case smoking 5 joints a week, for a period of 6 months. Similar psychiatric case histories presented in numerous medical journals have further corroborated my own observations.

I would like to set the record straight. Marijuana is a much more dangerous drug than alcohol or tobacco. One can have one or two drinks a day for 20 or 30 years and never suffer ill effects from it. Alcohol is water soluble. One ounce is completely metabolized and broken down to water and carbon dioxide in 12 hours.

Marijuana on the other hand is not water soluble—it is fat soluble, and the active psychotropic ingredient (delta-9 Tetrahydrocannabinol) accumulates in the tissues of the body that are fat laden; for example, the nervous system including the brain and sex organs. In animal experiments with radioactive tagged Delta THC, the THC was still detected 2 weeks after a single injection was given in the brain, liver, lungs and reproductive organs. THC accumulates in the system the same way that DDT has been found to accumulate. It is this cumulative effect on the brain which is responsible for the irreversible brain damage that Dr. Robert Heath, Professor of Psychiatry at Tulane University, has shown in his rhesus monkey experiments. The actual irreversible brain atrophy or damage in the rhesus monkeys was produced with the human equivalent of one marijuana cigarette (2 percent THC) a day for 3 months.

The Colombian marijuana currently available in New York City is 3+ % THC. Therefore, 4 to 5 marijuana joints per week would be at the dosage level causing brain damage. Dr. Heath has not tried doses less than this; therefore, this may not be the minimal level.

There is also evidence to indicate that cannabis smoke is far more damaging to the respiratory tract producing sinusitis, pharyngitis, bronchitis and emphysema in a year or less as opposed to 10 to 20 years of comparable cigarette smoking, and far from marijuana painted on the backs of animals has produced cancers.

Space does not allow us to present the long list of other medical complications of marijuana; such as the genetic and chromosomal damage, cellular damage and birth defects.

The media, however, does not seem to want to report the information concerning the substantial health hazards that result from marijuana use. There is a very active, financially strong lobby called NORML (National Organization for the Reform of Marijuana Laws), which is dedicated to legalizing this very lethal drug. TV panels and public awareness meetings appear to be geared toward the psychiatrist or psychologist who is in favor of its use. Documentaries on the subject frequently emphasize its overwhelming social acceptance and use, fostering the idea that it should be decriminalized since so many people are using it. They fail to report the medical problems that we as physicians are seeing happen.

In a recent editorial in the Journal of the American Medical Association, the question was raised how can the medical profession disseminate this medical information in a systematic manner concerning the substantial health hazards resulting from marijuana smoking? Is there a conspiracy by those in the news media who are in favor of its use not to report the medical side of the drug? I sincerely believe that while alcoholism is our most serious drug problem, marijuana has the potential of becoming an even greater problem since it is being used by an unsuspecting public.

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NEW YORK CITY AFFILIATE, INC.,  
NATIONAL COUNCIL ON ALCOHOLISM,  
New York, N.Y., April 7, 1977.

EDITOR,  
*Newsweek Magazine*,  
New York, N.Y.

DEAR SIR: Concerning your March 28 article on the proposal by the Carter administration to decriminalize marijuana, some of us in the alcohol and drug field believe that if the White House is really committed to discouraging the abuse of drugs, decriminalization is not the way to proceed, since in most quarters this would be tantamount to legalization. No one wants to send young people to jail, but other alternatives do exist. One such alternative is the Sacramento citation-Diversion program, which provides for first time offenders to go free without any arrest or conviction record provided they agree to participate in a counseling and education program that includes the maximum of 16 counseling hours for a period not exceeding 30 days. In such a program individuals could be exposed to the tremendous amount of medical evidence which shows that marijuana is harmful.

For whatever the reasons, scientists who uncovered evidence of marijuana's serious medical and psychological effects have encountered great difficulty in getting this information before the public. It is my belief, however, that the American people not only have a right but also would want to know of these findings.

Typical of the misinformation that now prevails is the belief that marijuana is no more harmful than alcohol. As a practicing physician and assistant professor of medicine at NYU medical center, and as president of the New York City Affiliate of the National Council on Alcoholism, I would like to set the record straight, marijuana is much more dangerous than alcohol. For example, a person can have one or two drinks a day for 20 or 30 years and never suffer ill effects from it. Alcohol is water soluble; one ounce is completely metabolized and broken down to water and carbon dioxide in 12 hours.

Marijuana on the other hand is not water soluble—it is fat soluble, and the active psychotropic ingredient (delta-9 Tetrahydrocannabinol) (THC) is attracted to the fat laden tissues of the body, such as the brain and sex organs, accumulating in these tissues in much the same manner as DDT. Thus, in animal experiments with radioactive tagged Delta THC, the THC was still detected two weeks after a single injection in the brain, liver, lungs and reproductive organs. It is the cumulative effect on the brain which is responsible for the irreversible damage that occurs in the eight specific brain sites that Dr. Robert Heath, Chairman and Professor of Psychiatry at Tulane University, has shown in his rhesus monkey experiments using the human equivalent of one marijuana cigarette (2 percent THC) a day for three months.

In view of these and other findings, I sincerely believe that while alcoholism is our most serious drug problem, marijuana has the potential of becoming an even greater drug problem, since it is being used by an unsuspecting public.

I therefore urge that before any move to decriminalize marijuana is made, a massive educational effort be undertaken to inform the public of this drug's serious deleterious effects. Without such an effort decriminalization itself would be a crime.

Sincerely,

NICHOLAS A. PAGE, M.D., *President.*

CRITIQUE OF DR. NORMAN E. ZINBERG'S ARTICLE ON MARIHUANA IN *PSYCHOLOGY TODAY* (DECEMBER 1976)

(By Dr. George K. Russell, Associate Professor of Biology)

The purpose of this paper is to analyze Norman E. Zinberg's article on marihuana (*Psychology Today*, December 1976) in the light of present knowledge of the effects of this drug. Within the span of a short critique it will not be possible to consider all of Zinberg's points, or to review the many scientific and medical findings on marihuana. In the following pages I shall consider several of Zinberg's categories and present alternative interpretations.

It is my contention that Zinberg's article contains incorrect assertions and faulty conclusions; that it has misled many into believing that marihuana is quite harmless, and that legal sanctions for its use, possession and sale are unwarranted and outdated. It is my further contention that a substantial body of medical evidence exists showing that marihuana is a dangerous substance, that this information has not been communicated to the public in an effective way, and that any move toward decriminalization (or outright legalization) must give serious consideration to the medical findings.

AMOTIVATIONAL SYNDROME

One of the chief weaknesses of Zinberg's paper is that the author simply fails to convey a sense for the weight of medical evidence showing that marihuana causes serious personality changes (including the so-called "amotivational syndrome") in those who used it.

The term "amotivational syndrome" was used by Dr. Louis J. West in 1972 to describe personality changes in marihuana users. According to Dr. West, "the experienced clinician observes in many cannabis users personality changes that grow subtly over long periods of time: diminished drive, lessened ambition, decreased motivation, apathy, shortened attention span, poor judgment, diminished capacity to carry out complex plans or prepare realistically for the future", and a variety of other deleterious changes. The stereotypical nature of many of these symptoms led Dr. West to postulate "a clinical organicity" to the syndrome, i.e. to suggest that actual organic changes in the tissues of the brain were responsible for the amotivational syndrome.

Zinberg refers to West's work but fails to point out these observations have been repeated and corroborated by numerous other practicing psychiatrists in this country and elsewhere. Drs. William T. Moore and Harold Kolansky of the University of Pennsylvania Medical School, for example, state that "marihuana and hashish have a chemical effect that produces a brain syndrome marked by distortion of perception and reality . . . This leads to an early impairment of judgment, a diminished attention and concentration span, a slowing time sense, and a loss of thought continuity . . . In the last nine years we have seen *hundreds of patients* who have suffered psychiatric and neurological symptoms as a result of marihuana use." (Emphasis added.) Dr. Andrew Malcolm, a Canadian psychiatrist, Dr. D. Harvey Powelson, formerly Chief of the Health Clinic at the University of California at Berkeley, Dr. Roy Hart, a New York psychiatrist and Editor of the Journal of the American Academy of Psychiatry and Neurology, as well as many others have independently confirmed and extended West's observations. In a recent paper entitled "A Psychiatric Classification of Cannabis Intoxication", Dr. Hart presents a bibliography of 75 independent studies showing serious effects of marihuana on the mind; numerous others could have been added. The sum total of these published accounts constitutes a formidable body of psychiatric and medical testimony concerning the deleterious effects of cannabis on the human psyche.

#### BRAIN DAMAGE

In Zinberg's article the important findings of the English neurologist, the late Dr. A.M.G. Campbell, are belittled and apparently refuted. In his study, Campbell executed a complex medical procedure called air encephalography (in effect, an X-ray of the brain) on ten long term cannabis users, all of whom presented severe personality disorders. All ten subjects showed definite evidence of cerebral atrophy (shrinkage of certain brain tissues) as compared with ten control subjects. Although several of the subjects had used LSD, amphetamines, etc. to some extent, Campbell emphasized that cannabis was the predominant drug of abuse in all cases and he concluded that chronic use of marihuana caused damage to the brain. Dr. Zinberg, as well as Dr. Lester Grinspoon, do not agree with this conclusion. It must be stated emphatically, however, that many reputable medical authorities do agree with Campbell's findings and see in them an important confirmation of the West hypothesis, i.e. that marihuana causes degenerative changes in the structure of the brain. As we shall see below, further experimental work by Dr. Robert Heath has added strong support to Campbell's important study.

It is my contention that Heath's work constitutes some of the strongest evidence for the harmfulness of marihuana and that the results of his studies have been seriously misinterpreted and misrepresented. Over the past several years Dr. Heath, Chairman of the Department of Psychiatry and Neurology at Tulane University School of Medicine, has carried out careful laboratory studies on brain-wave patterns in the rhesus monkey. Heath demonstrated that animals exposed to cannabis smoke twice a week "began to show irreversible alteration in brain function about three months after onset of the experiment." These brain-wave abnormalities were shown to persist for eight months even after the monkeys were no longer exposed to cannabis smoke. Most importantly, the regions of the brain where Heath measured the most pronounced and persistent changes in brain function by electroencephalography were just those regions where Campbell noted cerebral atrophy in the ten human subjects! The two studies taken together stand as powerful and enduring testimony to the dangers of marihuana use.

In summarizing his findings Heath compared the effects of alcohol and marihuana as follows:

"Alcohol does not get in and directly affect brain function as the cannabis preparations do. They have a strikingly different physiological effect on the brain. Of course, alcohol does affect the liver and it has been shown objectively with many recent experiments that it ultimately can affect the brain, but you can use alcohol for a long period of time without producing any sort of persistent damage. People might drink rather heavily for 25 to 30 years and never get into serious trouble so far as alterations in the brain are concerned. But with marihuana it seems as though you have to use it only for a relatively short time in moderate to heavy use before persistent behavior effects along with other evidence of brain damage begin to develop . . . As data accumulate, they are beginning to confirm what many of us have suspected from clinical experience

with marihuana users; namely that marihuana produces distinctive and irreversible changes in the brain."

Zinberg's article discusses the Heath findings, but apparently refutes them. According to Zinberg, Heath's dosage levels in the monkey experiments correspond to human consumption of 100 marihuana cigarettes a day, a very high dosage indeed! Unfortunately this statement has no relation whatsoever to the dosages actually employed by Heath. The dosage levels in the monkey experiments, at which Heath found apparently irreversible brain damage in three months' time, corresponds to human consumption of about one marihuana cigarette a day!<sup>1</sup> It is a grave tragedy that Dr. Heath's findings have not been properly presented to the general public, for there are thought to be at least two million daily marihuana smokers in the country at the present time.

Zinberg cites the study of Stunkard, Grant et al. to support his contention of harmlessness. In this investigation no significant differences were noted between 29 users and a comparable group of non-users in an extensive series of psychological tests. The Grant study was thorough and carefully performed, but there are several important features that must be noted:

(1) The median frequency of cannabis use in the 29 subjects was 3 times per month.

(2) The authors acknowledge in their introduction the significance of Kolan-sky and Moore's findings of neurological impairment and Campbell's report of cerebral atrophy.

