

M I N U T E S

SPECIAL COMMITTEE ON JUDICIARY

October 30 and 31, 1975

Members Present

Senator J. C. Tillotson, Chairman
Representative John Hayes, Vice-Chairman
Senator Paul Hess
Senator Cale Hudson
Senator Jim Parrish
Senator Robert Talkington (1st day only)
Representative William Cather
Representative Patrick Hurley
Representative Ben Foster
Representative David Mikesic
Representative Randall Palmer
Representative Ted Templar

Staff Present

Walt Smiley, Legislative Research Department
Art Griggs, Revisor of Statutes Office

Conferees

Honorable Glee Smith
Dr. Herbert Modlin, Past President, American Medical Association Committee of Mental Health
David Berkowitz, Douglas County Attorney
Judge Alan Hazlett, Shawnee County Magistrate Judge
Professor James Concannon, Washburn Law School
Dr. Edward Walaszek, Chairman, Department of Pharmacology, K.U.M.C.
Lance Burr, National Organization for the Reform of Marijuana Laws
Dr. William Albott, Research and Education, Topeka State Hospital
Rev. Richard Taylor, Kansans for Life at It's Best
John Polson
Bernice Hutchenson, Wichita State University

Conferees (Continued)

Paul Sprague, Salina, Kansas
James Postma, Chairman, Legal Aid Committee of Kansas Bar
Association
Phillip Wallsmith, Topeka Social Worker
David Jensen, Topeka Probation Officer
Speaker Duane S. "Pete" McGill
Tom Regan, Attorney General's Office

October 30, 1975

Morning Session

The meeting was called to order by the Chairman who requested a motion for correction or approval of the minutes for the meetings of September 15 and 26. The motion was made, seconded and approved.

Proposal No. 28 - Legal Aid
for Indigent Defendants

The Chairman introduced Mr. Glee Smith, who supported S.B. 435. He informed the Committee he had obtained information for the Committee from two states where statewide programs are being considered. Mr. Smith said that Montana has a fully operative legal services corporation.

Mr. Smith told the Committee the federal program originated from O.E.O., and had what he felt to be the wrong emphasis. Under O.E.O., Mr. Smith said the program had a "welfare" slant. The new program is designed to remove legal services from its association with welfare. Mr. Smith noted that he has been named by President Ford to serve on an 11-member board of directors, comprised entirely of attorneys, for the federal Legal Services Corporation. Mr. Smith advised the Committee that Mr. Tom Ehrlich of Stanford Law School had just accepted the presidency of Legal Services Corporation at an annual salary of \$10,000 less than that of his position as Dean of Stanford Law School.

People need to be assured they have access to legal services, according to Mr. Smith. He believed it to be a matter of protecting people's feelings about the government.

Mr. Smith noted that he would leave information for the Committee which contains an analysis of the Montana program. This information is on file with the Research Department.

Although the request has not yet been made to the Governor, Mr. Smith told the Committee that the federal legal services act provides for a nine-member advisory committee comprised of attorneys to be appointed by the Governor. Mr. Smith stated this request would be made before January.

The budget for the program for each of the last four years has been \$71.5 million. Mr. Smith said the budget for next year would be increased to \$88 million with \$8 million being used for "short funding" or "catch-up" funds. He noted that 256 local programs currently exist in the U.S., and three are in Kansas.

Upon question by the Committee, Mr. Smith stated that the federal program allowed for services in civil matters only. No personal injury cases or criminal cases were to be handled. It was also explained by Mr. Smith that only \$2.3 million from next year's budget would be used for administration, while approximately \$83.5 million would be awarded in state grants. The Committee was assured that matching state funds are not required in order to obtain a federal grant, and Mr. Smith was not concerned that federal funds would be withdrawn at a later time.

Another concern voiced by the Committee was the maximum income allowed for an individual to be eligible for legal aid services. Mr. Smith was asked who would be responsible for fixing the income level allowed. The final decision would be made at the national level, according to Mr. Smith, with the state people acting only in an advisory capacity. It was noted that the state's advisory Committee had no authority to operate the program but would report abuses to the federal corporation. He noted that S.B. 435, Section 7 allows the state legal services corporation to establish income guidelines.

If S.B. 435 was not recommended by the Committee, Mr. Smith advised the offices presently in existence would continue and the Kansas Bar Association would work for local programs. However, the Committee was reminded that S.B. 435 could be passed without an appropriation for state funds, since no matching state funds are required to receive a federal grant. Mr. Smith stated he did not anticipate any such requirement in the future. The appointments made by President Ford for the national board of directors are for terms of two and three years. The present directors support this procedure and Mr. Smith did not feel there was need for concern about funding in the future. \$327 million was expected to be required to fund the federal program when in full operation.

The Committee was reminded by Mr. Smith that the national board of directors took office July 14, 1975, with a provision that the office would be operative by October 14.

Following Mr. Smith's testimony, Committee members discussed the program. A Committee member moved to have the Committee report reflect that the Committee approved of the concept of this legislation but because of the "newness" of the federal program the Committee makes no recommendation on S.B. 435. The motion received a second, and carried on a voice vote. Senator Hess and Representative Hayes voted in opposition to this motion.

Afternoon Session

Proposal No. 65 - Decriminalizing Marijuana

The Chairman introduced Dr. Herbert Modlin, Past President of the American Medical Association Committee of Mental Health. Dr. Modlin presented a prepared statement to the Committee. A copy of this statement is appended as Attachment I.

Mr. David Berkowitz, Douglas County Attorney, was the next speaker, his statement is appended as Attachment II.

The Chairman then introduced Judge Alan Hazlett, Shawnee County Magistrate Judge. A copy of the Judge's prepared statement may be found as Attachment III.

The next speaker was Professor James Concannon of the Washburn University Law School. His statement is appended as Attachment IV.

The Chairman introduced Dr. Edward Walaszek, Chairman of the Department of Pharmacology at the K.U. Medical Center, who also presented written testimony to the Committee. A copy of this statement is appended as Attachment V.

Dr. Walaszek was asked if there were any drug laws which he felt needed to be changed. In his opinion, recent changes have resolved all of the previous problems of which he was aware.

A Committee member asked Dr. Walaszek if marijuana is addictive. Dr. Walaszek noted that there are no so-called withdrawal symptoms so there is no true addiction. However, individuals using marijuana tend to be "habit prone," according to Dr. Walaszek.

A written statement was presented to the Committee by Rev. Richard Taylor. A copy of this statement is appended as Attachment VI.

Mr. Lance Burr, a Lawrence attorney and former assistant attorney general, was introduced to the Committee. Mr. Burr advised the Committee that former President Nixon had authorized a study on marijuana which Mr. Burr felt to be comprehensive. This special committee, according to Mr. Burr, heard testimony from everyone with information to contribute before recommending the decriminalization of marijuana.

It was Mr. Burr's opinion that the important question was whether or not we want to put people in jail for possessing marijuana. He believed the reason for legalizing or decriminalizing the possession of alcohol was because we did not want to make criminals of persons who drink.

The next conferee to be introduced was Dr. William Albott, a practicing psychologist at Topeka State Hospital. Dr. Albott advised the Committee that, while a large amount of literature is available on this subject he was aware of no long-range study.

Dr. Albott referred to a 1973 article which reviewed the use of marijuana over the preceding five years. It was said that marijuana users can be distracted more easily than non-users, resulting in a reduced ability to concentrate. This effect was said to be especially true of the acute marijuana user, although the symptoms are not as well established in the chronic user. It was noted by Dr. Albott that use of marijuana caused an individual to have a slowed sense of time, to have more involvement with the present than the future, and to suffer from introversion, apathy and lack of aggression.

The next speaker was Mr. Paul Sprague, who pointed out that he was starting an organization, which would present the citizens' view of decriminalizing marijuana. Mr. Sprague presented a statement in opposition to decriminalization to the Committee for attachment to these minutes. A copy of his statement is appended as Attachment VII.

Mr. John Polson and Ms. Bernice Hutchenson of Wichita State University presented the Committee with partial results of a statewide poll taken by them on the decriminalization of marijuana. A copy of their preliminary report may be found at Attachment VIII. They advised the Committee that over 2,000 of the 3,000 questionnaires distributed had been returned and they expected to have the final results available in three weeks.

Mr. Phillip Wallsmith, a licensed social worker in Topeka, was the next speaker. Mr. Wallsmith noted that it is useful to keep track of a person's contacts with the criminal justice system. This information can be used by social workers and others, he said, in understanding a client's problems. Mr. Wallsmith felt that completely decriminalizing marijuana would not provide this sort of information.

In response to a Committee question, Mr. Wallsmith stated after leaving his program, 36% of his clients use marijuana occasionally. He felt that most of the people do not continue.

Mr. David Jensen, a Shawnee County probation officer, told the Committee he was speaking only for himself. He stated it was psychologically harmful to an individual to be busted for possessing marijuana. He felt that the people he knew who use marijuana were not abusing it. Only those people who did not know what to do with their time started abusing marijuana, he said. Mr. Jensen felt that few people completely quit using marijuana, and that he would like to see the possession of marijuana decriminalized.

October 31, 1975

Proposal No. 28 - AID

The Chairman introduced Mr. James Postma, Chairman of the Legal Aid Committee of the Kansas Bar Association.

Except for five or six areas of the state, Mr. Postma advised that no legal aid service is available. Mr. Postma advised that the Legal Aid Committee adopted the motion appended as Attachment IXb.

Proposal No. 29 - Search
and Seizure

The Chairman introduced Speaker Duane S. "Pete" McGill who submitted a report prepared by his aid, Doug Wright, over the past year. A copy of this report is appended as Attachment X.

The Chairman then introduced Mr. Tom Regan of the attorney general's office. A copy of his prepared statement is appended as Attachment XI.

Proposal No. 28 - AID

There was considerable Committee discussion regarding repayment of legal fees by indigent defendants. It seemed to be the feeling of the Committee that defendants should be required to make some commitment for repayment. A Committee member made a motion which provided:

- 1) Public defenders assigned to an indigent defendant should be authorized to accept payment from the Aid to Indigent Defendants Fund.
- 2) Public defenders should be required to certify to the judge their time and costs incurred in providing counsel and legal resources to an indigent defendant.
- 3) In a case involving an indigent defendant, the judge would be authorized to make reimbursement a condition of probation.

This motion was seconded and carried on a voice vote.

A Committee member moved that H.B. 2601 be recommended favorably for passage by the 1976 Session of the Legislature. Another Committee member seconded this motion. A substitute motion was offered, which provided that the Committee recommend a statewide public defender system. The first motion's sponsor said this was also his belief and withdrew his motion and seconded the latter motion. On a show of hands, the motion was defeated with a tie vote.

A Committee member moved to recommend H.B. 2533 favorable for passage, with the above amendments. Motion received a second, and carried on a voice vote.

Proposal No. 27 - Criminal
Justice Information Systems

A draft report was reviewed by staff, and the Committee was reminded of the letter from the Governor urging passage of H.B. 2447.

A motion was made and seconded to adopt the report on Proposal No. 27 as drafted. The Chairman suggested the report include a recommendation that if the funds are cut for this program, the legislature should continue the funding. The motion was amended to include this in the final report. The motion carried on a voice vote.

Proposal No. 26 - Statewide
District Attorney

A draft report was reviewed and H.B. 2372 was discussed by the Committee. It was suggested that some mention be made

that considerable time was spent considering the judicial districts. A Committee member moved that the draft report be adopted. The motion received a second.

A substitute motion was offered so that the report would indicate the Committee discussed nonpartisan selection of district attorney. This motion was seconded and approved on a voice vote.

The Committee returned to the original motion, which carried on a voice vote. Senator Parrish abstained from the vote.

Proposal No. 28 - AID

A motion was made to require the present law be amended so that the Secretary of State's Office would supply the Public Defender Offices throughout the state with at least two complete sets of statute books and supplements. This motion was seconded, but failed on a show of hands.

Proposal No. 29 - Search
and Seizure

The Chairman asked several times for motions on this proposal. No motions were offered.

Proposal No. 65 - Decriminalizing
Marijuana

The Vice-Chairman advised the Committee he was receptor of a telegram from Students for Political Awareness at Kansas State University requesting support for this proposal.

A Committee member moved to request staff to draft a bill so that possession of one ounce or less of marijuana would be legal, but more than that possession of more than one ounce would create a rebuttable presumption of possession with intent to sell. This motion specified that the Committee was not recommending the bill for passage, but for consideration. Motion received a second.

The motion's sponsor stated that testimony heard by the Committee left some doubt about the long-range effect of smoking marijuana. He therefore wanted only to provide a vehicle for the Legislature to use after there had been an opportunity to obtain more information.

A Committee member stated that he wanted the Committee to be able to go on record as not favoring the encouragement of the sale of marijuana. He felt it important for the legislature to have a vehicle during the session.

The motion carried on a voice vote. Representatives Hayes and Palmer voted against the motion.

The Chairman directed staff to mail a copy of the draft to the Committee members for approval.

The Chairman requested Committee's permission to obtain coordinating council approval for another meeting if it is needed. Upon ceiving the appropriate motion the Committee granted this request.

The following items were also made available to the Committee, and are appended to these minutes:

Attachment XII - Statement from Mr. Thomas Duncan, State Coordinator of National Organization for the Reform of Marijuana Laws (NORML)

Attachment XIII - Statement and materials from the Kansas Advisory Commission on Drug Abuse.