(3) The authors' principal conclusion is that "in the final analysis, our failure to demonstrate impairment does not mean that no impairment exists, but only that our tests could not demonstrate it."

Finally, Zinberg does not mention the work of Dr. Harold Kalant of the Department of Pharmacology at the University of Toronto, who showed that rats exposed to marihuana smoke for five months' time suffered an irreversible loss of learning ability as measured by standard psychological tests.

Quite obviously, further work remains to be done. It is clear, however, that there exists a substantial body of evidence in support of West's proposal that marihuana induces personality disorder through a direct chemical effect on the brain. In my view, Dr. Zinberg has given us a highly misleading picture of the current status of this very important evidence.

#### THE JAMAICA STUDY

Zinberg refers repeatedly to the well-known Jamaica Study, calling it "a splendid piece of anthropological research." In actual fact this study suffers from serious methodological short-comings and many of its widely published conclusions are not to be taken seriously at all.

The following points summarize several of the criticisms that have been raised against the study and cast a very different light on Zinberg's uncritical support of the Jamaica Report.

(1) Ganja (cannabis) has long been regarded by the laity and the medical profession as a cause of psychosis in Jamaica. The unrivaled, accumulated experience of Cooke, Royes, and Williams, who were in recent years senior medical officers at Bellevue Hospital in Kingston fully substantiate this (Dr. John A. S. Hall, Kingston).

(2) An emphysema-bronchitis syndrome, common among Indian laborers of a past generation, who were well-known for their ganja smoking habits, is now a well-established present day finding among black male laborers in Jamaica (Dr. John A. S. Hall).

(3) Personality changes among ganja smokers and members of the Rastafarian cult are a matter of common observation in Jamaica. The apathy, the retreat from reality, the incapacity or unwillingness for sustained concentration, and the lifetime of drifting are best summed up in the "amotivational syndrome" (Dr. John A. S. Hall).

(4) The chromosome study, performed as part of the Jamaica investigation, was so deficient that 27 of the 60 cell cultures did not grow and could not be

<sup>1</sup> The misunderstanding concerning Dr. Heath's dosage levels stems from a remark made by Dr. Julius Axelrod at the U.S. Senate hearings held by the Subcommittee on Internal Security in May, 1974. On p. 383 of the transcript of the hearings, Dr. Heath presents the actual data from his experiments and shows that the dosage level corresponded to one marihuana cigarette a day, not 100! What is especially significant is that Zinberg fails to mention Heath's rebuttal, even though reference to it is made on the same page of the hearings transcript as the Axelrod statement to which Zinberg refers.

scored. For this and other methodological shortcomings the data from this study would never be acceptable to a peer-reviewed scientific journal.

(5) Standard lung X-rays (such as those carried out in the Jamaica study) are an important diagnostic test for many pulmonary disorders, but they usually do not reveal the emphysema-bronchitis syndrome which has been so widely attributed to heavy marihuana use.

(6) Standard scalp electroencephalograms that were taken during the Jamaica study are incapable of detecting the cannabis-induced brain-wave abnormalities that have been recorded by electrodes implanted deep within the brain. (Dr. Heath, for example, noted normal EEG patterns in scalp recordings of the same monkeys who showed highly abnormal records from deeper regions of the brain.) The Jamaica study's claim that long-term cannabis users show no brain damage measured by scalp EEGs is both inconclusive and misleading.

(7) Dr. Michael Beaubrun, one of the psychiatrists who participated in the Jamaica study, has stated that cannabis use "among the middle class is now found to be associated with school dropouts, transient psychoses, panic states and adolescent behavior disorders." Dr. Beaubrun's contention that his observations on low-class field hands in the Jamaica study have little relevance to middle class American students has received virtually no publicity, with the exception of one short appearance on the John Chancellor NBC Evening News.

(8) Finally, Zinberg's facile assertion that the long-term cannabis users in the Jamaica study may be "better motivated" is based upon the trivial observation that workers using cannabis were shown to pick fewer weeds per hour, but executed more movements (and expended more energy) in doing so. One can only stand in amazement that such meaningless tripe could pass for acceptable scholarship.

#### REPRODUCTIVE PROCESSES

The presently existing evidence concerning reproductive processes is somewhat contradictory but many studies show definite effects of marihuana on genes and chromosomes, on the overall process of sperm formation, and on normal embryonic development. Zinberg mentions the important findings of Stenchever on human chromosomes. He does not mention a variety of other findings including those of Hembree et al. on reduced sperm formation in male human subjects, of Dixit et al. on altered sperm formation in male mice, of Stefanis and Issidorides describing morphological alterations in the sperm of chronic hashish users in Greece, or a variety of other studies showing birth defects in young rhesus monkeys whose parents had been exposed to marihuana smoke (Sassenrath and Chapman) and birth defects in baby rabbits whose mothers received injections of THC (Fournier).

In addition, he makes no mention of the International Conference on Marihuana held in Helsinki in July, 1975. At this meeting 50 medical scientists from many different countries met to discuss the latest findings. Many of the papers centered on the cellular effects of marihuana. Indeed, the finding that THC and various other marihuana products inhibit cellular processes was fully documented by no less than 12 independent research groups. These scientists reported that cannabis products interfere with the synthesis of DNA (the chemical substance of which genes are composed), RNA and protein in a wide variety of cell types, including a selection of human cell lines, and that cells treated with cannabis products undergo abnormal division, producing malformed nuclei with subnormal amounts of DNA. As stated by Dr. W.D.M. Paton of Oxford University, one of the organizers of the Conference and one of the world's leading experts on marihuana, there appear to be at least two target organs for cannabis, apart from the brain, in which cellular effects are prominent, (1) the testis and (2) the immune system. Unfortunately the proceedings of the Conference have received very little attention in spite of their very great significance.

Zinberg is correct in one sense. Several studies have shown no chromosomal damage in human subjects. What he has ignored is a substantial body of careful medical evidence showing serious genetic consequences of cannabis use. Only future research will give a complete picture.

#### IMMUNE RESPONSE

Zinberg's treatment of the evidence concerning marihuana and the immune response also fails to convey a proper sense for the possibility of very serious consequences. To be sure, the scientific results are contradictory and not fully



resolved. At the same time, additional evidence was presented at the Helsinki conference supporting the idea that marihuana lowers the body's resistance to disease. Rosencrantz described strongly immunosuppressive effects of THC in rodents; Stefanis and Issidorides gave evidence of white blood cell changes in chronic hashish smokers in Greece; Chari-Bitron showed that THC paralyzes certain cells in the lungs that are thought to be highly important in protecting the lungs from disease. Further research will be necessary to clarify the many unresolved points, but here too the basic stance must be one of serious concern. Any impairment of the system of defense mechanisms and immune responses carries with it the distinct risk of malignancy and other serious pathological conditions. Indeed, according to a recent statistical study, kidney transplant patients given immunosuppressive drugs to prevent organ rejection develop cancer at rates 80 times that of the general population (Penn and Starzl). Long term epidemiological studies will be needed to identify the connection between marihuana use and disease. In the meantime, the general public must be made aware of the possibility of serious effects.

#### THE LUNGS

Zinberg makes no mention of the effects of marihuana on the lungs. The findings in this area, as reported to the Senate Subcommittee on Internal Security in 1975, have gone unchallenged since their release and are to be taken very seriously.

(1) Chronic cannabis smoking can produce sinusitis, pharyngitis, bronchitis, emphysema and other respiratory difficulties in a year or less, as opposed to ten or twenty years of cigarette smoking.

(2) Cannabis smoke, or cannabis smoke mixed with tobacco smoke, is far more damaging to lung tissue than tobacco smoke alone.

The highly pro-marihuana article in Consumer Reports (March 1975) even acknowledges that the "risk of lung damage may be serious" in chronic marihuana users, but one can hardly accept the author's suggestion that smokers adopt alternative forms of marihuana consumption "such as drinking marihuana tea" to protect the tissues of the lungs.

#### SEX IMPAIRMENT

Within the context of a short critique it is not possible to treat this topic thoroughly. Zinberg claims that both marihuana and cocaine enhance sexual enjoyment. Others have shown that any initial lowering of inhibitions is soon replaced by serious loss of sexual desire and performance. A recent book by Dr. Hardin B. Jones and Helen Jones of the University of California at Berkeley (Sensual Drugs, Cambridge University Press) treats this topic in depth and is an important document in the ever-growing body of anti-marihuana literature.

#### CONCLUSIONS

(1) There exists a solid body of medical findings showing that marihuana is a very dangerous substance. The evidence includes statements by practicing physicians and psychiatrists, as well as a wide variety of medical research findings. Much of this has not been presented to the public in an effective way. Indeed, much of the confusion in the mind of the general public has been due to the pro-marihuana stance adopted by certain segments of the media and articles such as Zinberg's.

(2) Within the context of current public opinion, decriminalization of marihuana tends to be equated with harmlessness of the drug. One obviously does not wish to place young people in jail for extended sentences, but the law must act as a deterrent to the spreading use of a dangerous substance. Discouragement of use must be the foundation upon which any legal position is formulated! Penalties must be established that reinforce this principle and an effective education program must be developed to convince the general public of the dangers to mind and body of cannabis use. Decriminalization without an intensive prior effort on a nationwide scale to inform the public of the real dangers of this substance will only lead to greater use.

(3) We are faced with a virtual epidemic of cannabis use in this country, as measured by several independent criteria. That can be viewed as a national disaster. It is essential that significant steps be taken at once. At the same time,

one must recognize that the use of drugs by young people may be seen as symptomatic of deeper underlying causes. An understanding of these deeper causes and a vigorous effort to rectify them must be important priorities of all concerned parents, educators, and appropriate public officials.

## THE CASE AGAINST MARIJUANA AND ITS DECRIMINALIZATION

(By Willel W. G. Reitzer)

Marijuana use is so controversial for two basic reasons. First, there are over half a dozen aspects to the subject, each requiring expert insights: (i) there is the medical aspect of the effect of marijuana on the brain and various organs of the body; (ii) there is the psychological aspect of effect on personality—on self-concept, motivation, problem-solving, industry, getting the most out of life; (iii) the social aspect of getting along with others, obtaining and holding a job, community development, driving safety, involvement in crime, contribution to the general welfare; (iv) the economic aspect of the amount of cost on law enforcement and public welfare agencies; (v) the legal aspect of philosophy of law, jurisprudence, legislation, sanctions, detection, enforcement; (vi) the religious aspect of effect on the spiritual welfare of the soul and its relationship to God; (vii) the educational aspect of how best to make presentation of the subject to the unlearned. Secondly, there is the disagreement among spokesmen with reference to each of these aspects.

What are the causes of the prevailing disagreement? In many instances, it is simply the lack of substantial information—or the reliance on misinformation. Regrettably, too much information on marijuana offered to the public is unfounded or inaccurate. And a considerable amount thereof, unfortunately, is deceitful and purposely false. For example, the pusher will present his product in the most favorable terms imaginable. In other instances, the disagreement is due to prejudice, which can be found on both sides of the issue. Admittedly, therefore, it is not easy to arrive at the truth and to determine what is right and good. But it is nevertheless possible if one remains open-minded and persists in sifting the facts from fiction.

After extensive in-depth research (prompted by legislative efforts to decriminalize marijuana in the District of Columbia), the author found that the assertions and arguments of those who favor marijuana use and of those who favor decriminalization do not stand up.