Attachment XIV - "Narcotics Officers Oppose Legalizing Pot in Kansas" from The Pictorial Times, Nov. 6, 1975.

Prepared by Walt Smiley

Approved by Committee on:

Date

Special Committee on the Judiciary
Proposal No. 65 -- Decriminalization of Marijuana

Statement of Herbert C. Modlin, M.D.

Mr. Chairman, Members of the Committee:

My name is Herbert C. Modlin. I am a licensed practicing physician in Kansas and am a member of the professional staff of the Menninger Foundation. My appearance here today primarily concerns my interest in marijuana, stemming from my work with the American Medical Association. I am the immediate past chairman of the AMA's Council on Mental Health. One of the Council's important subgroups is the Committee on Drug Abuse, the members of which are among the nation's leading authorities on the subject. One member of the Council was a member also of the National Commission on Marijuana and Drug Abuse who kept us informed regarding results of the many studies completed by the Commission. Regular consultants to the Council were Mr. Thomas Bryant, President of the Drug Abuse Council and Dr. Daniel Friedman, Professor of Psychiatry at the University of Chicago and one of the country's leading drug abuse researchers.

The Council and its Committee maintains a working relationship with the Federal Bureau of Narcotics and Drug Dependence and assisted the Bureau in writing and revising many of its regulations involving drug control. In addition the Council has participated in numerous international conferences. This brief recital of my background is to indicate that I have had opportunity to become informed on most aspects of the marijuana furor. I am further influenced by substantial clinical experiences with drug-taking persons at the Menninger Foundation, particularly the Carriage House, our drop-in clinic for teenagers.

The effects of cannabis, the active ingredient of the marijuana plant, can be discussed under three headings: (1) effects on the human body; (2) effects on the human mind; and (3) effects on social behavior. I assume the third heading is of most interest to this Committee.

(1) As you have heard or will hear from the witnesses, the physical and physiological effects of marijuana smoking are controversial. More than a few studies on marijuana ingestors have not been conducted according to accepted standards of scientific investigation and the conclusions of different investigators in different laboratories or clinical settings tend to cancel each other out. One of the most authoritative investigators, Dr. Lester Grinspoon of Harvard University, has stated that the psychological effects of the drug are remarkable in that they are so limited and so mild. Only two effects have been well documented; a reddening of the tiny blood vessels in the eye and an increase in the pulse rate. Both effects disappear when the smoking is discontinued and neither is medically harmful to the user.

To date death from marijuana ingestion has not been reported; it just does not happen. In fact several authorities say it cannot happen. To be lethal, it would take a far greater quantity of marijuana than is humanly possible to ingest. This is a remarkable finding considering that some drugs, for example aspirin, produce a number of deaths annually. The last word regarding the effects of cannabis on the human body has yet to be written. If some adverse consequences are eventually verifiable, marijuana will then become a public health problem, not a criminal justice problem. At some time in the future, the surgeon general may issue a statement that smoking marijuana is injurious to health. Present knowledge, however, does not support such a statement.

(2) The primary psychological effects of marijuana are a feeling of well-being and optimism, an increased perception and enjoyment of sensory experiences such as sights and sounds, and some impairment of immediate memory recall. There is no effect on remote or recent memory but if a smoker has ingested enough cannabis, his memory of events in the preceding five minutes may be faulty.

A widely publicized belief is that the psychological effect of consistent marijuana ingestion is the development of a state of anhedonia, an insensitivity to pleasure with lethargy, listlessness, and a loss of interest in activity or achievement. Recent studies have largely disproved that notion. Two excellent studies on students at New York State University and the University of California at Los Angeles have demonstrated no deterioration in study habits, grades achieved or social behavior from four years of regular social use of marijuana. In retrospect, it appears now that emphasis in early reports on the anhedonic effects would have been more accurately placed instead on the likelihood that the subjects studied were smoking marijuana because they were anhedonic to begin with.

(3) There is little to report concerning the effects of marijuana on social behavior. Presumably the two most important questions are whether marijuana use causes the smoker to graduate to more harmful hard drugs and whether marijuana smoking is directly or indirectly related to criminal behavior. The best evidence we have answers "no" to both questions. Although it is true that most hard drug users at one time smoked marijuana, a cause and effect relationship has not been shown. Multiple drug experimentation is a common practice among drug users; and most persons now on cocaine or heroin

previously used marijuana, amphetamines, LSD, barbiturates, etc., some of which do alter mental processes significantly and are more likely stepping stones to hard drugs than is cannabis. But marijuana is not a narcotic and is not addictive; there are no withdrawal symptoms and a physiological craving is not experienced.

It is generally agreed in the medical literature that marijuana ingestion reduces aggressiveness, increases a sense of well-being, and promotes sociability; thus it might be considered an anti-criminal drug. Of course, similar statements can be made about hard drugs such as cocaine and heroin. Criminal behavior associated with those drugs occurs between injections from the addicts' need to procure money meeting the high cost of the addiction. Since marijuana is cheap and is not addictive, it does not conduce criminality.

In your investigation of marijuana effects on man you may well have become familiar with the Jamaica study; marijuana smoking is endemic in Jamaica. Sponsored and financed by HEW, this research project is the best field survey to date. Two groups, matched for sex, age, height and occupation, were compared. The research subjects had smoked marijuana daily for an average of 17 years; the controls had not smoked. Complete physical, physiological, biochemical, X-ray, psychological, psychiatric and sociological studies were accomplished, and no statistically significant differences between the two groups could be found on even one test item. There were a few trends. The non-smokers had a slightly higher incidence of cell chromosome abnormality, were seven pounds heavier in weight, showed a greater tendency toward neurosis, and had a higher arrest record.

One final point: there is some evidence from clinical observations that the absence of marijuana may lead to more dangerous drug-taking including

hard drugs. The drug culture of the young is a reality but we have the impression that the large majority confine their experimentation to marijuana. In banning it a significant increase in untoward uses of alcohol, stimulants, sedatives, tranquilizers and narcotics well might result.

The Board of Trustees of the American Medical Association has recommended the decriminalization of marijuana possession in small amounts for personal use. To present that recommendation from organized medicine for your consideration, is the chief purpose of my appearance today.

October 30, 1975

PRESENTATION BEFORE THE SPECIAL COMMITTEE ON JUDICIARY

October 30, 1975

I would first like to state that my presentation today does not necessarily reflect the views of any organization that I may belong to or any other law enforcement agency. My name is David Berkowitz and I am presently serving as Douglas County Attorney. I first took that office on December 15, 1972, and have served in that capacity since then. I graduated from the University of Kansas Law School in June of 1968. Prior to becoming County Attorney I had a private practice of law in Douglas County which involved a large number of drug defense cases. In the period of time that I have been County Attorney my office has handled over 250 drug cases. Of that number, approximately half would be simple possession of Marijuana in which no other drugs were involved. These figures do not reflect any juvenile cases. My remarks today are based on my experience both as a defense counsel and as prosecuting attorney in drug cases. I am a member of the Douglas County, Kansas and American Bar Associations, as well as the Kansas County and District Attorneys' Association and the National District Attorneys' Association. I support the decriminalization or legalization of small amounts of Marijuana for personal use for a number of reasons:

First, because of my own personal views of what should and should not be prohibited by the criminal law, and secondly, because I feel that such a move would help law enforcement in general.

It is my own view that there are far too many crimes now on the statutes and that the State should not prohibit private conduct of an adult unless his conduct is extremely dangerous to the individual doing it or a danger to society as a whole. In the case of possession and use of Marijuana I feel that it is neither extremely dangerous to the individual or dangerous to society as a whole. Let me expound on that position. There are, of course, many persons present today who will be speaking to this committee that have a great deal more knowledge of the various scientific studies that have been done on the usage of Marijuana, but, in my own reading of these studies it appears that no particular danger has been proven by any of these studies except possibly under those studies in which an extremely large amount of Marijuana is used; an amount that would be almost impossible to use in everyday life. In all, Marijuana does not appear to be any more dangerous than those substances which are legal and which many of us present today use; that of alcohol and tobacco. In fact, Marijuana may be less dangerous than either. Taking alcohol as an example, Marijuana does not apparently have the after affect known as the hangover that alcohol has and the person using Marijuana the night before is not as likely to be as slow on the job as the person drinking alcohol. In general, I feel that the use of Marijuana, like the use of alcohol, can be done in a manner which is proper or in a manner which is abused. It can be used as a relaxant or a recreational substance such as the person who has a drink before dinner or a couple at a party. Of course, it can be abused in the same manner as an

alcoholic abuses alcohol, but, as I have previously stated, even there, the Marijuana user does not seem to have as many problems as the alcohol user. Furthermore, the consumption of Marijuana, unlike the consumption of other drugs, has neither serious side effects to the individual nor does it necessarily lead to an increase in crime. One of the reasons is that the cost of Marijuana is relatively cheap, especially in relationship to Heroin and other hard drugs and there is no evidence of physical addiction. The Heroin user in order to support his increasing habit, normally has to turn to crime and the effects of Heroin usage generally prevents the user from holding a job for any amount of time. It is well known that whenever Heroin comes into a community in a large amount, the rate of crime against persons and property rises. The same, of course, is not true for the person that uses Marijuana. Now, like alcohol, certain uses of Marijuana could be dangerous to society and there is nothing that would prevent the State, as it really has already done, to make it illegal, for instance, to drive while under the influence of Marijuana. In general, then, my philosophical position is that Marijuana usage is not the sort of thing that should be regulated by the State in so far as adults are concerned.

There are some reasons why I feel that the present Marijuana laws are detrimental to good and efficient law enforcement. First of all, of course, the law making the possession of Marijuana illegal, is enforced in a haphazard manner. That is to say that very few people are ever caught. It is my estimate and it seems to be confirmed by a survey that was done under the

Douglas County Drug Abuse Council last year that there are probably at least 10,000 persons in Douglas County who smoke Marijuana. As you can see, in the past 2 1/2 years or almost 3 years only 125 to 130 persons have actually been picked up for that charge and if you count the entire 250 you still have a relatively small percentage. Of course, law enforcement in Douglas County, as in other jurisdictions, do not make a major effort to seek out Marijuana possessors in order to make cases and that has some bearing on the small number that are actually brought before the courts. However, if such an effort was made, it would be impossible to handle. There would not be enough policemen, jails, courts or prosecutors to fully and effectively enforce the law. Well, of course, no law is enforced 100%; still, the low percentage of Marijuana enforcement tends to put this law in disrepute among the people. Furthermore, what enforcement there is is generally done in a discriminatory manner. It is very rare to see anyone over 30 picked up for possession of Marijuana and indeed the huge majority are under 25. They are usually students or long-haired young people, while the banker, the lawyer, the business man, etc., who smokes Marijuana in the community, does so with relative impunity. A law that cannot be and is not evenly enforced can only breed disrespect not only for the law, but all laws in general. Indeed the comparison to prohibition is quite strong under the present Marijuana laws. We have, in fact, laws on the books that simply cannot be enforced. If you have any belief at all in the capitalist system, you know that when there are so many consumers of any product,

there are bound to be persons willing to take the risk to supply that product. Indeed, many people believe that the worst effects of prohibition were a general disrespect for law and the foundation of organized crime in this country. Unfortunately, many of the same conditions exist today in respect to Marijuana that existed 40-50 years ago in respect to alcohol.

Second of all, I feel that too much time is used in the arrest and prosecution and sentencing of Marijuana possessors. A typical case will require one or two officers to make the arrest, to fill out a report and book the person in the jail. They will then have to come to court on at least one and perhaps more occasions; the prosecuting attorney, of course, will have to be in court at all times as well as the Judge, Furthermore, the Marijuana would have to be taken to Topeka to be analyzed by the K.B.I. which usually is done by another officer, requiring him not only to travel to and from Topeka at least twice, but, also to appear in court as well. And finally, from Topeka, the K.B.I. chemist must be brought into court. So, although I do not believe that law enforcement should be measured in dollars and cents, I think that there are better things for the police, the prosecutors and even the K.B.I. Lab to be doing. On a number of occasions, we have found that we have had to wait a long period of time to get tests run on serious cases such as rape and homicide because the K.B.I. Lab was tied up in drug cases, primarily Marijuana. I believe this has changed since the change of administration; nevertheless, the chemist only has so much time and a great deal of it is taken, not only

analyzing Marijuana, but coming to Court and testifying, as well as the arresting officers being off the street during the period of time they are making the arrest and booking, and even possibly while they have to be in Court, plus the fact that the prosecutors' offices probably have better things to do than to prepare and try relatively small amounts of Marijuana possession cases. Despite the placing of Marijuana possession as a low priority item in most law enforcement agencies, many officers still feel compelled to attempt to vigorously enforce this law. Because Marijuana is smoked rather than injected, snorted or swallowed, and because Marijuana leaves a distinctive odor, it is easier for the police to make Marijuana possession cases than cases of possession of other more dangerous drugs. If the legislature, acting as the representatives of the people of the State of Kansas decriminalize Marijuana, they will be approving and indeed enforcing the lowering of priority of this particular crime.

There is yet another way in which the present law harms efficient law enforcement. The fact of the matter is that many, many people smoke Marijuana and these people tend to look upon the police, not as their friends, but as their enemies because they are afraid, of course, of being busted for possession of this drug. In one instance, a person reporting a burglary to the Lawrence Police Department was arrested for possession of Marijuana when the police came to investigate the burglary. Quite frankly, this does not always happen, but, when it does, it seems to me that we have our priorities completely reversed. Other persons

are hesitant to give information to the police because of their feelings about the Marijuana law and their adverse feelings because of the Marijuana law towards police in general. This is especially true in trying to get information from people about harder drugs. The overwhelming majority of persons smoking Marijuana do not approve of harder drugs, especially Heroin, and under different circumstances would well cooperate with the police in attempting to stop the sale and usage of this drug, but, they do not trust the police agencies and are very reluctant to come forward, if at all.