1. Marijuana is not a mild relaxant with relatively uniform responses in users, but a highly toxic drug producing extremely variable effects on the consciousness.

a. Marijuana, or *cannabis sativa*, is a plant (a weed) with several hundred varieties of differing potency. Unlike alcohol, which is a singular substance, marijuana has a number of different ingredients and chemical compounds. The major psychoactive ingredient is  $\Delta^9$ -tetrahydrocannabinol (THC for short). Not only do plants vary in THC content, but various parts of the plant have different THC potency. The various parts (tops, leaves, stems, and even roots) of the plant are used to make a tobacco. The amount of THC in a marijuana cigaret can vary greatly. It is measured by percentage, the U.S. variety ranging from .05 to .2%. Thus, a one gram cigaret will have from .5 to 2 mg of THC. Smoking marijuana releases THC into the human system. Sufficient THC will almost immediately cause an "intoxication". But the amount of THC taken in by a puff from the same cigaret will vary considerably from person to person depending on the size of the inhalation, the size of the lungs, the length of the cigaret. If there is sufficient THC content, an intoxication can result from only several puffs. But even from low THC content cigarets one can get a strong intoxication simply by taking more puffs.

b. Much stronger THC products can be made from the marijuana plant. The greatest THC concentration is in the tops of the plant. From this a dark brown resin can be made, called hashish, which can be smoked (or taken orally), containing 8 to 15% THC. Also, an oil can be distilled from marijuana having a THC content from 20 to 90% THC. Thus, marijuana can produce everything from mild euphoria to violent hallucinations.

c. Because the biochemical action of THC on the brain can cause hallucinations, marijuana is called an hallucinogen (also, a psychedelic). It is a mind-

altering drug that produces changes in thinking, sensations, emotions, and volition. In other words, it distorts reality. This distortion is in proportion to the THC taken into the human system. Some of the effects are regarded as positive, but most as negative. The drug can work as a stimulant or as a depressant. Common effects on the mentality are: free-flowing disconnected ideas, conviction of enhanced insight, rampant imagination, dulled attention, lightheadedness, dizziness, confusion, impaired judgment, intrigue at alterations of sense and time and space, fragmentation of thought, altered sense of identity, memory loss, dreaminess, sleepiness, fantasies, illusions. Emotional effects are: euphoria, relaxation, restlessness, well-being, exaltation, excitement, carefreeness, closeness to others, moodiness, downcastness, distorted emotional responses, abnormal sensations, depression, increased subjective sensory perceptions, nausea, mood swings, irritability. Volitional effects include: feelings of omnipotence, reduced inhibition, carelessness, increased suggestibility, muscular incoordination. Sensory experiences include: touch is dulled, sound is magnified, visual imagery becomes more vivid, space concept broadens and magnifies (near objects appear far away), time perception is reduced (minutes seem like hours), pupils dilate, pulse accelerates, blood pressure rises, urination is frequent, appetite increases (especially for sweets), sense of pain diminishes, body extremities feel lighter or heavier, hilarity increases, talkativeness, diarrhea, impression of greater sexual ability, head feels swollen, floating sensations. Positive and negative effects can follow close on the heels of one another. Effects come and go in differing sequences.

d. With stronger doses of THC the effects are expanded and intensified: stronger illusions, depersonalization, different kinds of anxiety, hyperactivity, paranoia, vivid hallucinations, synesthesia (cross-reference sensations), subacute states of delirium, schizophrenia, various panic states, various chronic fears (of having a nervous breakdown, of losing one's mind, of dying), distortion of body image (feeling separated from one's body), unconsciousness (fainting). One study of 153 persons disclosed over 200 different effects. This great variability and unpredictability is part of the drug's pharmacologic profile. (Information in foregoing paragraphs compiled from numerous sources, chiefly "Marijuana-Hashish Epidemic and Its Impact on U.S. Security," hearings before the Internal Security Subcommittee of the Senate Judiciary Committee, Part I, May-June, 1974, and Part II, May 8, 1975—hereafter referred to as HME-I and HME-II with page numbers—see especially pages 45, 104, 201, 202, 296, 393, 415, 515; and, Gabriel G. Nahas, Marijuana—Deceptive Weed, Raven Press, New York, 1973, pp. 77, 165, 276.)

e. Another major variable upon every occasion of use is the user's attitude and expectations. This factor has been dramatically demonstrated when test subjects who had been given placebos without knowing it reported intoxicating effects. Another example involved a pusher who had been selling tea and oregano as marijuana to the satisfaction of customers. Hence, it is possible to psyche oneself into what is thought to be a marijuana experience. Even when real marijuana is used, it is said one must learn to use it so as to get pleasure from it by believing it is pleasurable. But it is also reported that when one is truly depressed, marijuana use does not help.

f. A further variable is the setting in which marijuana is taken. On the one hand, in a social setting there will be responses depending on atmosphere and activity. A sense of social cohesiveness can prevail, although an unpredictable and unexpected act by one person can trigger unexpected experiences in others, or a person can suddenly turn paranoid and be suspicious of everyone else. On the other hand, in a laboratory setting under the watch of scientific observers a sobering effect can result so that marijuana effect will be minimized and minimal.

g. Along the same lines, a person's physical and psychological condition is material. In some persons a mild cigaret produces strong reactions, as in the case of a coed who heard voices every time (D. Harvey Powelson, M.D., "Marijuana: More Dangerous Than You Know," Reader's Digest, Dec. 1974, p. 98). In some people, psychotic episodes are possible at any level of use (Dana L. Farnsworth, M.D., "Drug Use For Pleasure: A Complex Social Problem," The Journal of School Health, Mar. 1973, p. 157).

h. Complicating the picture further is the fact that the potency and purity of the marijuana being used is not known. THC decomposes into inactivity under

certain conditions such as prolonged storage or upon faulty preparation. Pushers tamper with the marijuana either by diluting it (for increased profit) or by strengthening it with hashish or stronger drugs (in order to push users into more expensive habits). An analysis of cigarets taken from a wide selection of users in London varied in THC content from .15 mg to 41 mg—or more than 400%! (MHE-I-393).

2. Experimentation with marijuana is therefore extremely dangerous as it can result in adverse consequences on first-time use.

a. In our society experimentation is encouraged. But it should not be considered in the case of marijuana because its high variability and unpredictability can result in health problems needing medical treatment or in accidents. The author knows of a first-time user who began hallucinating while driving home from a party and ended up in an accident that could have been fatal.

b. For a significant number of marijuana users, first-time use led to regular marijuana use, which in turn led to personality breakdowns and damage to various organs of the body and to marijuana dependence, which in turn led to various social disruptions, commission of crime, going on to harder drugs, withdrawal into a subculture—with all the accompanying cost of time, energy, and resources for family, friends, law enforcement, welfare and other institutions (as will be documented more fully hereafter).

3. Two very dangerous properties of marijuana are its ability to persist in the body for longer periods of time and to accumulate so that regular use commences a physiological breakdown along with a psychological breakdown with all the possible consequences that may flow therefrom.

a. Scientific research discovered that when marijuana is taken into the body, part of the THC is not processed out again right away, but persists in the various fatty tissues of the body and is processed out rather slowly—over the space of more than a week. Hence, if additional THC is taken into the body in the meantime, it accumulates with the THC that is already there. As a result, the regular user finds that for a period of time he needs less THC for intoxications. This is called “reverse tolerance” (MHE-I-144). If enough THC accumulates, the user will remain in a mildly intoxicated state between regular intoxications (“highs”) with the same mental, emotional, volitional, and sensory impairments of a regular intoxication—only to a lesser degree (MHE-I-201, 202). Also possible if enough THC accumulates are “flashbacks”—a spontaneous recurrence of an earlier drug experience that can erupt at any time without having taken any additional marijuana. One study of high school students who had never used any other drug than marijuana found that 25% had experienced such flashbacks (H. M. Annis, Ph. D. and R. G. Smart, Ph. D., “Adverse Reactions and Recurrences from Marijuana Use,” *British Journal of Addiction*, Dec. 1973, p. 318). Users indicate these flashbacks can be of either a positive or negative variety. In some instances they can be considered disruptive.

b. The accumulated THC causes various kinds of damage in the body depending on the amount accumulated and the length of time in the system. Scientific research has identified these physiological consequences: damage to the entire cellular process—reduction of DNA and RNA synthesis within the cell causing a reduction in new cell birth and more cells with defective chromosome complements, as well as a wide variety of other disruptions undermining metabolism, energy utilization, and immunity responses (MHE-I-ix). The most important fatty material in the body is in the brain, so that here also the accumulated THC causes a gradual breakdown. This breakdown can be rapid in that segment of society that is on the borderline of mental illness, and if continued long enough, can become irreversible brain damage (MHE-I-175, 192). This effect on the brain is like a stroke, or a hit on the head, spread over a longer period of time. However, when THC intake is completely stopped—before too much time has passed—much of the disabling symptoms gradually recede (MHE-I-68). Another area of fatty tissues where THC primarily accumulates is in the reproductive organs, causing reduced male hormone level, reduced sperm count, and impotency (MHE-I-x). Furthermore, marijuana smoke is much more harsh and irritating than tobacco smoke, causing considerable irritation to the respiratory system and capable of producing all the diseases that cigaret smoking does only much more rapidly: sinusitis, bronchitis, pharyngitis, emphysema, conjunctivitis, and lung cancer (MHE-I-x, 70, 202).

c. The operation of the cumulated THC on the brain obviously will affect mental functioning. This in turn will affect personal attitude and behavior

which, if continued over a longer period of time, will produce personality changes. One medical expert noted that regular marijuana users tend to manifest on a continuing basis the very same impairments that go along with large dose intoxications: "diminished drive, lessened ambition, decreased motivation, apathy, shortened attention span, distractibility, poor judgment, impaired communication skills, loss of effectiveness, introversion, magical thinking, derealization and depersonalization, diminished capacity to carry out complex plans and prepare realistically for the future, a peculiar fragmentation in the flow of thought, habit deterioration and progressive loss of insight" (MHE-I-415). Other observers describe additional characteristics: increasing suspiciousness, paranoia, grandiosity, mood fluctuation, memory failures, hostility, furtiveness, dishonesty. Another source noted these additional symptoms in regular users: non sequitur in speech and preferential acceptance of non sequitur from others, easy inducement into "risky, impetuous and foolish behavior," such as acceptance of harder drugs or homosexual experiences, which are afterwards regretted, reduction of variety in facial expression with tendency to habitual mask-like expression, gaps and abrupt transitions in expression of thoughts, unemotionalness (MHE-I-235).

d. Often the users themselves do not associate these symptoms with marijuana use. Another medical doctor told of patients in the 20-30 age bracket holding good jobs who came in describing symptoms thought to be unrelated to marijuana use, namely: "a vague sense that something is wrong, and that they are functioning at a reduced level of efficiency," headaches, general sense of uneasiness, times of increased insecurity and unsureness, progressive sense of meaninglessness, ill-defined feelings of physical disturbance, erratic sleep, memory and judgment impairment. These patients were all found to have used marijuana more or less exclusively for 5 or more years. (Jordan Scher, M.D., letter to editor, Journal of American Medical Association, Nov. 9, 1970, p. 1120.) The literature on this point indicates that those with a higher IQ do not manifest personality breakdown symptoms as quickly or as readily as those of a lower IQ.

e. The group suffering the most are the adolescents, Dr. Walter X. Lehmann, director of a rehabilitation foundation with experience treating over 2000 young drug users, revealed that adolescents with increased and regular use manifest "a distinct change in attitude" toward family, friends, teachers, school-work, which includes increased hostility, apathy, objectional behavior, unacceptable work, with memory loss, mild confusion, fearfulness, considerable suspicion and furtive behavior—"after a while, the habitual user becomes so apathetic that he does not care what anyone thinks." To Dr. Lehmann the worst feature was marijuana's interference with the preparation and decision-making for adulthood at a critical period in young people's lives ("Doctor, What About Marijuana?" Reader's Digest, Apr. 1971, p. 169 ff.). One source noted that regular-using young people seem in a dream world out of touch with reality and have no desire nor see any need to return to normal.

f. Many regular users justify their personality changes and think they are in fact making improvements. Their diminished drive and capacity to prepare realistically for the future is looked upon as an advancement by way of being able to reject society's materialism. Decline in personal appearance and hygiene is looked upon as part of a glorious return to nature. And it is very difficult to deal with such persons, for "there is not much point in trying to do psychotherapy with someone who is intoxicated." They must first somehow be persuaded to stop using marijuana before personality rehabilitation can commence (MHE-I-417). But this is difficult as they have a sense of well-being despite all the deterioration that is taking place in their lives.

4. Marijuana proponents stress that the drug is not physically addictive (does not contain properties that make the body dependent on continued use), but this assertion has been contradicted by recent studies (MHE-I-35).