Finally, I would say that the making of Marijuana illegal does, of itself, lead to some usage of other types of drugs and the reason for this is, frankly, that in making Marijuana illegal, the Marijuana user is thrown into an illegal and criminal situation. The person from which he buys his or her Marijuana is likely to be selling other drugs as well. The fact that Marijuana is illegal and is not harmful tends to hurt educational programs, pointing out the harms of many other drugs which are presently used. Thus, the present Marijuana laws give people the opportunity which they otherwise would not have to use other drugs which are dangerous to themselves and to society and the decriminalization or legalization of small amounts of Marijuana would, I believe, tend to prevent the usage of these other drugs.

I do not wish to leave the impression that I am not concerned about illegal drug usage. I am concerned about many present trends including the usage of more than one drug at the same time, the

buying and usage of drugs which turn out to be other than the drug that it was sold as, the usage of some drugs with alcohol which is an especially dangerous combination when the drugs are barbiturates or other downers and the usage of all drugs by juveniles, particularly in the junior high and grade school levels. The passage of a decriminalization or legalization bill would not only permit, but, indeed force law enforcement agencies to concentrate on the sale and usage of more dangerous drugs in the State of Kansas.

In conclusion, I state that both from a philosophical point of view and from a law enforcement point of view, that decriminalization or legalization of the possession and use of small amounts of Marijuana would be a wise decision by the legislature.

I have been asked to address the legal issues involved in the retention of criminal penalties for the possession of small amounts of marijuana for personal use and also to outline the tenor of statutes in the six states which have to this point decriminalized such possession of marijuana.

The imposition of criminal penalties for marijuana possession has increasingly been recognized as presenting issues of constitutional dimension. The leading recent case is Ravin v. State, 537 P.2d 494 (Alaska 1975). The court initially concluded that there is a fundamental right of privacy in the home which protects the activities in which citizens engage in the privacy of their homes from criminal prosecution where those activities do not endanger or harm the general public welfare. Substantial authority from the United States Supreme Court recognizes such a right of privacy as a specific constitutional right, which although not mentioned in the Bill of Rights expressly, emanates from the specific guarantees of the Bill of Rights. See Griswold v. Connecticut, 381 U.S. 479 (1965) (invalidating statute effectively barring dispensation of birth control information to married persons); Stanley v. Georgia, 394 U.S. 557 (1969) (invalidating statute imposing a criminal penalty for possession of obscenity for personal use in the privacy of the home). Having concluded that a right to privacy in the home exists, the Alaska court determined that this right of 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 marijuana in the home is supportable by achievement of a legitimate state interest."

The court found no adequate justification for prohibition of such use by an adult. "...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 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 these individuals."

Other courts have recognized the presence of privacy considerations in this area. In State v. Kantner, 493 P.2d 306 (Hawaii 1972), the Supreme Court of Hawaii upheld a marijuana possession conviction against constitutional attack by a 3-2 vote. The dissent found the right of privacy infringed by the imposition of a criminal penalty upon the private, personal use of marijuana. One member of the majority concurred in affirming the conviction only because he believed the constitutional issue had not been properly raised.

Other constitutional attacks have been levied against marijuana possession statutes and some have been successful. For example, in a number of cases the classification of marijuana either as or with narcotic drugs has been invalidated as so irrational as to violate the due process and equal protection clauses of the Fourteenth Amendment in view of the relative harmlessness of marijuana. See People v McCabe, 49 Ill.2d 338, 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). The Sixth Circuit Court of Appeals recently held the Ohio penalty for possession of

marijuana (10 years) was so excessive and disproportionate to the offense as to constitute Cruel and Unusual Punishment contrary to the Eighth Amendment to the Constitution. Downey v. Perini, 518 F.2d 1233 (6th Cir. 1975).

The point here is not that there is unanimity of judicial opinion on the constitutional implications of marijuana possession statutes. There isn't. Rather, the point is that the increasing judicial willingness to question the constitutionality of marijuana possession laws, particularly in light of the right of privacy, calls for a legislative reevaluation of the justification of continued criminal treatment for possession of marijuana for personal use. In making such a reevaluation, six states have enacted statutes which eliminate incarceration in jail as a penalty for possession of small amounts of marijuana and which prevent a conviction of possession of small amounts of marijuana from becoming part of a permanent criminal record of the individual involved.

In three states, Oregon, Alaska, and Maine, the offense is treated as a civil violation, enforced by a citation system similar to that used respecting traffic offenses. In Colorado, possession of small amounts of marijuana is treated as a non-criminal petty offense. Under California law, the offense will remain a misdemeanor and in Ohio it will be a minor misdemeanor but in neither state will a jail sentence or permanent criminal record be imposed and apparently enforcement will also be by citation not arrest.

In five of the six states, the maximum penalty which may be imposed for possession of small amounts of marijuana is a fine of \$100. In Maine the maximum fine is \$200. The actual practice in Oregon as reported by Newsweek magazine (October 27, 1975) is that the usual fine ranges from \$25 to \$40.

The maximum amount of marijuana which may be possessed without incurring risk of a criminal sanction in Oregon, Colorado, and California is one ounce. Ohio has established a limit of 100 grams (approximately $3\frac{1}{2}$ ounces). The Alaska law extends to any amount possessed in private for personal use and extends to an amount of one ounce possessed in public. Under the Maine statute, civil violation treatment would extend to any amount possessed for personal use, although the statute establishes a rebuttable presumption that more than one and one half ounces are possessed with intent to distribute rather than for personal use.

The Colorado, California, and Ohio statutes specifically provide that distribution of small amounts of marijuana without consideration, e.g. by gift, will be treated in the same fashion as simple possession, the only difference being that in Ohio a criminal record will be maintained for a distribution offense which would not be maintained respecting a mere possession offense.

Maine, Colorado, and Ohio specifically retain criminal penalties for the distribution of any amount of marijuana to minors, whether with or without consideration.

The point of this rather cursory overview of the laws in other states is that other legislatures have been able to draft statutes which effectuate specific and justifiable local policies while at the same time sparing numerous adults from the debilitating effect of a life-long criminal record and easing the enforcement burden on law enforcement agencies and the courts which far exceeds any demonstrable benefit to society from such enforcement.

In my judgment, the most difficult problem in this area is simply one of deciding what the issue is and what it is not. The issue is not whether as a society we want to encourage or even approve of the personal use of marijuana. As the Alaska Supreme Court said in the Ravin case, supra, despite its holding on the constitutional question, "...we wish to make clear that we do not mean to condone the use of marijuana." No doubt the six legislatures which have decriminalized marijuana possession did not intend to condone its use either, and I don't. But that's not the issue.

Likewise, the issue is not whether marijuana use is medically dangerous or not. Respectable authority exists on both sides of the question. But there are many substances the ingestion of which into the body may be medically dangerous, and more demonstrably so than in the case of marijuana, but the legislature has never undertaken to make unlawful the possession or ingestion of those substances.

In sum, even assuming we do not wish to encourage marijuana use and even assuming there is some medical harm involved, in short assuming there is a marijuana problem, the real issue is whether imposition of criminal penalties is the appropriate legislative response to that problem.

Theorists in the area of criminal law recognize several purposes which may be served by the imposition of criminal sanctions. One is punishment or retribution in behalf of society against a wrongdoer. It is doubtful this purpose justifies criminal sanctions

against the marijuana user who is perceived as misguided but hardly a hardened criminal who has wronged society. The prevailing motivation is to get the user to stop using, not to punish him for having done it.

This leads to a second possible purpose of imposition of a criminal sanction: to identify offenders in need of treatment and to exert leverage for that purpose. Even assuming marijuana users are in need of treatment, which is debateable in view of the statistics as to numbers of users who function normally in society, it would seem this purpose could be served by less stringent means than a criminal sanction, either by the civil violation system other states have adopted or by drug education.

A third possible purpose of criminal sanctions is to protect society by confining those persons regarded as dangerous to life or property. This rationale seems totally inapplicable to marijuana use.

A final purpose is to deter conduct disapproved by society. No doubt the imposition of criminal sanctions has deterred some persons who might otherwise use marijuana, although apparently Oregon has not seen a dramatic rise in numbers of users since decriminalization. This fact, plus general statistics as to actual marijuana use suggest that if criminal sanctions are intended as a deterrent they have been woefully ineffective, and to the extent that deterrence of disapproved conduct is the only justification for criminal sanctions, it squarely collides with the right of privacy recognized in court decisions.

To the extent that no recognized purpose of the criminal law is substantially furthered by the imposition of criminal penalties for marijuana use, the real loser is the law as an institution. For it is difficult to instill in young people, even law students, a respect for the rule of law as the basis for our society when conduct which has become so common among them is made criminal without being justified by any purpose of the criminal law.

To me, this is the crucial issue to be faced in considering decriminalization.

Marijuana is one of the oldest drugs known to man. It was historically noted in 2000 B.C. Along with alcohol, tobacco, tea and coffee, it remains a widely used drug. Just like alcohol is known in a number of preparations (beer, whiskey, wine, etc.), marijuana occurs in a number of forms and can either be drunk in an infusion like tea, eaten in a candy-like preparation, or smoked. It is the latter use which is prevalent in the U.S.A.

The "active ingredient" of marijuana is tetrahydrocannabinol. By active ingredient we mean the chemical that is the actual drug (caffeine in coffee, ethylalcohol in beer). In other words, all the actions of the drug are due to the "active ingredient".

The main pharmacological effect is that of sedation or tranquilization. Per se, it is not a hallucinogen but it can produce dreams and a dream-like state. In general after smoking the onset of the effect is within 5 minutes and it is over by 30 minutes (if no further smoking occurs). Unlike alcohol there is no long incapacitating period and no so-called hangover. It also produces an increase in appetite which can be witnessed at any hamburger stand on Friday and Saturday night. Unlike alcohol and amphetamine, there is no combativeness or aggression. Since it is a tranquilizer, you see only a calm-like state.

I wish to point out that there is a difference between marijuana and hashish. We have seen no outstanding problems in marijuana smokers. Hashish, on the other hand, is the concentrated resin of the plant and can be quite active. The effects are similar to marijuana but because the dose is difficult to regulate one can get into difficulty. Hashish is also smoked (usually in a pipe) but the individual can choose his own dose. In smoking a joint, he is constrained by a unit dose, but with hashish he chooses the amount to be smoked. Therefore, you see extreme cases of sedation bordering on coma, but still less than excessive alcohol intake.

I am pointing this out because what I say for marijuana smoking should not apply to hashish. An analogy can be the recent permissive action of Chancellor Dykes of the University of Kansas to allow 3.2 beer on campus, but he certainly would not allow whiskey. So hashish should be a separate matter.

Scientists in general have been unable to ascertain any true harmful effects of marijuana. It is also true that no true beneficial effects were ascertained. There is always the abuser. For every 10 gentlemen that drink alcohol for contentedness, there are one or two that abuse it. With marijuana the same situation is seen. There are abusers and in general many of these also abuse alcohol and other drugs. That is simply the human race. In no case do we as scientists urge the legalization of marijuana, although we admit that the state and federal revenues that are obtainable from such a venture (alcohol and tobacco) might be a real political lure for legislators. In fact, we may eventually learn

that marijuana smoking produces cancer and then the Surgeon General would have to place the regular "Warning: Smoking may be dangerous to your health" label on marijuana cigarettes, both filtered and unfiltered.

The obvious short-term solution is decriminalization under strict guidelines developed by the legislature. There are two great benefits of this. First is the economic benefit that will occur if these cases do not have to be prosecuted. If a misdemeanor charge is sustained, the individual would pay a fine. Further misdemeanors can be handled by various means. It can be argued that this type of legislation can actually decrease the use of marijuana.

The second benefit is that a large number of young people will not have to deal with a felony and hence will become productive and useful members of our society.

I shall be pleased to elaborate and discuss any aspects above or any aspect of drug usage with the group.

Addendum

I would like to take this opportunity to address the legislators about a similar problem. A number of states support basic research on important social problems by methods supplied by legislators.

For example, a one or two penny state tax on each cigarette pack can be earmarked for cancer research in our state. These monies can be turned over to the Mid America Cancer Center which includes cancer research at the Univ. of Kansas, Kansas State University and Wichita State University.

Alabama, a state which is 49th in per capita income, has the 5th best Cancer Research Center in the United States through such a mechanism. Of course, the fact is that the Governor of the state had to be sent to Houston for treatment which enraged the legislators into producing this legislation.

In addition, a very small tax on liquor could be turned to an advantage in the Mental Health area. I bring this out because I want Kansas to excell in these areas.

Dr. Edward Walaszek is Professor of Pharmacology and Chairman of the department at Kansas University Medical School since 1964. He was educated at the University of Chicago, University of Illinois and the University of Edinburgh. He has served two four-year terms as a consultant to the United States Public Health Service and is now serving a third four-year term. He received the Research Career Development Award and the coveted Research Career Award from the National Institutes of Health. He received the Vice Chancellor's medal for distinguished and devoted service to the University of Kansas and three medals from foreign countries. He has served as an officer of the American Society for Pharmacology and Experimental Therapeutics and of the International Union of Pharmacology. He is presently a member of one of the permanent committees for the International Council of Scientific Unions. His biography appears in American Men of Science, in Who's Who in America and in Who's Who in the World.