5. Marijuana use has a definite strong tendency toward psychological dependence (called "habituation") as well as to ever-increasing larger doses (called "tolerance").

a. Although a marijuana user at first experiences "reverse tolerance", with prolonged use actual tolerance sets in and he needs, and can absorb, larger and larger doses, because the body starts to accommodate itself (MHE-I-416). Testimony disclosed that among soldiers in Germany, where marijuana and hashish are readily available, some progressed from no more than one or two

stateside cigarettes to 25 to 50 grams of hashish a month within 3 months (MHE-I-297).

b. This tendency has been verified by various medical men who have worked with marijuana users. One stated: "The usual pattern . . . is using low-grade quality, then, as people become tolerant, they are looking for more and more highs, and they are moving gradually from better quality marijuana to hashish. But some people jump immediately from one to the other" (MHE-I-29). Dr. Scher (3/d above) noted an increasing number of patients recently "who have come to me strictly for relief of a marijuana habit." He said the patients complain of a compulsion, but "as far as I am concerned, it is a considerably stronger and more urgent force." He estimated 10 to 20 per cent of marijuana users fall into this category. They have a history of five or more years of exclusive use of marijuana and are "completely unable or unwilling to break with the drug voluntarily." At the same time he found these users got less pleasure from the drug, "but requiring more, a stronger amount, or different kind—all signs of increased tolerance." Dr. Robert L. DuPont, director of the National Institute on Drug Abuse, testified: "The last two years has produced new evidence of widespread and frequent use of marijuana to add to the growing evidence of serious potential health hazards," and that there is "a large and growing minority who use the drug more frequently, at a higher potency, and at a younger age" (MHE-II-463). Dr. Lehmann (3/e) found that adolescents can "quickly" become psychologically dependent on marijuana.

c. Senator Eastland summarized the findings of his committee: There has been "a continuing upward escalation in the potency . . . since the epidemic first broke in 1965." Up to 1970, most marijuana consumed was of domestic origin, low in THC (.2% and under). "This would help to explain why many observers of the marijuana epidemic during the early years came to the conclusion that it is not seriously damaging." Thereafter Mexican marijuana virtually monopolized the U.S. market (from 1 to 2% THC); around 1974 Jamaican and Colombian marijuana (3 to 4% THC) came in more and more, as well as stronger stuff including marijuana oil (MHE-II-vi). This is also reflected in the 10-fold increase in seizures of illegal marijuana in the U.S. between 1968-1973 (783,000 pounds in 1973), and a 25-fold increase in seizures of hashish (MHE-II-vii).

d. The experience in Egypt, where cannabis has been used for centuries, is enlightening. Professor M. I. Soueif testified that 78.5% of the cannabis users in his country "expressed a desire, but inability, to get rid of the habit, and about one-fourth of this discontented majority had made actual though unsuccessful attempts to stop the habit completely." He added: "According to their own reports, takers, when deprived of the drug, tend to become quarrelsome, anxious, impulsive, easily upset, and difficult to please" (MHE-I-178). Another source reports severer consequences of deprivation: not only restlessness, irritability and anxiety, but also depression—with suicidal fantasies and occasional "self-mutilating actions or actual suicidal attempts" (D. P. Ausubel, *Drug Addiction*, Random House, New York, 1958, p. 97).

e. Ordinary cigarettes being so habit-forming, it is reasonable to conclude that marijuana tobacco, which has much greater tar and nicotine content, will be much more habit-forming (MHE-I-202).

6. Marijuana users tend to be persons with intellectual, emotional, and personality weaknesses and manifest psychological, moral and religious deficiencies.

a. Marijuana was almost totally unknown in the United States until the 20th century. It was known in Europe, but according to Dr. Walter Bromberg, senior psychiatrist of New York City's Bellevue Hospital, "was regarded merely as a fantastic preoccupation of the jaded sensualist or the 'depraved' individual" ("Marijuana Intoxication," *American Journal of Psychiatry*, Sept. 1934, p. 304). It was used surreptitiously. Some of it came into the country from Mexico through migrant farm workers and some through seamen at major ports and found takers among the lowest classes in the large metropol. The word "marijuana" comes from the Mexican word "maraguango" meaning a substance producing an intoxication. And this is the purpose many use marijuana: to get "stoned". But even to try to use marijuana as a mild relaxant by restricting THC content to the minimum is not sensible for an intelligent person in view of all the actual and potential dangers involved.

b. Studies found that it is possible to predict what kind of non-users will become marijuana users: Those students who had attitudes approving behavior

deviation and who actually engaged in other deviant behavior, such as "more intensive petting behavior", who had friends who approved of drug use, who had a "lack of religious participation and involvement" (1974 "Marijuana and Health" Report of HHW to Congress, p. 24).

c. Many of the personality problems are traceable to the family situation. Dr. Anthony F. Philip, director of the Columbia College Counseling Service stated: "Young people don't seem to run into trouble with drugs when they have been brought up by parents with firm reasonableness who are honest and who practice what they preach." He believes family conflicts almost always underlie drug use of youngsters. ("Marijuana: How Dangerous Is It?" Reader's Digest, Jan. 1970, p. 69.)

d. The 1972 "Marijuana and Health" Report noted: "Almost certainly many of those most attracted to drug use are individuals who have personality problems. In some cases the drug is sought with a conscious hope that it will be psychotherapeutic" (p. 16).

e. Assuming that a person has a difficult home situation and/or personality problem, it is nevertheless foolish to turn to marijuana use and users for sympathy, insight, and companionship. Is it not more sensible to go to a person of good character, to a competent clergyman, or directly to God? Any youngster is able, if he is willing, to make his way in life independently, particularly with God's help, with outstanding success. History is full of examples, notably Jesus, who at 12 years of age had come to know His Father's will and was pursuing it with all His powers, being able to surpass the wisdom of some of the most learned men of the land (Lk. 2:41-50).

f. Some justify illegal marijuana use on the ground they should find out for themselves if it is harmful. But for every citizen to test laws for himself breaks down law and order so that such an approach is not good citizenship. Further, in the case of marijuana, such a course does not have the support of good conscience. As already indicated, neither is it good sense. The harmfulness of marijuana is better tested by men of science; their verdict and that of world history is overwhelmingly opposed to its use.

g. One study found that religious participation, belief in supernatural sanctions, and religiously based moral judgments do effectively keep some youths from marijuana use (Burkett and White, Journal for the Scientific Study of Religion, Dec. 1974, p. 460).

7. Those studies which negate the harmfulness of marijuana are the result of major errors in approach, procedure and test material.

a. When there are conflicting results of research on a substance such as marijuana, it is easier to explain the errors producing negative results than to find errors explaining positive results. It is true some people can experience an intoxication using non-marijuana material. But this is offset by the large numbers who use real marijuana exclusively reporting like symptoms. However, negative results can be explained by a number of separate factors: inactive marijuana, low doses, high tolerance in test persons, negative attitude, sobering setting—any one of which could have a negating effect on laboratory test results.

b. Dr. Edward Bloomquist singles out lack of clinical exposure as a major factor in the difference of expert opinion. The sociologists, the law enforcement officers, the rehabilitation personnel, and the medical doctors have widely differing experiences with actual users that predispose to different conclusions. (Drugs: For and Against, Hart, New York, 1970, p. 163.)

c. Dr. Gabriel Nahas, professor of anesthesiology, College of Physicians and Surgeons, Columbia University, admitted that even prejudice can play a leading role so that scientific evidence is disregarded: "The scientist is essentially a human being who is swayed by public opinion like any other human being. Before 1960 the majority of scientists had all agreed marijuana was dangerous, very much so, and then came this great new wave of marijuana use and public opinion did change and then in some respect it did influence the opinion of scientists, because the facts did not change. We were told 4 or 5 years ago that marijuana was harmless but there was no hard fact to support this contention, and there was a very strong body of historical evidence indicating that it was harmful. But many people were swayed by this new fashion" (MHB-I-106).

d. Observation of users has disclosed that the more a person uses marijuana the more convinced he becomes that it is not harmful, and the more he wants to

justify its use, and the more he tries to convert others to his beliefs. Dr. D. Harvey Powelson, from 1964 to 1972 chief of the department of psychiatry, Student Health Center, University of California (Berkeley) explained: "Its early use is beguiling. It gives the illusion of feeling good. The user is not aware of the beginning loss of mental functioning. I have never seen an exception to the observation that marijuana impairs the user's ability to judge the loss of his own mental functioning . . . After 1 to 3 years of continuous use the ability to think has become so impaired that pathological forms of thinking begin to take over the entire thought process." He added: "Its use leads to delusional system of thinking which has inherent in it the strong need to seduce and proselytize others. I have rarely seen a regular marijuana user who wasn't actively 'pushing'. As these people move into government, the professions, and the media, it is not surprising that they continue as 'pushers', thus continuously adding to the confusion . . ." (MHE-I-22, 23). It is evident that some of this "pushing" takes very subtle and seemingly scientific forms.

8. Persons use marijuana for a number of purposes, which they think they are accomplishing, but in reality they are mostly deluding themselves.

a. The testimony of Dr. Powelson (7/d above) included several examples. He said: "I first believed the marijuana users, when they were high, were cool and loving. I have come to see that this is an intermediate stage, fantasy, or illusion. They look amiable enough, but when you begin interfering with the use, to take it from them, you can have a very ugly situation." Also: "It is an interesting fact that questioning the claims of marijuana users leads to much more anger, vilification, and character assassination than does the opposite stance." This illusive aspect was one of the five reasons for his assertion: "My stance toward marijuana has shifted to the extent that I now think it is the most dangerous drug we must contend with" (MHE-I-29, 22).

b. Another purpose of users is to get greater insight into themselves and to experience "mind expansion". However, as one expert medical doctor observed, what users describe as enlightenment and mind-expansion would be regarded as a psychotic experience by medical analysts (MHE-I-185). Dr. Nahas (1/d) points out: "Through the ages, drug taking has conferred to man the illusion of reaching the eternal and of communicating with the universe"—as drug taking is "symptomatic of the craving for fulfillment of disillusioned youth seeking new values"—but "such fulfillment cannot be found in any lasting way through any type of intoxication" (pp. 291, 319).

c. An additional objective is greater creativity and productivity. But Dr. Sidney Cohen, director of the Division of Narcotic Addiction and Drug Abuse of the National Institute of Mental Health, noted that although users feel a heightening of constructiveness there is no visible justifiable evidence; rather, the opposite is to be expected as marijuana produces apathy (Drugs: For and Against, 7/b, p. 13). He also noted marijuana does not make users more amiable and less aggressive, referring to surveys revealing heavy users have been found to have more hostile feelings than a like group of abstainers (p. 14).

d. A major reason for taking marijuana is pleasure and a feeling of well-being. Evidently a certain amount of that is obtained. But from a Biblical standpoint, one must distinguish between true pleasures and "sinful pleasures". The latter category is recognized by the Scriptures: they are pleasures derived from activities that are forbidden and therefore to be avoided at all costs (Hebrews 11:25). There is no indication in the Bible that marijuana is a proper source of pleasure, of well-being, of recreation. It expressly and repeatedly mentions all the right means that will fully obtain those ends. That conclusion is reinforced by conscience and by the Christian Church's stance throughout history against marijuana use. Consequently, marijuana use will develop a guilty conscience and add to one's problems rather than to relieve them.

e. Some take marijuana for reasons involving sexual satisfaction. As indicated earlier, marijuana creates a sense of sexual ability and prowess, but these are also illusory. One wife refused to have sexual relations with her husband when marijuana-intoxicated, saying: "Don't come at me looking like that." Sexual pleasure has its natural dimensions so that any sexual experiences that go beyond those limits are perversions. It is the pervert who finds the most fascination with marijuana in this regard, because of the bizarre effects that are produced thereby. Sexual enhancement should only be through divinely-ordained means. One proof that marijuana is poor for sex purposes is that longer use leads to less enjoyment and impotence.



f. As for enhanced insights into objects of nature, and the like, these experiences seem real and significant to the user at the time, but as one user confessed to the author, after the intoxication is passed, these insights are found to be spurious.

g. Students think marijuana might make them better students. To this Dana L. Farnsworth, director of Harvard University Health Services, Professor of Hygiene, chairman of American Medical Association Council on Mental Health, replied: "We have seen too many students who insist that it helps them even as their grades go down and their ability to cope with society decreases" ("Marijuana: How Dangerous Is It?" by Steven M. Spencer, Reader's Digest, Jan. 1970, p. 69). He concluded: "Marijuana does entail considerable risk, does cause harm, and has few counterbalancing benefits." The author, however, cannot find any counterbalancing benefits.

9. There is no Biblical basis for a religious use of marijuana.

a. Marijuana has been used in various countries with various religious attachments. There seems to be a growing trend in the U.S. to attach religious significance also. There are several different factions. One faction evidently has adopted a religious aspect merely to gain the benefit of the guarantees of "freedom of religion" of the Constitution, but such spurious religiosity was never intended to be protected by the framers of the First Amendment.

b. Another faction sees marijuana use as a religious-type experience. But from a Biblical perspective, it is idolatrous, because marijuana becomes a god or goddess, a centrum of affection and self-stimulation. As people congregate themselves around this centrum, and develop principles of creed and elements of ritual, a cult emerges and a kind of false religion ensues.

c. Still another faction seeks to bring marijuana use within the Biblical framework as an authorized help to genuine "born again" Christian life and worship. But this is without Biblical support, because the Bible holds itself out as containing clear reference to all the knowledge and instrumentality necessary to the highest and purest worship of God, as well as to all sound doctrine, right ethics, and every good activity of service to God and humanity (2 Tim. 3:16). Marijuana is not mentioned nor alluded to as an instrument of fulfillment. On the contrary, if a person wanted to be more spiritual, he would, in Scripture times, take a vow that included abstinence from alcoholic beverages. The Biblical teaching is that God Himself is the highest and exclusive source of fullest satisfaction, and that the greatest mental, emotional, volitional, sensory, spiritual experiences come to the extent one appropriates and assimilates through grace the presence and blessedness of God the Father, God the Son, and God the Holy Spirit—as people of God have discovered throughout the centuries from the time of Creation.

10. Marijuana users do actively try to induce others to start using the drug.

a. Dr. Powelson's testimony on this point was noted in an earlier connection (7/d).

b. A major alarming aspect of this need of users to proselytize others is that use is being pushed into lower and lower age groups, because each age group works on the next lower age group.

c. There is also the alarming aspect of users introducing the drug to their own children. One article mentioned a graduate student who advocated giving not only marijuana but also LSD to children of any age.

d. A certain number of users become outright sellers. The 1972 "Marijuana and Health" Report revealed surveys indicating over one-half of a New York hippie group admitted selling; among non-hippie users the proportion was about 25% (p. 31).

e. Marijuana "pushing" takes all kinds of methods and approaches from the most blatant to the most devious. Some writings are similar to pornographic literature, portraying marijuana as the highest possible pleasure in every imaginable situation without any dangers or consequences whatsoever. An "official handbook for marijuana users" is entitled "A Child's Garden of Grass", with chapter headings such as "Grass As an Aphrodisiac" and "Games To Play While Stoned".

f. Others work through organizations having nice-sounding names that make it appear they are objective-minded people who earnestly want to help overcome the drug problem by offering responsible information and sound solutions, when in reality all they want is to bring about complete legalization of marijuana, and are prepared to use any stratagem to achieve this end. Testimony offered the Eastland hearings named several (MHE-I-26).

f. The director of the National Organization for the Reform of Marijuana Laws (NORML), an admitted marijuana user, appears at gatherings all over the country, and says: "We support a discouragement policy towards the recreational use of all drugs, including alcohol and tobacco as well as marijuana." Later it comes out that the organization represents marijuana smokers. In the course of his presentation he advances unscientifically gathered survey information and makes misleading and false statements (as will be noted more fully hereafter). The thrust of it is that marijuana smoking is enjoyable, that it is widespread, that it is becoming more popular (but that decriminalization is not responsible), that prohibition is futile; there should be no limit on amount of possession, nor on private marijuana growing, nor on small transfers; the Congress should only legislate with reference to marijuana importation; and that "the consensus in the medical community is that any risks presented by marijuana are relatively minor" (prepared statement to Select Committee on Narcotics Abuse and Control of the House of Representatives, Mar. 15, 1977). Such a thrust could induce others to start using the drug rather than discouraging them!

11. Marijuana use does lead large numbers of users to go on to stronger drugs.

a. Dr. Donald B. Louria, M.D., professor and chairman, Department of Preventive Medicine and Community Health, N.J. Medical School, testified: "If a society is concentrating as much on pleasure as we are, it's almost inevitable that those who enjoy mind alteration of one kind, such as marijuana, and use it regularly, will opt for more potent drugs that produce similar 'highs'." He also observed: "the more frequently you use marijuana, the more likely it is that you will use LSD; there is a clear statistical correlation." He gave another reason for going to other drugs: "Among those with substantial covert or overt psychological abnormalities, use of one drug is often followed rapidly by multidrug use." He added: "I have always felt that those who urge the legalization of marijuana were frequently at least suggesting that an individual could always decide his drug use on a volitional, carefully thought or' basis. That just is not true for people who have psychological problems" (MHE-I-40, 41).

b. Dr. W. D. M. Paton, professor of pharmacology, University of Oxford, testified: "There is no rational dividing line between cannabis and other drugs such as LSD or some opiates. A high dose of cannabis overlaps with a low dose of LSD in its hallucinatory and psychotomimetic action" (MHE-I-80).

c. The major suppliers of marijuana deal in all drugs for profit and therefore will do all they can to promote marijuana users into more expensive drugs and habits. Another strong influence is peer pressure. William E. Milliken in "Why I Don't Smoke Pot" tells of 19 acquaintances who met death from heroin overdose, most of whom had started on pot. He wrote: "I have seen that young people who begin on pot are often drawn into a drug culture that soon begins to encourage the use of 'bigger and better things'." He noted: "In most cases the peer pressure is great" (Reader's Digest, Oct. 1971, p. 147). Dr. Lehmann revealed that of nearly 1000 youngsters with whom he had worked, all but one had started with marijuana (5/e, p. 172).

d. The 1971 "Marijuana and Health" Report gives significant statistics. One study showed the proportion of marijuana users who had used other drugs as follows: 20% of the experimental users, 22% of the monthly users, 84% of the weekly users, 100% of the daily users, but none of the marijuana abstainers. The report concludes: "American narcotic addicts in most cases have used marijuana before becoming addicted to the stronger drugs." In one study it was 83 out of 96 (p. 154).

e. Dr. Hardin B. Jones, professor of Medical Physics and professor of Physiology, assistant director of the Donner Laboratory of Medical Physics, University of California (Berkeley), noted "that marijuana does lead to the use of other drugs has been established by many studies." He gave the results of a sampling he had taken: 118 of 280 initial marijuana users had gone on to heroin or other opiates (MHE-I-236).

12. Marijuana is more dangerous than alcohol and should not receive social acceptance.

a. Dr. Edward Bloomquist, associate clinical professor of Anesthesiology at the University of Southern California School of Medicine, wrote: "The argument relating to alcohol and tobacco are essentially pro-cannabis arguments

designed to excuse one evil on the grounds of the acceptance of others." Instead, the ideal and reasonable approach is, he said, to prohibit alcohol abuse (Marijuana: The Second Trip, Glencoe Press, Beverley Hills, 1971, p. 202).

b. The major difference between marijuana and alcohol is that the former accumulates and persists in the body with every intake for over a week whereas small amounts of alcohol are eliminated completely from the body within 24 hours so that small daily amounts of alcohol have no harmful physiological effect and ensuing psychological effect such as is possible from one marijuana cigarette per week (MHE-I-78, 105, 282). Even chronic use of alcohol takes usually 10-20 years to develop serious brain, liver and other physical damage, whereas it takes only 2-3 years for serious damage to appear from excessive marijuana use.

c. Dependency upon marijuana develops much faster than with alcohol (MHE-I-233).

d. As indicated at the outset, the effects of alcohol on a person—ounce per ounce—are much more predictable and constant than with marijuana doses.

e. Further, alcohol intoxication can be identified readily by slurred speech, unsteadiness, incoordination, odor on the breath, and measured by a drunkometer, whereas marijuana intoxication is more difficult to detect and cannot be measured by a practical testing method at the present time, which greatly hampers police enforcement efforts. Moreover, marijuana inebriates "can straighten up and with an effort of the will can really compensate for all the disabilities to a superficial examination" (MHE-I-34, 35). This also creates special problems for detecting and convicting persons driving under marijuana influence, as well as for friends in trying to keep someone under marijuana influence from driving or other hazardous activity.

13. Marijuana does not lower, but significantly increases, alcohol consumption.

a. Dr. Robert L. DuPont, director of NIDA, testified: "Within a group of young people who are smoking the most marijuana, we find an excess of heavy drinkers, and within the heavy drinking group is an excess of people who are heavy consumers of marijuana . . . In fact, we have had an increase in the rate of consumption of both those drugs (alcohol and tobacco) among young people as marijuana use has risen during the last decade" (MHE-II-487).

b. A recent survey of the national scene revealed the drug problem in schools is greater than ever because alcohol and marijuana use by teen-agers is approaching epidemic proportions. A police captain in Cedar Rapids, Iowa, reported the average age of juvenile drug offenders is 13: "The 12- and 13-year olds are using marijuana more than beer—though they use that, too—because pot is easier to obtain" ("Alcohol and Marijuana: Spreading Menace Among Teen-Agers," U.S. News & World Report, Nov. 24, 1975, p. 30).

14. Marijuana use is not a victimless crime; it poses grave dangers to the safety of others—one being the increased danger of auto and other accidents.

a. Dr. Henry Brill, regional director, N.Y. State Department of Mental Hygiene, observed: "It stands to reason that an individual who is intoxicated with a substance that interferes with measurement of time and distance, that may produce hallucinations, may very well be a hazard on the road" (MHE-I-33).

b. The 1973 "Marijuana and Health, Report lists studies that clearly indicated "typical social usage" of marijuana does impair "visual perceptive performance as well as temporarily controlled responses to a significant degree" (p. 141).

c. Dr. DuPont (13/a) reported that evidence of marijuana's detrimental effect on driving continues to mount, revealing increase in both braking and starting times, adverse effect on attention and concentration, detracting from performance on divided attention assignments. He referred to a study disclosing a significant decline in performance in most of the drivers tested. ("Marijuana Research and Legal Controls", hearings before the Subcommittee on Alcoholism and Narcotics of the Senate Labor and Public Welfare Committee, Nov. 19, 20, 1974, p. 7; hereafter referred to as MRLC.)

d. Additional danger comes from marijuana's working very quickly in intensifying and prolonging the effect of glare on the eyes so that a user is likely to be more quickly and completely blinded by oncoming headlights, and these effects are likely to last longer as well. Altogether, drivers under marijuana influence respond as irregularly as drunk drivers. ("The Latest Finding on Marijuana," U.S. News & World Report, Feb. 1, 1971.)

e. Dr. DuPont also pointed out that small amounts of marijuana combined with small amounts of alcohol are "particularly devastating" because of double incapacitation: the marijuana reducing the processing of information received by the central nervous system and the alcohol reducing eye focus mobility (MHE-II-467).

f. The possibility of "flashbacks" (see 3/a) is an added hazard.

g. However, a substantial portion of marijuana users do not consider marijuana intoxication dangerous. One letter received by Dr. DuPont reads in part: "You say it affects driving, I say that's ----- If nothing else you are in more control of your vehicle as it becomes a part of you" (MLRO-44, profanity omitted). One study disclosed the more a person uses marijuana the less he is opposed to driving under marijuana influence. Opposed were 77% of former users, 50% of infrequent users, 24% of weekly users, and only 21% of chronic users. Driving a taxicab under marijuana influence was opposed by 87% of former users, 54% of infrequent users, 59% of weekly users, but only 38% of chronic users. Even piloting an airplane was opposed by only 92% of former users, 76% of infrequent users, 84% of weekly users, 67% of chronic users. (Klein, Davis and Blackburne, "Marijuana and Automobile Crashes," Journal of Drug Issues, Jan. 1971, p. 26.) This article contains considerable research information on marijuana drivers' ability and attitude. For instance, one driver is quoted as saying: "It is too easy to forget that you are driving a car; it is easy to become distracted by music or lights, etc."

h. The following are some of the effects on driving produced by marijuana influence from a practical standpoint: distance is magnified so that a car ahead may appear much farther away than it really is; speed is slowed down so that 80 may seem like 20 mph; a red light may appear green, or may not register at all in the mind; depth perception may be either under- or over-extended.

i. Another aspect is the ability to bring oneself down from a high by an act of will (see 12/e), which varies from individual to individual. One user admitted: "I was stoned and a cop stopped me because there were three people in the front seat of my sports car. He was nice but he didn't know I was stoned. He was dumb, because I was really wrecked" ("Marijuana and Auto Crashes," see 13/g, p. 23).

j. Dr. F. S. Tennant with the Army Medical Corps for 3 years in Europe, regarded driving disability as one of the biggest problems of marijuana use from a public health point of view. He knew of an intoxicated driver who had driven a 2½-ton truck over a cliff killing 8 servicemen (MHE-I 300, 301).

k. The 1972 Canadian Commission report stated some surveys revealed at least half the marijuana users were driving under marijuana influence (Cannabis, p. 60).

l. There is great legal difficulty defining when disabling marijuana intoxication exists and great practical difficulty proving it because there are no economical tests available yet for police to use.