The issue before this committee is human suffering. Concerned citizens want to reduce it.

Informed Kansans understand there are some 40 persons addicted to alcohol for each person addicted to heroin. None are physically addicted to marijuana, although use of any recreational drug results in large amounts of damage other than addiction.

Present prohibition of marijuana is much more severe than was prohibition of alcohol under the 18th Amendment which stated, "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States. . . for beverage purposes is hereby prohibited." The amendment did not prohibit private use.

Marijuana is a recreational drug. Beverage alcohol is a recreational drug. Kansas law, KSA 65-4102, acknowledges the procedures used to determine that marijuana should be a controlled substance would include distilled spirits, wine, and malt beverages as controlled substances also if they were not specifically excluded from the act.

A double standard written into Kansas law should be the concern of this Committee. Less human suffering should be the goal of this Committee. Can such be achieved by making marijuana use illegal under civil law rather than under criminal law? It has been said that permitting private use only of small amounts in the home of marijuana or alcohol could reduce the human misery now resulting from both not-needed drugs.

Rev Richard Joylor

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Letter To the Editor Dept.
Salina Journal

It seems the Kansas Legislature is scheduled to receive this week the recommendations of the Special Judiciary Committee which has been studying the decrimination of Marihuana since last spring--- and we (the citizens) hardly knew conservative Kansas was considering such a step. We are liable to become aware of this after the fact if we don't watch out.

However, there is a day this week, Oct. 30, in which there is going to be public hearings before the committee for people interested in presenting their views, on this new issue.

With a 18% increase in crime last year--- with a steady growth of serious crime since pot was introduced to our society around about 1961----- with one M.D. who has a national reputation as a leading authority on the drug problem including in his book statements from two other researchers that of those using pot once a month 31% tried L.S.D., 58% of those using pot weekly and 77% of those using pot daily have tried L.S.D. the state ought to think twice before removing barriers. With no penalties for possession we will see some growing and other forms of trafficking in this drug.

With escalation figures anywhere near those given above no wonder we have two unrelated psychopathic attempts in a matter of days on the president's life in the center of the hallucigen drug culture, California, no wonder we are treated to so many media accounts of bizarre personality changes in individuals involved in motiveless crimes class action assaults on innocent individuals because he happened to be a member-- holding hostages--- etc.

Marihuana of all the hard drugs would be the easiest to control with law enforcement because it is so conspicuous, because it is bulky and carries such a distinctive and offensive odor. When the user starts using the other drugs, spotting by law enforcement would be many times as difficult and the situation will have deteriorated in many ways.

I definitely would hate to see decrimination of pot for actually all it is is a step toward legalization.

deliberate

Org. Citizen's View---Marihuana organization
Paul Sprague

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P 69 *Erich Gordo*

Psychoactive drugs, behavior, changing drugs

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Marihuana

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October 30, 1975

A SURVEY OF KNOWLEDGE, ATTITUDES, AND OPINIONS
OF DRUG USE AND PENALTIES IN KANSAS

(Preliminary report subject to the final data report.)

By Bernice Hutcherson
Assistant Professor of Social Work
Wichita State University
Wichita, Kansas 67208

A Cursory Look At

A SURVEY OF KNOWLEDGE, ATTITUDES, AND OPINIONS OF DRUG USE AND PENALTIES IN KANSAS

Introduction: Interest in the above topic began in September, 1975, with a small group of concerned Wichita citizens who believed that a drug education program would be particularly good for the youth in their community. Their deliberations revealed nationwide concern about drugs with an emphasis on the use, abuse and total cost for dealing with problems related to marijuana, and information that our Kansas State Legislature was also currently concerned with the same drug related problems. Their study and revelations led the small group to turn to Wichita State University (WSU) for help as their conclusion was that there was a very great need for a statewide drug survey with an emphasis on marijuana to be made and shared with our State Legislature for their information. Prof. Bernice Hutcherson became the principle investigator for the survey effort.

Acknowledgements: Information available dictated urgency if any information could be ready to share during a public hearing by the Kansas House and Senate Judiciary Sub-committee which could include a look at such information as might be gathered on the subject. Outside funding was not available on so short a notice, and we owe a mountain of appreciation to 24 of 29 public and private Kansas Universities, Colleges and Junior Colleges who enthusiastically responded with appropriate faculty supervisors and students to carry out the population percentage based survey of randomly selected resident citizens within their communities. Very special appreciation is also due to those WSU professors who have been so supportive during this hurried process and particularly to Dr. John J. Hartman whose unique random sampling method enabled supervising faculty and students to so easily participate in our effort.

Timeliness of Study: The study has an emphasis on marijuana. The timeliness of the study is borne out by much previously written material we have reviewed which includes such information as the following and is herein represented in a most general fashion. As early as 1970, our fifty-one states and territories

had some type law which set a penalty for possession of marijuana on a first offense. (See Appendix II.) By 1973 some states began to amend their laws to differentiate first from subsequent offenses, amount in possession, sharing the drug without cost, etc. (See Appendix III.) In 1975 we are openly asking, are our marijuana laws worth what they are costing us? (See Appendix IV.) We are also concerned about its unknown manifestations on bodily functions that might cause us grievous physical pain and personal property loss. (See Appendix V.) There are also recently released statements regarding the Presidential White Paper on Drug Abuse which prompted President Ford to imply that laws concerning penalties for marijuana might most appropriately be left to the discretion of State Legislative bodies. We found that most Kansas citizens were very willing to have their opinions on the subject registered in our survey, all of which they understood could ultimately be shared with our Kansas State Legislature.

Scope of Study: Our survey plan included distribution of 3000 survey forms, across the State, which requested answers to twenty-three questions and six demographic information areas. (See Appendix VI.) We carefully attempted to avoid as much bias as is humanly possible. We took no pro nor con nor moral stance on any issue. Our effort was directed at simply obtaining the knowledge, attitudes and opinions regarding drug use and penalties from our own Kansas citizens through random selection.

Only through the excellent cooperation of our higher education personnel and students at WSU and throughout the State have we been able to obtain great volume of extraordinary information within this two month period. To date we have received slightly over 2000 completed surveys. Due to the type problems that naturally develop in so large a task to be completed in so short a time, we anticipate that there are close to 300 more survey forms which will be returned within the week, after which the total data can be computerized. If a total analysis of the data would truly be of value to our Legislature Committee we shall be happy to share it as soon as it is available.

Isolated Preliminary Data: This is a preliminary report, subject to the final data report. However, we have prepared some isolated data to share with our committee so that they may have a very cursory look at what a few of our

Kansas citizens have to say about the subject matter. We have isolated five Kansas communities surveyed which range from a large to smaller population base, according to 1975 County Assessors figures released by the U.S. Department of Agriculture. The communities are Kansas City, Kansas, population 175,354; Lawrence 49,959; Pittsburg 20,019; Newton 16,178; Atchison 13,556 and Fort Scott, Kansas 8,799. We have arbitrarily isolated seven variables for this simple, brief, preliminary look at the data: sex, age, occupation, and four of the questions #2, 5, 19 and 22 in an attempt to determine how much variability exists in the data between citizens from these six communities with a different population base.

A participation chart (see Appendix I) attached shows the percentage of males and females from the separate communities who participated in the survey. It also delineates participants who were under 35 years of age, between 35 and 60 and over 60. The percentage of persons participating in the survey under age 35 was 53.6%; between 35 to 60, 30.5% and over 60 was 15.87% in the data drawn for this preliminary review.

Question #2 asked the following: What do you feel that state and local authorities should do concerning marijuana usage? (1) Continue to implement present penalties and sanctions against it was the opinion of 51% of the respondents in Kansas City; 39% of those in Lawrence; 37% of those in Pittsburg 56% of those in Newton; 73% in Atchison and 57% of those in Fort Scott. (2) It should be permissible in the home for personal use was favored by 22% of those in Kansas City; 28% in Lawrence; 19% in Pittsburg; 19% in Newton; 12% in Atchison and 29% in Fort Scott. (3) It should be legalized and regulated was favored by 27% of those in Kansas City; 33% in Lawrence; 44% in Pittsburg; 25% in Newton; 15% in Atchison and 25% in Fort Scott.

Question #5 asked: It has been said that we might want to "decriminalize" the use of marijuana. How do you feel about this? (1) It should be decriminalized was favored by 55% of the respondents in Kansas City; 60% of the respondents in Lawrence; 64% in Pittsburg; 50% in Newton; 39% in Atchison and 44% in Ft. Scott. (2) It should not be decriminalized was favored by 45% of the respondents in Kansas City; 40% in Lawrence; 36% in Pittsburg;

50% in Newton; 61% in Atchison and 56% in Ft. Scott.

Question #19 asks: What do you think should happen to the person who sells marijuana? (1) Arrested and charged with a felony was favored by 52% of the respondents in Kansas City; 37% in Lawrence; 39% in Pittsburg; 56% in Newton; 65% in Atchison and 18% in Pittsburg. (2) Issued a ticket, charged with a misdemeanor violation and fined, was favored by 24% of the respondents in Kansas City; 31% of those in Lawrence; 37% in Pittsburg; 33% in Newton; 23% in Atchison and 57% of those in Ft. Scott. (3) Left alone, was favored by 15% of the respondents in Kansas City; 22% in Lawrence; 15% in Pittsburg; 4% in Newton; 4% in Atchison and 18% in Ft. Scott. Option (4) Other, was favored by 9% of the respondents in Kansas City; 10% in Lawrence; 9% in Pittsburg; 7% in Newton; 8% in Atchison and 7% in Ft. Scott. Most of the comments for "Other" indicated it should depend upon the amount sold and to whom.

Question #22 requested an answer on: ^{to} What type of laws should govern and control the use of marijuana? (1) Harsher, was favored by 36% of the respondents in Kansas City; 37% of those in Lawrence; 39% in Pittsburg; 26% in Newton; 39% in Atchison and 47% in Ft. Scott. (2) Same as now, was favored by 18% of the respondents in Kansas City; 20% of those in Lawrence; 17% of those in Pittsburg; 23% of those in Newton; 15% of those in Atchison and 14% of those in Ft. Scott. (3) Similar to our liquor laws, was favored by 37% of the respondents in Kansas City; 50% in Lawrence; 48% in Pittsburg; 45% in Newton; 42% in Atchison and 32% in Ft. Scott. (4) No control, was favored by 6% in Kansas City; 9% in Lawrence; 5% in Pittsburg; 3% in Newton; none in Atchison and 7% in Ft. Scott.

A last general participation figure selected for use at this time was

from the demographic information #6. The six-way breakdown on this information collected from respondents follows. (1) Professional, Kansas City 15%; Lawrence, 18%; Pittsburg, 14%, Newton, 3%; Atchison 35% and Ft. Scott 18%. (2) White collar, Kansas City 14%; Lawrence 8%; Pittsburg 2%; Newton 19%; Atchison 12% and Ft. Scott 11%. (3) Blue collar, Kansas City 19%; Lawrence 8%; Pittsburg 14%; Newton 23%; Atchison 12% and Ft. Scott 11%. (4) Student, Kansas City 15%; Lawrence 37%; Pittsburg 48%; Newton 6%; Atchison 12% and Ft. Scott 20%. (5) Housewife, Kansas City 21%; Lawrence 17%; Pittsburg 15%; Newton 46%; Atchison 26% and Ft. Scott 29%. (6) Farmworker, Kansas City, none; Lawrence, none; Pittsburg 2%; Newton, none; Atchison, none and Ft. Scott, none. (7) Service Worker, Kansas City 7%; Lawrence 4%; Pittsburg, none; Newton 3%; Atchison, none and Ft. Scott 4%. (8) Currently in the military, Kansas City 1%; Lawrence, none; Pittsburg, none; Newton, none; Atchison, none and Ft. Scott 7%. (9) Retired, Kansas City 8%; Lawrence 8%; Pittsburg 5%; Newton, none; Atchison 3% and Ft. Scott 7%.

We have shared some selected preliminary data based on a range of population size from large to small sample areas for six communities. We caution that these results are tentative and did not present them as representative of the sample as a whole. That remains to be seen. Our results to the total survey will be available in the near future.