15. There is a definite link between marijuana use and the commission of crime.

a. This assertion is vociferously denied and the evidence is passionately attacked by marijuana apologists, but the effort is spurious and futile. It is obviously reasonable that certain effects of marijuana can push borderline criminal tendencies into actual commission. These effects include lowered inhibitions, increased suggestibility, impression of greater sexual ability, illusion, anxiety, hostility, feelings of omnipotence, carelessness, less concern with self-control. It is of course impossible to know what a person would have done if he had not taken marijuana. He might have done the same criminal act anyway. But that is not a reasonable inference in most cases. Some argue that increased passivity may even prevent some crimes from being committed. And that may very well be true, but the likelihood is that only a small proportion will find this so. There are many who have confessed (and many crimes go both undetected and unconfessed) to having been influenced to crime by marijuana. Some of these, admittedly, must be discounted as clever attempts to exonerate oneself and to gain sympathy. However, in almost every jurisdiction marijuana possession is an illegal act. The law presumes a person to intend the reasonable consequences of his acts, so that if he engages in criminal activity while under any kind of marijuana influence, he becomes culpable, because there is no way of knowing what he might have done if he were not intoxicated—only by having

actually stayed sober. Thus the burden is on him, and remains on him. So one can build a theoretical case. But there is also impressive factual support.

b. Inciardi and Chambers (1972) argue for a drug-use-then-crime model. Their research, they report, "suggests a consistent drugs-crime pattern beginning with marijuana and/or alcohol use around age 13, followed sequentially by first narcotic use, first criminal offense and first arrest at age 16, and first drug arrest at 18" (p. 59).

c. The Los Angeles Police Department reported that 88.4 per cent of marijuana arrests made in the first 3 months of 1974 were the result of incidents arising out of maintaining order in the community such as erratic driving or family quarrels (Marijuana Position Paper, Aug. 1, 1974). Contact with selected law officials indicates the same is true nationwide—that the great majority of those apprehended for such offenses as shoplifting, mugging, burglary were found to have marijuana in their possession (MHE-I-xvii). Yet the director of NORML continually laments that the law enforcement authorities are "chasing" marijuana users and that "the annual toll is almost half-million otherwise law-abiding citizens tragically and needlessly caught up in a heavy handed criminal justice system" costing the taxpayers "an estimated \$600 million each year" (letter to editor, The Washington Post, Dec. 3, 1975).

d. A 90-day Crime/Drug Relation Survey in Dallas revealed marijuana was admitted by persons arrested as the most frequent drug in the crimes of rape, robbery, auto theft, theft over \$50, aggravated assault, and burglary (Drug Abuse Division memo dated Jan. 18, 1973).

e. Dr. Bromberg wrote: "All writers agree that when crime is associated with marijuana smoking it is because of the marked weakening of effect on social restraint" (cf. 6/a, p. 305). He noted that in Asia, because of different emotional complexes in the people, responses from hashish use are more violent. In fact, the word "assassin" comes from "hasheeshean" (hashish-eater), because of the cruelty of Orient users. And in Malay, hashish users run amuck to such an extent that the words for "hashish" and "amuck" are synonymous.

f. Every marijuana user must have a supplier, who is engaged in criminal activity, so that every sale is a criminal transaction, which increase in number as marijuana use increases. Andrew C. Tartaglino, acting deputy administrator, Drug Enforcement Administration, testified: "The traffic in marijuana is often a highly organized, well-financed venture involving hundreds of thousands of dollars of illegal profits. The persons who engage in it are essentially the same criminal types who organize other forms of illicit drug traffic and have the same propensity for violence" (MHE-I-5). Furthermore, the profits made from marijuana sales may be used to finance other non-drug illegal activity.

16. Marijuana use does have a high social cost—higher than society should tolerate.

a. Foremost are the detrimental effects on the young: on educational achievement, personality development, family and social relationships, job opportunity, health and hygiene. A sizable number become preoccupied with pot, go on to harder drugs, get involved in crime. Some drop out into a drug subculture with its seclusiveness, alienation, disdain for work and for the future—from which society gets no benefit, only cost and aggravation.

b. Marijuana can become material in marital relationship breakdown and disrupt family life for all ages (MHE-II-466).

c. Studies reveal increased marijuana smoking on the job (MHE-II-v) and increasing interference with work performance as marijuana amounts increase (1974 "Marijuana and Health," p. 106), and incidents of loss of employment and need for unemployment relief (MHE-I-140).

d. Marijuana users are becoming an increasing burden on health and welfare facilities. A check of 790 hospital emergency rooms saw a rise of 20% in episodes involving marijuana in the 4th quarter as compared with the 1st quarter of 1974. A check of 700 federally funded drug centers revealed 4,331 persons treated who identified marijuana as their primary drug of abuse (in 1,744 cases only marijuana was involved) during a 3 month period in 1974 (MHE-II-436, 437). This is not surprising from medical testimony. Dr. Phillip Zeidenberg, M.D., research associate in psychiatry at Columbia University and senior research psychiatrist at N.Y. State Psychiatric Institute testified: "There is no doubt that a single dose of THC can cause "an acute psychotic reaction in mentally healthy individuals" (MHE-I-192). He also stated regular use over 1-2

year period can produce irreversible brain damage and can activate mental illness in threshold persons of which there are a large number in the populace. Even a low dose can have a strong effect on some persons so as to require medical attention. With stronger and longer use come a greater variety of reactions needing medical attention: anxieties, pains, tremors, hallucinations. Then there are the physiological deteriorations in the various systems of the body.

e. Dr. Hardin Jones (11/e) stated: "I am concerned about cannabis-using physicians I have seen among the recent graduates of our medical schools. There are reports that as many as half the medical students of the last 5 years have been using cannabis." He said at least 10 of 40 young physicians he had talked with appear to have physiological effects due to cannabis use and that they defended its use "by quoting the medical pseudoscience—but they had never examined the scientific studies." He concluded: "In view of the life-and-death responsibilities of physicians, impairment of their judgment by cannabis use must be regarded as a major threat to the public welfare" (MHE-I-235).

f. In the area of sex, there is the increase of perversion and homosexuality, sexual promiscuity resulting in pregnancies, and venereal disease (MHE-I-398).

g. A study of a cross-section of 530 marijuana users (past, trial, occasional, regular, and daily users) revealed significant information on various harmful aspects. About 14% felt their use of marijuana had harmed them in some way (interference with effective functioning, difficulty integrating marijuana use into everyday living, greater awareness of personality and emotional problems without solution, undesirable associations). 22% foresaw potential dangers from continued use (in addition to the above reasons they listed legal involvement and addiction and going on to more dangerous drugs). 32% knew of harm coming to others who were using marijuana. 35% saw potential dangers to society from marijuana use. 27% gave legal difficulties as the most significant aspect that might influence discontinuance. Respondents were concerned over arrest while engaged in marijuana use in proportion to frequency of use, 49% said there were certain types of people they would be reluctant to see introduced to marijuana, chiefly the emotionally unstable and children. (Gary Fisher, Ph. D., "Harmful Effects of Marijuana Use: Experiences and Opinions of Current and Past Marijuana Users," *British Journal of Addiction*, Mar. 1974, p. 755 ff.)

h. Another social effect of longer marijuana use is the increased susceptibility of becoming manipulated by extremists (MHE-I-xi, 329).

i. A common misconception is that the likelihood of marijuana-related harm and cost in a particular area is relatively of minor proportion, and that in the interest of personal freedom society should tolerate that cost. But when all the minor proportions are added together, the cost becomes considerable.

17. Marijuana dangers have not been unduly exaggerated, have not been espoused by only a few prejudiced persons, have not been based on insufficient evidence; but rather have been downplayed, misrepresented, ridiculed and denied by various sources for a sundry of unjustifiable reasons.

a. There are nearly 2000 professional writings listed by the United Nations on the harmfulness of cannabis.

b. Marijuana: Chemical, Biochemical and Cellular Effects contains findings on destructiveness presented at the Satellite Symposium on Marijuana of the Sixth International Congress of Pharmacology involving 100 scientists of 10 countries at Helsinki, Finland, July, 1975 (ed. Gabriel G. Nahas, Springer Verlag, New York, 1976).

c. The World Health Organization, the Economic and Social Council of the U.N., and the U.S. Commission on Narcotic Drugs have adopted repeated unanimous resolutions emphasizing the dangers of cannabis and calling upon all U.N. countries to take the most energetic measures against cannabis use. The last unanimous resolution was adopted by the U.N. Commission on Narcotic Drugs in Geneva on Feb. 24, 1975, by a vote of 26 to 0.

d. The strongest outcry against marijuana has been by one of the nations suffering the most from its effects, namely, Egypt. At the Second Opium Conference under the auspices of the League of Nations in 1924, the Egyptian delegate proposed marijuana be listed along with other dangerous substances controlled by international legislation because it was causing "much havoc", and the proposal was accepted. It has been outlawed in Egypt since 1884, insanity being the principal cause. But in the ensuing years marijuana made inroads

into the United States so that various states passed laws against it. By 1937 many sources felt federal controls were needed, and the Marijuana Tax Act was proposed making the first offense for possession 2-10 years, the second offense 5-20 years. The prevailing literature described marijuana effects in very similar terms as in the current scientific literature quoted above. An article in the *Journal of the American Medical Association* entitled "Opium Traffic in the U.S." regarded the rise in the use of marijuana as one of the two problems of greatest menace at that time (Jan. 23, 1937). The alarm was that use over a long period of time was resulting in significant amount of insanity in places such as Egypt and India. But the other effects noted earlier were also stressed, including marijuana's variability, one witness testifying: "The drug is prescribed as a sedative but is used very rarely by the medical profession because the effect of the drug is so variable that a physician cannot tell how his patient will react and because there are so many better substitutes" ("Marijuana Taxing Bill," Report of Senate Finance Committee, 1937, p. 2). All three Washington newspapers supported the bill. The Washington Times editorialized: "The marijuana cigaret is one of the most insidious of all forms of dope, largely because of the failure of the public to understand its fatal qualities"; The Washington Post: "It is time to wipe out the evil before its potentialities for national degeneracy become more apparent. The legislation just introduced . . . would further this end"; The Washington Herald took the same stance ("Taxation of Marijuana", hearings before House Ways and Means Committee, Apr.-May, 1937, p. 6). The Commissioner of Public Safety, Dr. Frank R. Gomila, called marijuana "a more alarming menace to society than all other habit-forming drugs" at the hearings. Dr. James C. Munch, a consulting pharmacologist for the Department of Agriculture and professor of Physiology and Pharmacology, Temple University School of Pharmacy, testified to its effects on the brain from research done with dogs, to tolerance, to habituation, and to personality disintegration (p. 47 ff). The measure was passed by Congress.

e. But the drug problem in the U.S. was not curtailed. In 1951 Congress raised the penalties, and again in 1956. But marijuana offenses were treated more lightly than other drugs because low dose marijuana was largely being used and the serious long-range effects were not yet evident. In addition, there were reports of scientific studies downgrading harmfulness. A National Commission on Marijuana and Drug Abuse (Shafer Commission) was created that made a report in 1972 which came to cautious conclusions on harmfulness, some on the weak side, but some quite strong. Yet, it recommended decriminalization as a legal approach. Still, it advocated that use of marijuana should be discouraged because of its potential hazards. Since that report was made, much more clinical evidence of the harmfulness of marijuana has appeared so that the report is outdated. (It is also evident now in face of the escalating use of marijuana that decriminalization is not a sound approach to marijuana discouragement.)

f. For reasons that are not readily apparent, the media—along with various other spokesmen—have misrepresented the case against marijuana. Dr. Henry Brill, one of the commission members, testified that the Shafer Commission report was widely misstated (MHE-I-30). Another witness reported a check of leading newspapers in the U.S. and Canada, of bookstores and of television discovered an emphasis on marijuana's harmlessness. (The author made a detailed study of the marijuana issue coverage by The Washington Post over recent years disclosing significant imbalance on the side of decriminalization with downplaying of marijuana's harmfulness.) This same witness also found a university drug education program presented in a high school to be deficient on the harmful side; it resulted in significantly greater use among students afterwards (MHE-I-252 ff.).

g. In September, 1975, the "White Paper on Drug Abuse" appeared, a report to the President from the Domestic Council Drug Abuse Task Force. It seriously miscalculated the overall social cost by concluding there is "relatively low social cost" associated with "recreational use" so that law enforcement of marijuana possession should be deemphasized. Yet, the report also stated marijuana use "should be strongly discouraged as a matter of national policy" (p. 25). But the media played up the deemphasis aspect of the report and omitted the strong discouragement aspect so that the overall effect was increased use, evidently.

h. The case against marijuana has overwhelming scientific and moral support. But accepting this has philosophical and religious aspects. Everyone is commit-

ted consciously or subconsciously to a value system that often has a complexity of components causing one tenet to preponderate so that the overall impact of data is lost. There is rationalization that takes both subtle and absurd forms in order to fit data into one's value system. It is a fact of life with which we must live and with which we must reckon, as it can have most serious implications. For the Scriptures speak of those who will not endure sound teaching, but will gather support from false authorities who will give seemingly plausible permission to the doing of forbidden things that they want to do: "they shall turn away their ears from the truth, and shall be turned into fables" (2 Tim. 2:4).