PARTICIPATION

47% MALES		I
53% FEMALES		KANSAS CITY
41% MALES		II
59% FEMALES		LAWRENCE
36% MALES		III
64% FEMALES		PITTSBURG
32% MALES		IV
68% FEMALES		NEWTON
31% MALES		V
69% FEMALES		ATCHISON
32% MALES		VI
68% FEMALES		FT SCOTT

	AVERAGE AGE		
	UNDER 35	35 to 60	OVER 60
I	57%	35%	8%
II	58%	29%	13%
III	81%	9%	10%
IV	42%	39%	19%
V	42%	42%	16%
VI	42%	29%	29%

PENALTY FOR SIMPLE POSSESSION OF MARIJUANA (FIRST OFFENSE)

A	5-20 years and may be fined up to \$20,000	MONTANA	Up to 5 years in the state prison
ALASKA	Up to 1 year and/or up to \$1000	NEBRASKA	7 days in jail and the offender must complete an educative course on drugs (for possession of less than 8 ounces or less than 25 marijuana cigarettes)
ARIZONA	Up to 1 year in the county jail or up to \$1000 or 1 to 10 years in the state prison, at the discretion of the court	NEVADA	1-6 years and up to \$2000
ARKANSAS	2-5 years and up to \$2000	NEW HAMPSHIRE	Up to 1 year and/or up to \$500 (for possession of less than 1 pound)
CALIFORNIA	1-10 years in the state prison or up to 1 year in the county jail	NEW JERSEY	2-15 years and up to \$2000
COLORADO	2-15 years and up to \$10,000	NEW MEXICO	Up to 1 year and/or up to \$1000 (for possession of 1 ounce or less)
CONNECTICUT	Up to 1 year and/or up to \$1000 or up to 3 years in the house of correction, at the discretion of the court	NEW YORK	Up to 1 year (for possession of up to ¼ ounce)
DELAWARE	Up to 2 years and up to \$500	NORTH CAROLINA	Up to 2 years and may be fined at the court's discretion (for possession of 1 gram or less)
DISTRICT OF COLUMBIA	Up to 1 year and/or \$100-\$1000	NORTH DAKOTA	Up to 6 months in county jail or up to 2 years in the penitentiary and/or up to \$2000
FLORIDA	Up to 5 years and/or up to \$5000	OHIO	2-15 years and up to \$10,000 (the same penalty applies to having carnal knowledge of someone under the influence of marijuana)
GEORGIA	2-5 years and up to \$2000	OKLAHOMA	Up to 7 years and/or up to \$5000
HAWAII	Up to 5 years	OREGON	Up to 1 year in the county jail or up to 10 years in the state penitentiary and/or up to \$5000
IDAHO	Up to 10 years	PENNSYLVANIA	2-5 years and up to \$2000
ILLINOIS	Up to 1 year and/or up to \$1500 (for possession of less than 2.5 grams)	RHODE ISLAND	Up to 15 years and up to \$10,000
INDIANA	2-10 years and up to \$1000	SOUTH CAROLINA	Up to 2 years and/or up to \$2000
IOWA	Up to 6 months and/or up to \$1000	SOUTH DAKOTA	Up to 1 year and/or up to \$500 (for possession of 1 ounce or less)
KANSAS	Up to 1 year	TENNESSEE	2-5 years and up to \$500
KENTUCKY	2-10 years and up to \$20,000	TEXAS	2 years to life
LOUISIANA	1 year and/or \$500	UTAH	Not less than 6 months
MAINE	Up to 11 months and up to \$1000	VERMONT	Up to 6 months and/or up to \$500
MARYLAND	2-5 years and up to \$1000	VIRGINIA	Up to 12 months and/or up to \$1000
MASSACHUSETTS	Up to 2½ years in jail or house of correction or up to 3½ years in the state prison or up to \$1000	WASHINGTON	Up to 6 months and/or up to \$500
MICHIGAN	Up to 10 years and up to \$5000	WEST VIRGINIA	2-5 years and up to \$1000
MINNESOTA	5-20 years and up to \$10,000	WISCONSIN	Up to 1 year and/or up to \$500
MISSISSIPPI	2-5 years and up to \$2000	WYOMING	Up to 6 months in jail and up to \$1000
MISSOURI	6 months to 1 year in the county jail or up to 20 years in the state correctional institution, at the discretion of the court		

III

PROVISIONS OF STATE LAWS

	<u>First Offense</u>	<u>Subsequent Offense</u>
1. <u>OREGON</u>		
House Bill No. 2936, amending O.R.S. 167.207, effective October, 5, 1973.		
Possession (up to 1 oz.)	\$100 fine only	Same
Note: Possession of up to 1 oz. of marijuana is considered a non-criminal "violation" with a maximum fine of \$100, enforced by a citation system. Possession of more than 1 oz., cultivation, and sale of any amount, remain criminal offenses, subject to 0-10 yrs. and/or \$2,500.		

2. <u>ALASKA</u>		
Senate Bill No. 350, amending A.S. 17.10.010 <u>et seq.</u> , approved May 16, 1975, effective September 1, 1975.		
Possession (any amount in private for personal use, or up to 1 oz. in public)	\$100 fine only	Same
Possession (while driving a motor vehicle)	\$1000 fine only	Same
Public use	\$1000 fine only	Same

Note: The new Alaska law is similar to the Oregon law in that it provides for civil fines enforced by citations. The Alaskan Supreme Court has generally held that possession of amounts up to 8 oz. - 1 lb. are presumed to be for personal use. The Supreme Court of Alaska's recent decision holding that possession of marijuana by adults in the home is constitutionally protected by the Right of Privacy, appears to invalidate certain of the civil fines involved in the new law. Ravin v. State, No. 1156, May 27, 1975. Possession of more than 1 oz. in public remains a criminal offense, subject to 0-1 yr. and/or \$1,000. Sale is punishable by 0-25 yrs. and/or \$20,000.

First OffenseSubsequent Offense3. MAINE

Maine Criminal Code revision, Title 17-A of Maine Revised Statutes Annotated, Chapter 45 et seq., approved June 18, 1975, effective March 1, 1976.

Possession (any amount for personal use -- see note)	\$200 fine only	Same
Possession (with intent to distribute)	0-1 yr. and/or \$500	Same
Sale or distribution	0-1 yrs. and/or \$500	Same
Sale or distribution (to persons under 16)	0-5 yrs. and/or \$1000	Same

Note: Possession of any amount of marijuana for personal use is a civil violation, subject to a maximum \$200 fine, enforced by citation. There is a rebuttable presumption that possession of more than 1 1/2 oz. is with an intent to distribute. A "usable" amount is required, and residue found in a pipe, or a few seeds, would not be sufficient. The new law also provides that as an alternative to the fines indicated above for sale, a fine of up to twice the "pecuniary gain" involved in the sale may be imposed.

4. COLORADO

House Bill No. 1027, amending Sec. 12-22-401 et seq. of the Colorado Dangerous Drug Act, effective July 1, 1975.

Possession (up to 1 oz.)	\$100 fine only	Same
Public display or consumption (up to 1 oz.)	\$100 fine mandatory and up to 15 days	Same
Possession (more than 1 oz.)	0-12 months and/or \$500	0-2 years and \$500-\$1,000

First OffenseSubsequent Offense

Colorado, cont.

Transfer "for no consideration" (up to 1 oz.)	\$100 fine only	Same
Transfer of more than 1 oz. or any amount to a minor	3-14 years and up to \$10,000	Same (except prison term mandatory)

Note: Possession of up to 1 oz. of marijuana is a non-criminal "violation" punishable by a maximum \$100 fine. Transferring not more than 1 oz. "for no consideration" is defined as simple possession, and is subject to the same \$100 maximum fine. Transferring more than one ounce, or any amount to a minor, is subject to imprisonment for 3-14 years and up to \$10,000. Cultivation is subject to imprisonment for 1-14 years and a fine of up to \$1,000.

5. CALIFORNIA

Senate Bill No. 95, amending Sec. 11357 et seq. of the Health and Safety Code and Sec. 853.6 of the Penal Code, effective January 1, 1976.

Possession (up to 1 oz.)	\$100 fine only	Same (see note)
Possession (more than 1 oz.)	0-6 months and/or \$500	Same
Possession (hashish)	0-5 yrs. and/or \$500	Same
Furnishing "without consideration" (up to 1 oz)	\$100 fine only	Same (see note)
Furnishing "w/c" (more than 1 oz.) or sale of any amount	5 years - life (must serve 3 years)	Same (must serve 5 years)

Note: Possession, furnishing "without consideration," and transporting up to 1 oz. is technically still a misdemeanor, subject to a maximum \$100 fine and enforced by citation, although there is no permanent criminal record. If the person charged was previously convicted three or more

First OffenseSubsequent Offense

California, cont.

times for these offenses within a two-year period, he shall be diverted to an educational or treatment program in lieu of the fine, and if no program can be found, the fine is imposed.

Cultivation of any amount remains a felony punishable by a jail term from one to 10 years.

The new law abolishes the previous offenses consisting of (1) use of marijuana, (2) possession of marijuana paraphernalia, and (3) being in a place where marijuana is being used. The new law also requires that all records pertaining to the arrest or conviction for possession of marijuana be destroyed within two years, and that no public agency within the State shall deny or limit any license or privilege on account of a conviction for marijuana-related offenses.

6. OHIO

House Bill No. 300, amending Ohio Rev. Code Ann. Sec. 3719.01 et seq., approved August _____, effective 90 days thereafter.

Possession

(up to 100 grams)
(up to 5 gr. hashish)
or 1 gr. hash oil)

\$100 fine only

Same

(100 - 200 gr.)
(5 - 10 gr. hashish
or 1-2 gr. hash oil)

0-30 days and/or
\$250

Same

(200-600 gr.)
(10-30 gr. hashish
or 2-6 gr. hash oil)

6 mos. - 5 yrs.
and/or \$2,5001-10 yrs.
and/or \$5,000

(over 600 gr.)
(over 30 gr. hashish
or 6 gr. hash oil)

1-10 yrs. and/or
\$5,0002-15 yrs. and/or
\$7,500

Gift (20 gr. or less)

\$100 fine only
(criminal record
maintained)0-60 days
and/or \$500

Sale

(up to 200 gr.)
(up to 10 gr. hashish
or 2 gr. hash oil)

6 mos. - 5 yrs.
and/or \$2,5001-10 yrs.
and/or \$5,000

Appx IV 'x

NORML
National
Headquarters:
National
Organization for
the Reform
of Marijuana
Laws
2317 M Street
Northwest
Washington, D.C.
20037
(202) 223-3170
Keith Stroup, Esq.,
Director

September 16, 1975
TO: NORML SPECIAL MAILING LIST
RE: FISCAL COSTS OF ENFORCING
THE MARIJUANA LAWS
FROM: KEITH STROUP

Memmo

Advisory Board:
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University of Maryland
Norman E. Zinberg, MD
Harvard University

With the current economic crisis which confronts many city and state governments, an increasingly important consideration in the debate over marijuana policy is the cost involved in attempting to enforce the current marijuana prohibition. The question arises, "Are the marijuana laws worth what they are costing us?"

Enforcement costs include the police, prosecutorial, judicial, penal and probationary personnel involved in marijuana law enforcement. Obviously it is difficult to accurately separate these marijuana related costs from the overall costs of administering our criminal justice system.

Two state studies have attempted an analysis of their costs of enforcing these laws. While conditions differ in each state, these costs analyses should be useful, in absence of more specific data, in estimating marijuana enforcement costs in your state.

A. California

The May, 1974 report of Sen. George Moscone's Senate Select Committee on Control of Marijuana, entitled Marijuana: Beyond Understanding concluded that when all marijuana arrests were felonies, each ended up costing the state \$1,630. After the law was modified in 1968 to permit first offenders to be handled as misdemeanors, at the discretion of the judge, the cost per arrest dropped slightly to \$1,340.

The Committee found that California was arresting nearly 100,000 persons annually on marijuana charges, resulting in a cost in excess of \$100 million dollars in law enforcement resources.

B. Illinois:

In July, 1975, the Illinois Economic and Fiscal Commission, established by the state legislature, published an evaluation of state drug abuse programs. This report concluded that the average cost per arrest (not limited to drug arrests) was \$1,139. Examining the drug law enforcement in particular, the report concluded that marijuana arrests involving possession of an ounce or less accounted for 44% of all drug arrests in 1974 resulting in law enforcement costs to the state of \$15,490,000.

Copies of both of these state cost analyses are available upon request from NORML.

N I D A R E S E A R C H H I G H L I G H T S

National Institute on Drug Abuse

August, 1975

R. Petersen, Ph.D., Editor

Detection and Analysis of Marihuana in Body Fluids

This issue of Research Highlights is devoted to recent progress in the detection of marihuana through the analysis for the presence of its metabolites in blood, saliva, urine and breath. Analyses of this type are vital both for research purposes and in forensic medical applications. Until simple quantitative methods of detection analogous to those now used for detecting the level of alcohol intoxication are developed, it will be impossible to set limits of use like those for alcohol. With the increasing tendency to decriminalize marihuana and thus a greater probability of driving while under its influence, such detection methods are especially important. Although NIDA's primary concern is with analysis for research purposes, we are actively collaborating with other agencies concerned with use detection as well as supporting work relevant to traffic safety.

Why the difficulty in marihuana detection - The problem of detecting marihuana use is doubly difficult because (a) the quantities of substance involved are very small compared to, say, alcohol and (b) the originally ingested material is rapidly transformed into metabolites -- chemical compounds produced in the body by physiological transformations in the drug consumed. Methods with sufficient sensitivity (mass spectroscopy, gas and thin layer chromatography and high pressure liquid chromatography) for accurate measurement tend to be both complex and expensive -- qualities making them unsuitable for large scale use.

Recent Progress -- Most promising current technique is radioimmunoassay (RIA). An antibody specific to a drug or its metabolites is developed and "tagged" by means of a radioactive molecule in its structure. When a solution of the antibodies developed and of the body fluid being studied is combined, the radioactive markers are displaced to the extent that the material to be detected is present. Dr. Stanley Gross of UCLA has been working for several years on this technique under a NIDA grant. A contract for the establishment of a service laboratory to carry out 15,000 cannabinoid assays over the next ten months has

Division of Research

Dr. William Pollin, Director

Page 2.

recently been initiated with Dr. Gross. Results of the assays will be compared with those achieved by the Battelle Memorial Institute using more cumbersome mass spectroscopy methods.