18. Marijuana is not a private morality matter, but of sufficient potential harm to users and to society that the state should prohibit its use; the law is not an inferior method of controlling marijuana use.

a. Even what a person does privately has an impact for good or evil on the society in which he lives in direct proportion to the good or evil privately done. This influence is twofold: i) his private life will influence the way he behaves in public—how he does business, how he votes, what he says to others, and how he in general behaves himself; ii) his private life determines, from a Biblical standpoint, the extent to which God blesses or punishes the community in general, for God does not only deal with individuals according to their deserts but also communities, because God wants to encourage the building of righteous communities as well as the development of godly personal character. Furthermore, justice requires that God bless or punish individuals as well as communities in proportion His commandments and His will are being observed. Thus it is an obligation of a man not only to protect himself, his family, his neighborhood, his country from evil, but also to promote righteousness. Moreover, a love for these institutions and those who are embraced thereby will propel him to do so, and enable him to bring proportionate blessings from God upon them.

b. The use of the law is not only approved Biblically, but is indispensable. As the Apostle Paul wrote: "The law is good, if a man use it lawfully; knowing this, that the law is not made for a righteous man, but for the lawless and disobedient" (1 Tim. 1:8,9). The law is a necessary guide to right thought and conduct. Its primary purpose is educational. It tells everyone what is best for them—and, because of this principle of community, what is best for society.

c. The ultimate authority for what is right and wrong is God. But God has given the community the right to make laws. These laws are to reflect, as much as possible, the will of God.

d. Certain activities are wrong because of their injuriousness. When an activity injures another, it is clearly wrong. But an activity injurious only to oneself is just as wrong, and should be outlawed, because a loving community does not want individuals going around injuring themselves. Besides, activities injurious to oneself are seldom isolated to oneself, because almost everyone is closely associated with others: with family, relatives, friends, neighbors, co-workers. In the case of marijuana this is particularly true because of the tendency of use to be in groups and of users to proselytize.

e. The law must have penalties for two reasons: i) to demonstrate the seriousness of a violation as measured by its injuriousness to self as well as to others who happen to get involved thereby, and ii) to insure obedience.

f. Some think it is not a proper way of obtaining obedience to threaten punishment. Certainly it is not the best way. But it is necessary, because it must be considered that there may be individuals in society who will not be persuaded any other way. And even then they may not be persuaded. This was illustrated in the Garden of Eden when God commanded Adam and Eve not to eat of a certain tree on penalty of death. This was a just and loving instruction. But they would not take God's word for it. They transgressed anyway, and reaped the consequences, which God in mercy even mitigated. But at least they could not say to God that the penalty did not indicate the seriousness of the offense.

g. But the community also has a right to protect itself from wrongful conduct. Penalties must have appropriate deterrent force. However, to be effective, and just, the law must be strictly enforced by seeking out offenders and applying the penalties to each one equally as the circumstances warrant. To



do less is not justice, and reflects adversely on the integrity of the law enforcement authority. To do less violates the rights of society to see that justice is done. To do less violates the rights of offenders, who expect that the same penalty be applied to all offenders equally. To do less undermines the deterrent effect of law and increases the likelihood of harm to others. To do less undermines the corrective effect on transgressors.

h. Even so, every one must remember and take into consideration that human laws and institutions are imperfect. There will be some differences in laws and penalties from jurisdiction to jurisdiction, as well as some inequities in enforcement. But that does not justify doing away with all laws and all penalties, for anarchy is even worse. The solution is a constant striving to perfect laws and their administration. Legal administration administered in this country is a chain: legislation, police administration, prosecution, adjudication, penal administration, rehabilitation—involving numbers of different people. Like a chain, legal administration is no stronger than its weakest link. Thus, if one link is weak, the entire institution of law suffers—and society suffers with it. Therefore it behooves each link to remain strong, and if one link becomes weak, for the other links not to lose strength, but to try to strengthen the weak.

i. In a democracy the law is supposed to reflect the consensus of the populace. From an idealistic point of view, this has several disadvantages. Even if the majority will is accurately reflected in the law, it would be too strict for some and too lenient for others. Also, the majority will too often can be flouted because of the pressures of a vocal, well-financed, aggressive minority. Further, it allows the possibility of conflict between the law and individual conscience if the law does not reflect the will of God. The Biblical ideal is legislation through God-appointed individuals who reveal to the people God's laws and administer them as God directs. So it was done at the time in history when formal legal administration was introduced to mankind in the giving and adjudication of the Law through Moses. This produces better laws and greater confidence in the rightness of the laws.

j. True wrongs are intrinsically wrong, which the written law must accurately reflect both as to definition and penalty. Otherwise the public may be seriously misled into thinking a wrong is less serious than it really is, or is not wrong at all. People instinctively look to the law for instruction and instinctively want the law to reflect reality. They do not want to have conflicts between the law and their conscience. Yet the law may prompt them to give greater weight to it than to conscience. The Bible enjoins people to be law-abiding, which is based on the premise that human laws will reflect God's will. Consequently, disrespect for law will arise in direct proportion to its not reflecting what is intrinsically right and wrong.

k. Some want to leave it to education alone to regulate marijuana use. They take the position that if the law makes marijuana use criminal, an open and honest educational approach to the subject is prejudiced. But such a view issues from a false concept of the law as a harsh taskmaster rather than as a friend provided by the community as a source of instruction for good. Furthermore, the absence of law on a subject is prejudicial. In the case of marijuana, it would convey the message that its use is socially approved. Moreover, the educational method often proposed—of presenting all the facts in a neutral fashion so as to leave the hearers to make up their own mind—is prejudicial. It gives the impression that it makes no difference whether one ends up in favor of marijuana use or against it. It implies the educator either does not know the answer himself, or does not care. Therefore education alone is insufficient.

19. Decriminalization and legalization are improper responses to removing "the thrill of illegality".

a. It is true that there are some in society who are intrigued by illegal activity and who get a thrill out of doing illegal things. But society cannot lower or remove the penalty to stop people from getting a thrill out of illegally using marijuana. That would make the law misrepresentative. It would be giving in to evil. Besides, it would be ineffective, because those who are inclined to this form of perverse pleasure can simply take up some other illegal activity. Rather, the proper remedy against such perversity is to escalate penalties for repeated infractions until the pain becomes greater than the thrill.

20. Reduction or elimination of penalties is not a proper response to increased cost of law enforcement.

a. To decriminalize or to legalize marijuana possession because violations have become so numerous that the cost of enforcement becomes more burdensome is unjust. It undermines the educative impact of the law. It is less unjust to leave the law on the books unenforced. But a better approach is to put up the additional cost, for in that way the state will avoid the greater costs that will otherwise develop later on.

b. Such a course if done once would set a bad precedent. It amounts to saying that if wrongdoing becomes widespread enough, the law will accommodate itself.

c. Information the author has obtained from law enforcement personnel indicates the increased cost of handling marijuana possession cases is not that great. Detective Sgt. Walter Betyeman, representing 1800 members of the New Jersey Narcotic Enforcement Officers Association, testified to that effect before the N.J. General Assembly hearings to decriminalize marijuana (Public Hearing on Bill 2812, Mar. 3, 1975, p. 42).

d. That marijuana use and possession has reached such proportions that the law enforcement authority's resources become so burdened should be a plain indication that lowering the penalties from a felony to a misdemeanor was a colossal mistake. And to further lower the penalties would compound the error.

21. Reduction of marijuana possession to a civil fine does not really relieve those who are arrested from a "record," but may create a false sense of security so that they will use marijuana more frequently and establish a worse "record".

a. Every marijuana user creates a "record" for himself whether or not he is ever caught by police, because whatever a person does becomes a part of his "record". This record can be discovered by a prospective employer, insurer, creditor—or anyone having a right to know—simply through an interview by asking: Have you ever used marijuana? How many times? With what effect? Over how long a period of time? With what legal or other consequences? Skillful interviewers will be able to detect any falsehoods. Besides, many businesses verify the information given by applicants through checks at schools attended, at former employments, at present and former residence. Therefore, if an applicant falsifies information thinking that there is no police record, the information may still come out through these checks—and then his application is automatically denied, and he has another serious derogatory mark on his "record" when he makes a subsequent application. And if a person uses marijuana more thinking that even if he gets caught he will not have a police record, he is actually making a worse "record" for himself, and it will weigh more heavily against him in the eyes of prospective employers and all others who regard marijuana use with disfavor in proportion to past amount of use.

b. Even under criminal statutes persons caught for the first time possessing marijuana can be protected from having a criminal record on paper (for whatever that is worth). The law can provide for reduction of felonies to misdemeanors, probation instead of jail terms, expungement of the official police record when probation is satisfactorily completed.

c. Such a reduction undermines the educational and deterrent force of stronger penalties.

d. Furthermore, if the reduction of marijuana possession to a civil fine is out of compassion for first offenders to spare them a criminal record, such compassion is frequently unwarranted, and to exercise it in this manner undermines good jurisprudence. The law should be considerate to first offenders only in those few instances when real extenuating circumstances exist. Usually people know what the law is. They know an activity is wrong—if nothing else, their conscience will tell them. Usually there is a period of tension during which drug use is contemplated and appraised before an actual use is undertaken. And it is unlikely that one will be caught during one's first use. Therefore the reasonable probability is that a person caught for the first time with marijuana in his possession was sufficiently aware of the culpability of his act. Of course, once he is caught, he is apt to downgrade his culpability. The most likely excuse is that he was pressured by others. But such an excuse has little merit because a sensible person would not have much to do with

persons advocating marijuana use. Thus, it is questionable whether the regular first offender deserves leniency. In any event, the law should not be incorporating leniency into the law's sanctions and telling offenders in advance that it will be forthcoming as, again, the educative and deterrent impact of the law is undermined thereby. That does not rule out leniency and mercy for first offenders even when not particularly deserved; it only means that it should not be automatic, for then it is no longer mercy.

e. A criminal record can be a beneficial deterrent to further involvement with the law. That position was advanced by Detective Sgt. Betyeman (cf. 19/c, p 43). And society will be benefited at the same time. And if it does act as a deterrent, prospective employers and others are likely not to let the incident count significantly in an overall evaluation. The underlying concern must be for a possible offender's general welfare, not to provide persons with a superficially clean police record leaving them free to engage in activities that can misshape their personality and erupt into worse offenses in the distant future.

22. Reducing to a fine of from \$5 to \$100 for the possession of marijuana in amounts up to 1 or 2 ounces ipso facto encourages not only use but also trafficking.

a. One ounce of marijuana is enough for 45 to 60 cigarettes. A person with that much marijuana could well engage in small-time pushing without worry, because his profits could well afford a small fine now and then even if caught. A recent newspaper account of a seizure of imported marijuana stated the street value was \$40 an ounce.

b. Being able to possess that much marijuana for such a small penalty sends out a message that the law is not really interested in preventing or cutting down on marijuana use, and that the state is actually legalizing use without actually doing so. Even a leading proponent of decriminalization admitted such a legal approach will be interpreted by many as a sign marijuana is safe and approved for use, and that it will lead to increased use (MRLC-60).

23. Evidence is mounting that reduction of penalties for small amounts of marijuana to a non-criminal fine is not reducing law enforcement time and effort, but is increasing acceptance and use.

a. The first state to try this approach was Oregon. Over a year later, State Police Chief H. V. Holcomb wrote to Senator Eastland: "It was the Legislature's intent that by decriminalizing possession of small amounts of marijuana, the police would have more time to devote to enforcement of the drug laws in relation to stronger drugs, however we have found this has not been so, as we are now spending more time enforcing drug laws than we were prior to this liberalization law." He also noted: "The young people of our State are becoming much more liberal and casual in their attitude and approach toward marijuana usage and the use of this drug is on an increase" (letter dated March 12, 1975; MHE-II-513). A New Jersey legislative research report (Oct. 1974) on the effects of Oregon's decriminalization found that there was an increase in the cultivation, transportation and furnishing of marijuana, an increase in the use of other drugs, and an increase of multiple drug use. Yet a study made by a private concern named Drug Abuse Council claims decriminalization in Oregon had no appreciable effect, which has been used by NORML in its presentations, and has been widely published in the media, although on inquiry one of the officers admitted to the author the study has all the shortcomings of an unscientific survey. Dr. Hardin Jones (11/c) told the author he had made two studies in Oregon at the end of 1975 showing that young people were more willing to use marijuana after decriminalization went into effect.

b. Dr. Jones also made a survey on the University of California (Berkeley) campus after decriminalization had gone into effect in his state, and said he was "shocked" at the unusually large increase not only in number of users but also in frequency of use and potency—which he attributed largely to the change in the law.

c. The 1976 "Annual Drug Report" issued by the Alaska State Troopers states: "The Alaska law enforcement officer feels that a definite increase has resulted" from the decriminalization in that state (p. 33).

d. This upswing in use on decriminalization is to be expected on the basis of established axioms of jurisprudence that the severity of the penalty indicates the severity of the offense and that as the severity of the penalty decreases,

the more people there will be who will disregard the law and take chances on getting caught and absorbing the cost.

e. In March, 1977, the South Dakota legislature reversed itself from the decriminalization enacted the year before (possession of less than one ounce punishable by a fine of \$20), making possession again a misdemeanor punishable by a \$100 fine and 30 days incarceration.

23. Decriminalization is apt to lead to deemphasis in law enforcement.

a. The New Jersey legislative research report of October, 1974, found that the police in the city of Portland were generally deemphasizing enforcement so that the number of arrests were less than before.

b. There automatically will be less attention given to civil violations on the practical principle of law enforcement operations that misdemeanors and felonies receive higher priority. There is also the psychological consideration that working police are not as enthusiastic and diligent in pursuing civil violations as misdemeanors and felonies.

24. Decriminalization of marijuana is an unjust approach when considered in the overall effort of the law to control all drug abuse, and sets up an argument in justification of legalization.

a. Decriminalization tending to increased marijuana use, the business of supplying marijuana becomes more profitable. If law enforcement deemphasis also results, then the business of supplying becomes less dangerous, because the best source of information against the supplier is the user. Every user has his supplier. What is still bothersome, however, is the fact that every supplier has access to all the other illegal and harder drugs. Thus the argument is advanced: marijuana must be legalized to "break the chain" between the marijuana user and the supplier of harder drugs, the government stepping in to become the supplier. That would bring the government into the drug business and expose government employees to the temptations of the drug. It would undercut the commitments the U.S. has made in international treaties to prohibit marijuana use and to wage war against it. It would make no difference how mild a cigaret the government would market, as one can get a stronger and stronger intoxication simply by smoking 2 or 3 or 4 cigarets in succession. To leave the government out, however, is unthinkable, for then marijuana, if legalized like ordinary cigarets, could be promoted and advertised, and become even more of a menace than ordinary tobacco. Another effect of legalization is the removal of the stigma of illegality to intoxication, to possession, to cultivation, to trafficking. But as long as marijuana use retains a social stigma, enough people will be tempted to keep their use covert and will be tempted—also because of reasons of convenience—to obtain supplies from nongovernment sources. To avoid these complications, it is well to keep marijuana possession illegal. But if decriminalization becomes *de facto* legalization—users not being discouraged from use through deemphasized enforcement and low fines, and not being made to reveal their suppliers—then it is a sham, and in the final analysis, it is unjust.

25. Decriminalization will not insure more equitable law enforcement.

a. It is argued that law enforcement has broken down under higher penalty laws so that enforcement is erratic, complicated by some persons getting and receiving special legal consideration, so that lower penalties will insure more equitable law enforcement. But even a fine carries sufficient social stigma that numbers of people will still want to avoid it and still will resort to devices and pressures to get off free.

b. Under a fine system, those with the most money are penalized the least.

c. Lowering pot penalties will make other crimes with higher penalties seem comparatively unjust and encourage pressure to reduce them also.

26. Stronger penalties are justified for marijuana possession because of the high possibility that first-time use will have immediate or long-term consequences; people who have had adverse personal experiences involving marijuana want stronger penalties against it.

a. The most deceptive aspect about marijuana is its Russian-roulette type of harmful effect. Enough users see no immediate harmful effect from initial use and think that the harmfulness has been exaggerated. As has been shown, even when harmfulness appears, they are unable or unwilling to recognize it. It is only reasonable that a destructive substance in the body will cause damage in proportion to its amount and time of exposure. Dr. Hardin Jones (11/e) estimates that 1 regular user out of 2 will eventually suffer serious consequences,

just as it has been statistically established that 1 out of 6 regular alcohol users will become alcoholics, and 1 out of 3 will develop some serious consequence. The only difference is that marijuana works much more quickly than alcohol in producing these results. Dr. W. D. M. Paton, professor of Pharmacology, University of Oxford, described three ways in which marijuana use could cause or facilitate death—although proof in a particular case would be difficult (MHE-I-74).

b. People who have been adversely involved with marijuana favor stronger penalties.

27. Stronger penalties are an effective deterrent—as experience has demonstrated at various times and in various places.

a. A Report "Increased Penalties for Narcotic and Marijuana Law Violations" stated: "According to the testimony before a subcommittee . . . Federal judges in a few areas in the country have a reputation for imposing severe sentences for narcotics violations. In Memphis, Tenn., Louisville, Ky., and Minneapolis, Minn., the drug traffic is today practically nonexistent, largely because of this factor" (Report #635, House Ways and Means Committee, Jun. 21, 1951, p. 4).

b. During the 1960s, strong laws prevented a serious drug problem both for the indigenous population as well as for American GI's in Taiwan, Japan, South Korea. However, in Germany, where drug laws were lax and law enforcement ineffective, there was an epidemic. Yet in Italy, where drug laws were stronger, GI drug use was minimal (MHE-I-xix).

c. At one time all states in the union had felony penalties for marijuana possession, and for years there was little problem. But by 1951 incidents of drug abuse were increasing so that stronger penalties were thought to be in order. In 1956 penalties were raised again. But the trend grew of not enforcing these strong penalties against marijuana violators, and thereafter the rise in use was steady. Yet, the employment of steadily increasing penalties by the federal government against the crime of kidnapping resulted in steadily decreasing violations.

d. Dr. Hardin Jones (11/e) stated: "Most young people who do not now use drugs tell me the reason they do not is because it is illegal" (MHE-I-234).

e. Dr. DuPont of NIDA referred to a study of nearly 2000 23-year-old males of varying history of drug use who gave as number one reason for stopping marijuana use was concern about getting arrested (52%). Among those who had never used marijuana this was the number three reason (over 50%). Of non-users, 26% indicated they would use marijuana if it were legalized. (The number one reason for non-use was: "It is against my beliefs.") (MHE-II-463, 469, 470)

f. Recently the government of Mexico found it necessary to change the penalty for possession of one marijuana cigaret to a felony offense with a jail sentence from 3-5 years. The Attorney General of Mexico testified the marijuana problem is regarded to be as serious as the problem involving heroin (MHE-II-449).

28. Stronger penalties would have been an effective deterrent against marijuana use if every arm of government had subscribed to them and had been supported by the various institutions within the country and by public opinion.

a. Strong penalties have Biblical support because of Biblical example; they are necessary to good government, for the inference is that they are effective as long as they are judicially (and even compassionately) applied.

29. If a jurisdiction cannot bring itself to put felony or misdemeanor penalties on marijuana possession, at least the amount of marijuana possessed under a decriminalization provision should not be more than one cigaret. And separate high penalty offenses should be made for i) being apprehended in a marijuana intoxicated condition; ii) being apprehended in a marijuana intoxicated condition in the course of the commission of any law violation; iii) being apprehended while driving or engaging in any activity hazardous to the safety of others while in a marijuana intoxicated condition; iv) causing injury to others while in a marijuana intoxicated condition; v) failure to identify supplier of marijuana. Also the law should expressly state that being under marijuana intoxication is no defense to any criminal act committed under its influence nor shall proof of such intoxication constitute a negation of specific intent.

In addition, marijuana users should be required to have special marijuana users' insurance that would cover not only accidents but also unemployment compensation, health care and all other costs in which marijuana use con-

tributed. Marijuana users should have their driver's license indicate they are a marijuana user in the same way drivers who wear eyeglasses are indicated. If marijuana users are to be given the liberty of their special interest, they should be willing to bear the burden of the cost that may ensue therefrom.

TEEN HAVEN,  
Philadelphia, Pa., March 14, 1977.

HOUSE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,  
House Office Building, Annex No. 2,  
Washington, D.C.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: Please be assured that I would much rather have appeared in person before the Committee, however, Congressman Robert Walker of the 16th Congressional District assures me that you have more witnesses for testimony than will be heard.

I do hope that many of these witnesses will come from the grass roots level, and not so-called professionals and would-be experts.

The last twenty five years of my life have been devoted to working with young people from all walks of life. The last thirteen years have been spent working with low income, slum dwelling, ghetto young people. The exodus of thousands of churches to suburbia and the miserable failure of city, state, and federal youth agencies to provide a meaningful experience for innercity young people necessitated the birth of the Teen Haven ministries. We now have centers in the Cardoza area (heroin alley) Washington, D.C.; Philadelphia and Lancaster, Pennsylvania; and Buffalo, New York. We also operate a year round camp in Brogue, Pennsylvania. Teen Haven/Christian Youth Services, Inc. does not accept city, state or federal funds.

I can assure you that I speak for literally thousands of broken hearted parents of young people who have reached for the chemical cop out beginning with wine, glue, or grass, only to graduate to more detrimental drugs. I have never counselled with a heroin user who did not start his or her drug caper with a lesser drug.

If you decriminalize the use of marijuana you will be doing a disservice to both parents and the young of our great nation. Why you would even consider such legislation is beyond all human comprehension.

It is my understanding that millions of federal dollars are spent in trying to get young people and adults off the lung cancer habit (cigarettes). We are experiencing a tidal wave of teenage alcoholism in America while our federal legislators soft peddle the marijuana issue.

If you penalize marijuana users by fining them, the wealthy will chuckle, pay the fine, and poor inner city young people will still go to jail or steal the money to pay the fine!

One of the greatest deterrents we have in combating the ever increasing drug problem among young people is strong, severe penalties. One of the greatest verbal weapons I have in trying to keep young people from experimenting with grass is to tell them it's not just a health hazard, it's *against the law*.

Please give the kids a break, think positive, vote positive, and do everything within your power to upgrade the morals of the youth of our nation.

It was Edmund Burke, the English Statesman, who said, "All that is necessary for triumph, is that good men do nothing."

I should be glad to meet with the Committee at my expense.

Respectfully,

WILLIAM A. DRURY,  
President.



**END**