A second technique under active development is an enzyme multiplied immunoassay (EMIT) for cannabinoids. This technique is also based on an antibody reaction similar to RIA but has the added advantages of requiring minimal handling, less sophisticated equipment, less time and being well suited to rapid screening. Although this methodology is not as well developed as RIA, field trials to determine its value are planned during the next several months.

NIDA is cooperating with the National Highway Safety Administration and the Department of Transportation in supporting development of a method for analyzing breath samples for marijuana constituents at the University of Missouri. It now appears likely that the use of cannabis can be detected in breath. By means of a simple roadside collection device and routine equipment it may soon be possible to detect marijuana intoxication for traffic safety purposes.

NIDA's Division of Research also supports the development of reference standards, metabolites and labeled compounds -- all of which are required for the development of detection methods and other marijuana research. These materials are provided free of charge to researchers and other agencies.

An important aspect of the development of quantitative detection methods is the evaluation of the effects of various levels of marijuana intoxication on driving performance and other parameters. The methods described will be used to evaluate the role of cannabinoids in driving at UCLA as well as pharmacologic, physiological and behavioral effects in several other research settings.

A meeting is planned for early next year to fully review and coordinate the techniques now under development. Following that meeting a research monograph is planned to cover the state-of-the-art in cannabinoid detection in biological samples.



WICHITA STATE UNIVERSITY

VI

WICHITA, KANSAS 67208

PHONE 316/689-3280

DEPARTMENT OF SOCIOLOGY

September 12, 1975

Dear

Please find enclosed a copy of the Survey of Knowledge, Attitudes, and Opinions of Drug Use and Penalties in Kansas; in addition to the formula employed for selection of residents to be interviewed.

This is intended to be a statewide survey centering on 28 target areas with a population of around 1,650,000 Kansas residents. The survey will be given to persons that are of legal voting age, 18 and over, only.

As can be seen, this survey intends to neither take a pro nor con stand; but one of as much a neutral position as possible, reflecting the viewpoints of Kansas citizens.

The compiled findings will be submitted to a joint Kansas Legislative Judiciary Subcommittee in Topeka on October 30 for their consideration on this issue at that time.

Enclosed, also is a card with spaces for indicating who would act as our field supervisor and co-ordinator, along with which particular class will furnish students as interviewers.

If you have any questions what so ever, feel free to contact us at any time at (316) 689-3280 or write us at:

Wichita State University
Social Work Department
Box 25
Wichita, Kansas 67208

Sincerely yours,

Bernice Hutcherson,
Professor of Social Work

<u>FIELD SUPERVISOR</u>	<u>COLLEGE</u>	<u>PHONE #</u>
Mary Lee Brockman	Kansas University	913 864-3712
Paul Pelletier	K-StateUniversity	913 532-6870
Ron Fundis	Fort Hays State	913 628-4000
Bill Sheddars	Pittsburg State	316 231-7000
Dr. Bill Myers	Emporia State	316 343-1200
Fr. Marvin Kizer	Marymount College	913 823-6317
Frances Moore	McPherson College	316 241-0731
Gary Burkard	Benedictine	913 367-6110
Dr. Howard Snyder	Bethel College	216 283-2500
Dr. Dimmett	Southwestern College	316 221-4150
Betty Gibson	Kansas City Juco	913 334-1100
Marcel Normand	Fort Scott Juco	316 223-2700
Bob Lawson	Cowley Cowley Juco	316 442-0430
Hinz Parson	Hutchinson Juco	316 663-5781
John Heimer	Barton County Juco	916 792-2701
Roger Hale	Colby Community Juco	913 462-3984
Clinton Humboldt	Garden City Juco	316 276-7811
Ed Herrin	Dodge City Juco	316 225-1321
Ed Berger	Seward County Juco	316 624-1951
Robert Romine	Pratt Juco	316 672-5641
Mr. Innz	Butler County Juco	316 321-5083
Mr. Vineyard	Independence Juco	316 331-4100
Rebecca Ryan	Johnson County Juco	913 888-8500
Sam Newland	Allen County Juco	316 365-5116



WICHITA STATE UNIVERSITY

WICHITA, KANSAS 67208
PHONE 316/689-3280

DEPARTMENT OF SOCIOLOGY

September 16, 1975

Dear Citizen:

You have been selected as one of approximately 3000 randomly selected Kansas citizens requested to participate in a statewide Survey of Knowledge, Attitudes, and Opinions of Drug Use and Penalties in Kansas. This study has an emphasis on marijuana. It is being conducted by the Sociology/Social Work Department of Wichita State University with the help of professors and students of 27 other colleges and universities, such as ours, throughout the State.

We believe it is important to know what the people in Kansas have to say about drug use and the penalties for drug use. Therefore, we hope you will not mind taking a few minutes of your time to respond to the questions asked by the interviewer even if you feel you do not have an expert opinion to offer about the subject. We simply want to obtain a general picture of what the average Kansas citizen knows, thinks or feels about drug use and the penalties for same.

We promise not to divulge your name, address, nor in any way personally identify you with this study. There are no right or wrong answers. We are only interested in your thoughts and feelings on this important current issue. We sincerely appreciate your cooperation in the survey.

Respectfully,

A handwritten signature in cursive script that reads "Bernice Hutcherson".

Bernice Hutcherson, MSW, ACSW, LMSW
Assistant Professor of Social Work
Principal Research
Investigator

If you have any questions concerning the survey or the interviewer's reason for asking you to participate, please get in touch with Professor Bernice Hutcherson or Dr. John J. Hartman, Chairperson, Sociology/Social Work Department at Wichita State University (316-689-3280).

OR

Contact our cooperating survey supervisor at your local college or university as indicated below:

Local Survey Supervisor:

Name of School:

Telephone Number:

HOUSEHOLD OPINION AND ATTITUDE SURVEY
 A SURVEY OF KNOWLEDGE, ATTITUDES, AND OPINIONS
 OF DURG USE AND PENALTIES IN KANSAS

Sample No.			
Tract No.			
Block No.			

This is a survey to obtain the opinions and attitudes of residents of our area regarding use and possession of marijuana. It is being conducted by the Sociology/Social Work Department of Wichita State University, Wichita, Kansas

To enable me to select the member of your household to be interviewed, I first need to know the approximate ages of all females over the age of 18 who are permanent residents at this address (oldest first, second oldest, etc.; list below). Now may I have the approximate ages of all males over the age of 18 who are permanent residents at this address (oldest first, second oldest, etc; continue list. (Check total household members and circle number indicating person interviewed.)

FEMALE	MALE
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____
4. _____	4. _____
5. _____	5. _____

	1	2	3	4
DATE				
TIME				
RESULTS				

C - completed
 RNH - respondent not home
 APM - appointment made (state date and time)

CERTIFICATION

I hereby certify that the information listed on this form has been obtained by me from the respondents and is accurate and complete.

 Interviewer Signature Date

Age
Sex

SURVEY OF KNOWLEDGE, ATTITUDES, AND OPINIONS OF DRUG USE AND PENALTIES IN KANSAS

1. How do you think the majority of our states have ruled on the possession of small amounts of marijuana?
 1. Maintaining punitive sanctions such as jail sentences and fines.
 2. Liberalized their laws by decriminalizing it.
 3. Enforcing existing statutes with increased harshness and severity.

2. What do you feel that state and local authorities should do concerning marijuana useage?
 1. Continue to implement present penalties and sanctions against it.
 2. It should be permissible in the home for personal use.
 3. It should be legalized and regulated.

3. In which situation do you think a driver of a motor vehicle would be more apt to be involved in a traffic accident?
 1. After smoking 3 joints of marijuana.
 2. After drinking 3 ounces of liquor.
 3. Both have potential for being involved in some type of vehicular accident.

4. Have you ever used any of the following? Check second blank if doctors prescription.

1. <input type="checkbox"/> Alcohol	1. <input type="checkbox"/> prescription
2. <input type="checkbox"/> Amphetamines	2. <input type="checkbox"/> prescription
3. <input type="checkbox"/> Aspirins	3. <input type="checkbox"/> prescription
4. <input type="checkbox"/> Barbituates	4. <input type="checkbox"/> prescription
5. <input type="checkbox"/> Cocaine	5. <input type="checkbox"/> prescription
6. <input type="checkbox"/> Codeine	6. <input type="checkbox"/> prescription
7. <input type="checkbox"/> Heroin	7. <input type="checkbox"/> prescription
8. <input type="checkbox"/> LSD	8. <input type="checkbox"/> prescription

5. It has been said that we might want to "decriminalize" the use of marijuana. How do you feel about this.
 1. It should be decriminalized.
 2. It should not be decriminalized.

6. If one is found in possession of only a small amount of marijuana, should this individual be:

1. <input type="checkbox"/> Arrested	3. <input type="checkbox"/> Issued a ticket similar to a traffic ticket.
2. <input type="checkbox"/> Fined	4. <input type="checkbox"/> Left alone.
	5. <input type="checkbox"/> Other, please specify

7. Do you think that excessive use of marijuana causes physical damage to the body?

1. <input type="checkbox"/> Yes.	3. <input type="checkbox"/> Don't know.
2. <input type="checkbox"/> No.	4. <input type="checkbox"/> No opinion.

SURVEY OF KNOWLEDGE, ATTITUDES, AND OPINIONS OF DRUG USE AND PENALTIES IN KANSAS

8. Do you think that the excessive use of marijuana causes psychological damage to the individual?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

9. Do you think that the use of marijuana leads to the use of harder drugs?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

10. Do you think that most parents are able to identify the different illegal drugs?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

11. Do you think that most parents are able to identify marijuana?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

12. Do you think that the use of marijuana is in most instances related to other criminal activity?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

13. Do you think that a person who uses marijuana becomes physically addicted to it?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

14. Do you think that a person who uses marijuana becomes psychologically dependent upon it?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

15. Would you object to someone in your family using marijuana if it were not against the law?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

16. Would you use marijuana yourself if it were not against the law?
 1. Yes.
 2. No.
 3. Don't know.
 4. No opinion.

.. SURVEY OF KNOWLEDGE, ATTITUDES, AND OPINIONS OF DRUG USE AND PENALTIES IN KANSAS

17. At what age range do you think that most marijuana users begin using marijuana?

- | | |
|-----------------------|--------------------|
| 1. _____ 15 and under | 7. _____ 40 to 44 |
| 2. _____ 16 to 19 | 8. _____ 45 to 49 |
| 3. _____ 20 to 24 | 9. _____ 50 to 54 |
| 4. _____ 25 to 29 | 10. _____ 55 to 59 |
| 5. _____ 30 to 34 | 11. _____ 60 to 64 |
| 6. _____ 35 to 39 | 12. _____ Over 65 |

18. How easy do you think marijuana is to obtain in your neighborhood?

1. _____ Very easy to get it.
2. _____ Anyone can get it without much notice.
3. _____ Fairly easy to get it.
4. _____ Might take a little time to make contact.
5. _____ You need to know someone to get it.
6. _____ It is somewhat difficult to get it.
7. _____ It is very difficult to get it.
8. _____ It is almost impossible to get it.

19. What do you think should happen to the person who sells marijuana?

1. _____ Arrested and charged with a felony.
2. _____ Issued a ticket, charged with a misdemeanor violation and fined.
3. _____ Left alone.
4. _____ Other, please specify.

20. What do you think should happen to the adult who provided marijuana to another adult without cost?

- | | |
|--|---------------------------------|
| 1. _____ Arrested. | 4. _____ Left alone. |
| 2. _____ Issued a ticket similar
to a traffic ticket. | 5. _____ Other, please specify. |
| 3. _____ Fined. | |

21. Do you think that there should be a differentiation in penalties specifically for juveniles who provide and sell marijuana to their peers.

- | | |
|---------------|--------------------------------------|
| 1. _____ Yes. | 3. _____ Treated the same as adults. |
| 2. _____ No. | |

22. What type of laws should govern and control the use of marijuana?

1. _____ Harsher.
2. _____ Same as now.
3. _____ Similar to our liquor laws.
4. _____ No control.
5. _____ Other, please specify.

A SURVEY OF KNOWLEDGE, ATTITUDES, AND OPINIONS OF DRUG USE AND PENALTIES IN KANSAS

23. Have you ever used marijuana personally?

- 1. Yes.
- 2. No.

DEMOGRAPHIC INFORMATION.

1. Race:

- 1. White
- 2. Black
- 3. Chicano
- 4. Indian
- 5. Other

2. Sex:

- 1. Female
- 2. Male

3. Age Range:

- 1. 18-20
- 2. 21-25
- 3. 26-30
- 4. 31-35
- 5. 36-40
- 6. 41-45
- 7. 46-50
- 8. 51-55
- 9. 56-60
- 10. 61-65
- 11. 66-70
- 12. 71-74
- 13. Over 75

4. Income Range:

- 1. 0 - \$1,999
- 2. \$2,000-\$2,999
- 3. \$3,000-\$3,999
- 4. \$4,000-\$4,999
- 5. \$5,000-\$6,999
- 6. \$7,000-\$9,999
- 7. \$10,000-\$14,999
- 8. \$15,000-\$19,999
- 9. \$20,000-\$24,999
- 10. \$25,000-and over
- 11. No response.

5. Education:

- 1. Some High School
- 2. High School Graduate
- 3. Some College
- 4. Business College, Technical or Vocational School
- 5. College Graduate
- 6. Graduate School

6. Occupation:

- 1. Professional
 - 2. White Collar
 - 3. Blue Collar
 - 4. Student
 - 5. Housewife
 - 6. Farm Worker
 - 7. Service Worker
 - 8. Currently in the military
 - 9. Retired
- What was major occupation?

JAMES L. POSTMA

LAWYER

SUITE 501

FIRST NATIONAL BANK TOWER
LAWRENCE, KANSAS 66044

TELEPHONE 913-843-4321

November 13, 1975

Mr. Walt Smiley
Legislative Research Department
551 North State Capitol Building
Statehouse
Topeka, Kansas 66612

Dear Mr. Smiley:

The following is an extract from the minutes of the Legal Aid Committee of the Kansas Bar Association meeting held at Wichita, Kansas, on October 24, 1975, during the midyear meeting of the Association:

Senator John Simpson of Salina is sponsoring legislation (Senate Bill No. 435) to create "a private, non-membership, non-profit organization, which shall be known as the Kansas Legal Services Corporation, for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford such legal assistance."

The following motion was unanimously adopted:

"That the Legal Aid Committee of the Kansas Bar Association go on record with the Interim Judiciary Committee of the State of Kansas, as being in favor of the establishment of a State Legal Services Corporation in order to foster the expansion of legal services in Kansas; that the delivery mechanism at the national level is at a point where this Committee can better relate and communicate the needs for legal services through a State Corporation."

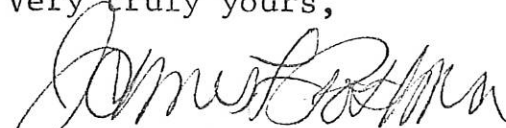
The Committee authorized the Chairman to appear before the Interim Judiciary Committee in support

Mr. Walt Smiley
November 13, 1975
Page Two

of Senator Simpson's proposed legislation for the establishment of a State Legal Services Corporation. It was felt by the Committee that such a corporation would be instrumental in providing equal services for all of the people in the State of Kansas, and that it could better communicate the value of services being performed.

If you desire any further information, please feel free to call me at any time.

Very truly yours,



JAMES L. POSTMA

JLP:lb

M E M O

ATTACHMENT

TO: Speaker McGill

FROM: Doug Wright

RE: Exclusionary Rule

The Exclusionary Rule was not known to the common law. Under the common law, the admissibility of evidence was not affected by the illegality of the means by which it was obtained. However, the United States Supreme Court, in Boyd vs. United States, set out the foundation for what would develop into a rule of evidence of constitutional proportions- - - the exclusionary rule. In writing the decision of the Court in "Boyd", Mr. Justice Bradley stated that "the principles laid down in this opinion affect the very essence of constitutional liberty and security. They apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life." With this opinion, the Court held for the first time that evidence of undoubted reliability was inadmissible because the Government obtained it under a statute violation of the United States Constitution (Fifth Amendment). The decision to suppress was based on the invasion of Boyd's privacy by the taking of personal papers from his home. But Justice Bradley in dictum made it clear that the Fourth Amendment did not prohibit the Government from seizing and retaining contraband articles and stolen goods as distinguished from private papers.

The Exclusionary Rule did not start to mature until 1914 when the Supreme Court decided the case of Weeks vs. United States. In "Weeks", the Federal Government sought to introduce

evidence consisting of letters and correspondence of the defendant, seized in his house and without his consent. Federal officers who seized these materials had no warrant for the arrest of the accused or for a search of his house. The Court held that in a Federal prosecution the Fourth Amendment banned introduction of evidence obtained by Federal Officers through an illegal search and seizure. The Court stated that, if letters and private documents can be seized and held and used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment, declaring his right to be secure against such searches and seizures, is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution.

The Court in "Weeks" did not rely on the self incrimination rationale of "Boyd" but based their decision on two factors: (1) The Court was unwilling to allow the Federal Judiciary to give even tacit approval to official defiance of the Constitution; and (2) The Court felt that the exclusion of such evidence was necessary to deter future constitutional violations by Federal officers. The Court believed that, if unlawfully seized evidence was inadmissible in a Court, that all incentive for intentional police violation of a citizen's Fourth Amendment rights would be removed and the deterrence of illegal law enforcement practices would immediately result.

The Supreme Court limited the "Weeks" decision to searches conducted by Federal officers, resulting in Federal prosecutions. State Courts were not required to exclude illegally seized evidence under the "Weeks" decision.

In the years after "Weeks", the Court gradually extended the Exclusionary Rule but not without much indecision as to what direction the doctrine should take.

In "Olmstead vs. United States", evidence seized when Federal officers violated the State Wiretap Statute was held admissible. The Court relied upon the common law which did not exclude reliable, probative evidence, because it was gathered illegally. The Court felt that the "Weeks" decision created an exception to the common law, only where Government officials obtained the evidence by methods forbidden by the Fourth Amendment, and not where the taint of illegality arose merely from the violation of a state statute. In separate dissents, Justice Holmes and Justice Brandeis agreed that the evidence ought to be excluded. Justice Holmes stated that he thought it better for some criminals to escape, than for the Government to play an ignoble part. In his dissent, Justice Brandeis spoke of the need to preserve the judicial process from contamination. "If the Government becomes a lawbreaker," he declared, "it breeds contempt for the law; it invites anarchy."

In the case of "Wolf vs Colorado", the Supreme Court was asked to decide whether the states were required by the due process clause of the Fourteenth Amendment to exclude evidence that would be inadmissible in a Federal prosecution. In writing the majority opinion for the Supreme Court, Mr. Justice Frankfurter stated that the security of one's privacy against arbitrary intrusion by the police formed the nucleus of the Fourth Amendment. This privacy is a right which is basic to our concept of liberty and must be jealously protected. But the Court, at this time, did not believe the Exclusionary Rule was a sole method of enforcing that basic right. "How such arbitrary conduct should be checked, what remedies against it should be afforded, the means by which

the right should be made effective are all questions that are not to be so dogmatically answered as to preclude the varying solutions which spring from an allowable range of judgment on issues not susceptible of quantitative solutions." The Court thereby held that the States were required to secure the protection of the Fourth Amendment for citizens, but that the method upon which they rely, as long as it was consistently applied and effective, satisfied the due process requirement. In holding thus, the Court announced that the Exclusionary Rule was not derived from the explicit requirements of the Fourth Amendment but was merely a judicially created rule of evidence. It seemed from the "Wolf" decision that the scope of the Exclusionary Rule had finally been adequately and fully defined. At least the states knew the boundaries of this historically peculiar concept and could develop the administration of justice in their jurisdiction to reflect their own ideologies. In fact, this is just what the states had been doing. For example, by 1949, at the time of the "Wolf" decision, 47 states had considered the "Weeks" doctrine. Of these, seventeen states had accepted it and thirty had rejected it. This process of review by the states continued after the "Wolf" decision, with more states re-examining their position and accepting the "Weeks" doctrine.

In *Elkins vs United States*, the Supreme Court was again presented with the issue before them in "Wolf"; namely, whether the Exclusionary Rule was to be applied to the states. Although they did not answer that issue, there is language in the case which showed the courts' leanings. The majority opinion

stated "The Exclusionary Rule is calculated to compel respect for this constitutional guarantee in the only available way, by removing the incentive to disregard it." With this sentiment, it seemed only a matter of time before the Court would compel the states to adopt the rule. And indeed this is just what happened. In 1961, the Supreme Court decided the case of Mapp vs Ohio.

The defendant in "Mapp" was convicted in an Ohio State Court of possession of obscene materials. Her conviction was upheld by the Ohio Court of Appeal and the Supreme Court of Ohio. However, in reviewing the case, the Ohio Supreme Court found that the record left in doubt whether there ever was any warrant to search the defendant's home, but held that under Ohio law, evidence obtained by an unlawful search and seizure was admissible in a criminal prosecution and that under the "Wolf" decision, a state was free to adopt the rule as it prevailed in Ohio. The case was appealed to the United States Supreme Court which reversed its holding in "Wolf" and remanded the case back to the Ohio Supreme Court.

In "Mapp", the Supreme Court construed the Fourteenth Amendment as compelling application of the suppression doctrine to State Court trials. Here again, the Court emphasized the three underlying premises for the Exclusionary Rule: (1) The belief that the rule would act as a deterrent against illegal police conduct; and (2) That there were no better effective means available for protecting the Fourth Amendment; and (3) Finally that the integrity of the Courts had to be maintained.

While by 1961 the Exclusionary Rule had been imposed upon

the states, the contours of the doctrine had not yet fully developed. In 1963, in Wong Sun vs United States, the Supreme Court suppressed the defendant's confession because it derived so immediately from an unconstitutional entry and arrest. The Court quoting from an earlier decision said in part that "the essence of a provision forbidding the acquisition of evidence in a certain way is that not merely evidence so acquired shall not be used before the Court but that it shall not be used at all." Thus, any evidence obtained directly or indirectly from the unlawful police conduct had to be suppressed (fruit of the poison tree doctrine).

We see, thus, that the Supreme Court has steered a wavering course, Justice Jackson calling it inconstant and inconsistent in explaining the suppression of evidence obtained by official illegality. At times, confusing and even contradictory rationales have been put forward. But despite the groping, the Court now appears to have settled upon the need for deterrence of police constitutional violation as the principal reason for suppression.

CRITICISM OF THE EXCLUSIONARY RULE

Almost from the day the Exclusionary Rule was created by the Supreme Court, it has been the subject of much criticism. This criticism has not been leveled at the objective of the rule--namely the protection of constitutional rights through deterrence of illegal police activity--but at its stated justifications and the illogical result created by its application. Commentators have been quick to seize upon Justice Cardozo's statement that "the criminal is to go free because the constable had blundered," To illustrate the illogical result

SPECIAL COMMITTEE OF THE JUDICIARY
H. B. 2639 (Search & Seizure)

Mr. Chairman and Members of the Committee:

I am Tom Regan, Chief of the Criminal Division of the Attorney General's Office, and I am representing the Attorney General in this hearing. He appreciates the opportunity to present his views of HB 2639 sponsored by the distinguished Speaker Mr. McGill.

Mr. Chairman, our office is concerned about HB 2639 for a number of reasons. First is that of due process. The bill provides for the admission of evidence as a direct or indirect result of an unlawful search or seizure conducted by a law enforcement officer. In U.S. ex rel Walter Hall v. People of the State of Illinois, 329 F.2d 354 (7th Cir. 1964), the Court stated:

"The protections embedded in due process are flexible. As society matures they change to meet its needs and social goals. When the several states have consistently discharged their responsibility to society in giving full recognition of the constitutional obligations to prevent the prostitution of state judicial power through lawless enforcement of the criminal law, the need for judicial intervention is not apparent. To hold otherwise would compel federal intrusion under the guise of constitutional concern into the daily operation of the state judicial process."

The caveat must clearly be understood by this committee in any discussion relating to HB 2639 which, in our opinion, as adopted would demand federal intrusion into the judicial decision making process in Kansas. The issue is one of grave constitutional importance for surely in Mapp v. Ohio, 367 U.S. 643, it was clearly established that the right of the state to exercise the power of search and seizure in relation to persons and their possessions is limited by both the United States Constitution and the Constitution of the State of Kansas.

The starting place for any discussion on this topic must be the Fourth Amendment. It emphasizes its character as a limitation upon police investigation practices. Neither the government nor any of its representatives may authorize, participate in, or otherwise sanction an unreasonable search and seizure.

In 1914, in the case of Weeks v. U.S., 232 U.S. 385, the Supreme Court ruled the Fourth Amendment put the courts of the United States and federal officials, in the exercise of their power and authority, under limitations and restraints and forever secured the people, their persons, houses, papers and effects against all unreasonable search and seizure under the guise of law and the duty of giving it, force and effect is obligatory upon all entrusted under our federal system with the enforcement of the law.

The court went on to say:

"The efforts of the courts and their officials to bring the guilty to punishment, praise worthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land."

Finally, the court in that case clearly stated that the use of seized evidence involved a denial of the constitutional rights of the accused.

On June 19, 1961, in Mapp v. Ohio, the Supreme Court ruled the Fourth Amendment, right of privacy, is enforceable against the states, through the due process clause of the Fourteenth Amendment, the court said:

"It was closing the only courtroom door remaining open to evidence secured by official lawlessness in the flagrant abuse of the basic right reserved to all persons as a specific guarantee against the very same unlawful conduct."

The court stated:

"Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the character of its own existence."

HB 2639 does in fact condone, authorize and sanction unreasonable search and seizure.

The bill talks of criteria for determining if due process would be denied in consideration of whether the evidence should be admissible. The constitutional point that needs to be made is that due process is denied at the moment of the unlawful search or seizure.

One of the criteria established in HB 2639 relates to "the interest of society which the law enforcement officer was seeking to further or protect."

Certainly this committee would agree that the protection of an individual's rights under the Constitution of the United States and the Constitution of the State of Kansas is of paramount interest to society.

Secondly, the bill talks about the consequences of excluding such evidence, such as the relative seriousness of any criminal conduct which, in effect, would be sanctioned if the defendant is released as a result of excluding unlawfully obtained evidence of such defendant's guilt.

This criteria would require the determination of guilt or innocence before one could make a decision as to whether the unlawfully obtained evidence against the defendant would result in his guilt. Determination of guilt or innocence is the ultimate finding and not one that should be made before all proper evidence is heard and before defendant's guarantee of due process has been effectuated.

And finally, Mr. Chairman, we need not make a police officer the scapegoat in this legislation. We say to a police officer, an illegal search and seizure is ok and at the same time we say, but if you conduct one, you will be held responsible for compensatory damages, punitive damages and criminal prosecution. My theory of the law is, we should provide our law enforcement officers the necessary training and skills to insure that the constitutional rights of all individuals are protected. I have had an opportunity to talk to many police officers and administrators. I can assure you they do not desire to break the law in order to enforce the law.

In closing, it is not the powers that the founding fathers confer upon the government but the powers that they prohibited to the government which makes the Constitution a charter of liberty.

I respectfully request the committee to consider these views and reject HB 2639.

We are grateful to this committee for providing the Attorney General's Office the opportunity to be heard on this most critical piece of legislation.

STATEMENT TO THE INTERIM STUDY COMMITTEE ON THE JUDICIARY

By: Thomas Duncan
State Coordinator, NORML

I. What is NORML?

The National Organization for the Reform of Marijuana Laws is a non-profit, public interest group seeking a non-criminal response to personal use of marijuana by adults. Kansas NORML is a local affiliate of the National Organization. NORML does not advocate or encourage the use of marijuana and fully supports a policy of discouragement of all recreational drug use, including alcohol and tobacco. But we oppose the use of criminal law against those who smoke marijuana despite the discouragement policy. The harm caused by the criminal law far exceeds any harm caused by use of the drug.

II. The Issue

The issue confronting us today is what is the proper response by the criminal justice system to the fact of marijuana use by a substantial portion of the adult population. The issue is not whether marijuana is harmful to the individual user. Even if marijuana use was harmful to the user's health, it would amount to just that, a health problem, not a problem that could be solved by the criminal justice system. Nor is the issue whether or not people will use marijuana. The fact is that marijuana is used as a recreational drug by Kansas citizens. The question is whether personal use of marijuana by adults warrants criminal punishment.

III. The Health Question

No drug is totally harmless, including aspirin, birth control pills, tobacco, alcohol and marijuana. Recent medical evidence shows marijuana use to be relatively harmless. Any risks to the individual user clearly fall within the ambit we permit in a free society.

The Department of Health, Education and Welfare, a government agency charged with the continuing responsibility of marijuana research has found no significant harm caused to the moderate marijuana user after analyzing all available research. The 1972 Presidential Commission on Marijuana and Drug Abuse concluded, "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." The most comprehensive study of the effects of marijuana use was commissioned by the Department of Health, Education and Welfare. The findings of the study, titled "Effects of Chronic Smoking of Cannabis in Jamaica", have just recently been reported. The study contradicts earlier reports of significant chromosome damage, loss of ability to combat disease and lowering of male sex hormone levels. Psychologic tests yielded no consistent differences between smokers and non-smokers.

Even if it were conceded that marijuana use adversely affected the user's health, it would not justify making criminals of those willing to take the risk. The problem presented would be a public health problem that could not be solved by putting people in prison. However, the medical evidence does not indicate marijuana use presents a health problem; the evidence clearly indicates that use of marijuana does not warrant criminal punishment.

IV. Problems with the Current Law

The issue confronting us is the proper response of the criminal justice system to the fact of marijuana use. The current policy of making marijuana users criminals, burden society with costs that far outweigh any benefits that might be derived therefrom.

Enforcement of the current marijuana prohibitions needlessly drains taxpayer dollars. The Federal Bureau of Investigation reported as a part of its Uniform Crime Reporting Programing that there were 2,004 arrests in Kansas for marijuana violations in 1973. Studies in California and Illinois concluded

That the average cost per marijuana arrest was \$1,139 to \$1,340. It can be estimated, therefore, that enforcement of the current marijuana laws costs Kansas taxpayers at least \$2,500,000 annually.

Enforcement of the current marijuana law diverts law enforcement resources from dealing with violent crimes and crimes against property. Enforcement of prohibitions on marijuana possession necessarily diverts a significant amount of law enforcement time from focusing on the detection and apprehension of violent criminals. Furthermore, the prosecutor's time which is tied up in marijuana possession cases cannot help but reduce the ability of District Attorneys in securing convictions against perpetrators of violent crimes and crimes against property. Marijuana cases also add to the congestion of court dockets that have become an unfortunate fact of life.

Current marijuana law has had a disastrous effect on the legal system as a whole. The popular support for the prohibition on possession of marijuana has crumbled as people realize that use of the drug has no societal impact warranting criminal punishment. Marijuana use is not related to criminal or violent behavior; nor is it casually related to use of harder drugs. As a result, respect for the law is diminished. Since use of marijuana is prevalent, enforcement of the law is selective. Such discretion tends to breed abuse. People also sense the unequal treatment afforded marijuana users when compared to the response to use of other recreational drugs such as alcohol and tobacco. Further, criminal penalties for the possession of marijuana place a disproportionate burden upon many young people who are otherwise law abiding citizens. The punishment is not warranted by the behavior involved.

Laws prohibiting the possession and use of marijuana within the confines of one's own home violates the individual fundamental right to privacy. The United States Supreme Court has ruled that an individual has a constitutionally protected right to privacy in his home. The Alaska Supreme Court recently

held that law prohibiting possession and use of marijuana in one's own home were impermissible because the state could not show a sufficient public interest to override the individual's right to privacy in his home. The marijuana law currently in force in Kansas is subject to the same constitutional infirmity.

For all these costs incurred, Kansas citizens derive no benefits. The current law does not serve to identify and isolate those individuals who are dangerous to society; marijuana users are indistinguishable from their non-marijuana using peers by any criteria other than use of the drug. Nor do the current laws serve to identify individuals in need of treatment; simply put, marijuana users do not need any medical or psychological treatment.

The costs incurred by enforcement of the current law far outweigh any benefit derived therefrom. The current policy of making marijuana users criminals, therefore, is not a proper response to the fact of marijuana usage.

V. Decriminalization; An Alternative

Decriminalization of marijuana possession for personal use by adults would remove criminal penalties for simple possession. Instead, a decriminalization bill would make marijuana possession for personal use a civil infraction punishable by fine, in much the same way as traffic offenses are civil, rather than criminal infractions. Decriminalization carries with it a strong discouragement policy. For-profit transfers of marijuana are still subject to criminal penalty. This approach allows policy to focus on the commercial trafficker, rather than the user. This discouragement policy is a proper one, reflecting the public's disapproval of recreational drugs. At the same time, the decriminalization approach recognizes that criminal punishment is not the proper response to marijuana use.

Decriminalization frees law enforcement resources, both time and money, to deal with violent crimes and crimes against property. Decriminalization

restores faith in the legal system since it moves toward equality in treatment of recreational drug use and makes the punishment fit the crime. A decriminalization measure can also avoid unconstitutional invasions by the state into the privacy of an individual's home.

In Oregon, which passed a decriminalization bill two years ago, these benefits have been realized in fact. The Honorable J. Pat Horton, Lane County District Attorney, Eugene, Oregon, reports that decriminalization has, in fact, prioritized police work into areas of violent crime and crime against property. Taxpayers law enforcement dollars serve to protect them from crimes they fear most. Decriminalization has also improved relations between youth and police, and Oregon citizens are increasingly aware that the police are truly serving the interest of society rather than attempting to enforce unenforcable laws. Mr. Horton reports that the impact on the courts has been significant, in that it has removed approximately one-third of the total number of cases awaiting trial. Further, the jail population now consists of serious felons rather than young people accused of possessing small amounts of marijuana who usually had no other criminal history. At the same time, there was not the explosion of marijuana use that opponents of decriminalization predicted. The increase in numbers of people using marijuana was 4% to 6%, and occurred in the 18 to 22 year old age group, that experienced similar increases in years past.

VI. Public Response to Decriminalization

Public opinion on the marijuana issue is based largely on inadequate or erroneous information. Only in recent years has competent, reliable medical evidence and legal analysis of the marijuana question been available. Virtually everyone who has undertaken a serious study of the marijuana question has concluded that decriminalization is the wisest approach. A partial list of those endorsing decriminalization includes:

National Commission on Marijuana and Drug Abuse
American Bar Association
American Medical Association Governing Board
American Public Health Association
National Conference of Commissioners on Uniform State Laws
National Advisory Commission on Criminal Justice Standards and Goals
Consumers Union
National Education Association
B'nai B'rith
National Council of Churches
San Francisco Crime Commission
William F. Buckley, Jr.
James Kilpatrick
Ann Landers
Senator Barry Goldwater
American Civil Liberties Union
Illinois Bar Association
Minnesota Bar Association
Vermont Bar Association
New York Bar Association
Washington Bar Association
Massachusetts Bar Association

The results of public opinion polls on decriminalization vary with the manner in which the question is presented to the people. A poll released by Lou Harris in 1974 asked people whether they would favor an Oregon type decriminalization plan. The response was 36% in favor, 49% opposed and 15% unsure. On the other hand, the National Institute on Drug Abuse, Department of Health, Education and Welfare, gave people a broader range of choices by asking their preference on handling marijuana offences. Only 10% responded in favor of the imposition of a jail sentence. The largest per centage, some 34%, responded in favor of requiring treatment even though there is no medical or psychological treatment for marijuana use. A total of 31% responded in favor of no penalty or a fine, and 21% responded in favor of probation.

The most significant public opinion survey was conducted in Oregon by the Drug Abuse Council one year after the decriminalization law took effect. A total of 58% of the population favored the elimination of criminal penalties for marijuana possession. This indicates that the public supported decriminalization after it took effect and they understood it's operation and benefits.

VII. Conclusion

The current prohibition on possession of marijuana does not serve the best interests of Kansas citizens. The costs of enforcing the current law far exceed the benefits derived therefrom. Enforcement of the current law wastes tax dollars, diverts law enforcement resources from dealing with violent crime and crime against property, ignores the individuals right to privacy and breeds disrespect for the legal system. Kansas citizens derive no benefits from enforcement of current marijuana law.

Decriminalization offers a reasonable alternative to the current policy. Decriminalization prioritizes law enforcement efforts, avoids unjustified imposition of hardships on marijuana users and restores faith in the legal system while maintaining a discouragement policy toward marijuana use.

I urge you to carefully consider the evidence on the marijuana question and to support decriminalization.

The Kansas Advisory Commission on Drug Abuse in its' meeting of October 14, 1975 decided it was not within their jurisdiction to recommend for passage or defeat Proposal 65 on the decriminalization of marihuana in the State of Kansas. It is the delegated authority of the State Legislature to enact the laws of the state, and the Advisory Commission on Drug Abuse by taking a stand would be stepping into the jurisdiction of the Legislature. However, it is our duty, and within our authority as an advisory body for the state government to provide the legislators with information, both pro and con, so they may function in their duty to make the laws of the state, Patrick B. Augustine, a member of the Advisory Commission on Drug Abuse said today before the Special Committee of the Legislature studying the question.

"We are very much concerned, but based on inclusive evidence, the Advisory Commission on Drug Abuse can not take a stand," Augustine further commented.

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MARIJUANA: The Health Questions. The Legal Question.

by Edward M. Brecher and the Editors of Consumer Reports

Over the past year the news media have carried many stories warning that smoking marijuana produces severely damaging effects on the human body. CU has followed these news accounts with great interest. In our special publication, "Licit and Illicit Drugs," published in 1972, we presented an exhaustive study of the scientific, social, and legal evidence through the end of 1971. Based on the evidence then available, we recommended that marijuana should be regulated rather than prohibited, that all persons currently imprisoned for marijuana possession or for sharing marijuana with friends should be released, and that past offenses of these kinds should be erased from the legal records. The time has come to take a fresh look at the alleged dangers of marijuana.

THE SCIENTIFIC CASE AGAINST MARIJUANA

Many of the recent allegations concerning the effects of marijuana on health have appeared in reputable scientific journals. Here, in summary, is the case against marijuana recently presented to the public.

1. Smoking marijuana damages the brain irreversibly and ages it prematurely.

In December 1971, the late Dr. A. M. G. Campbell and his associates reported in a leading British medical journal, *The Lancet*, on X-ray studies of the brains of 10 chronic marijuana smokers. Compared to a group of nonsmokers of the same age, the marijuana group reportedly showed "evidence of cerebral atrophy"—that is, a wasting away of brain tissue.

Such X-ray studies, called air encephalograms, can be painful and hazardous, and no other research group has yet ventured to repeat the Campbell study. Several studies in-

In an attempt to clear the air about the marijuana controversy, Edward M. Brecher and the Editors of Consumer Reports relate recent scientific experiments on marijuana and its use, and analyze the "scientific methods" which yielded consequent untrustworthy results. Data from the Jamaican Report—a commissioned study on marijuana and its use conducted nearly three decades ago, and whose release of data in the U.S. had been prohibited until July of this year—adds further contradictions to the current plethora of marijuana misinformation in this country. Also included in this reprint is a Consumer Union Viewpoint on the legal questions concerning marijuana.

volving other techniques, however, are often cited in support of Dr. Campbell's findings. At the Tulane University School of Medicine, for example, Dr. Robert G. Heath implanted electrodes deep in the brains of six rhesus monkeys and recorded the monkeys' brain waves before, during, and after heavy exposure to marijuana smoke. In monkeys, as in humans, temporary changes in brain-wave patterns are normal with almost any change in the body or its environment. But persistent changes are cause for concern. Dr. Heath reported that after his monkeys were subjected to marijuana smoke in large doses daily for months, the changes became persistent; they could be observed as long as five days after marijuana exposure was discontinued. Further, an autopsy report on two of Dr. Heath's monkeys indicated "structural alteration of cells in the septal region of the brain." The alterations were said to be "minimal," visible only under a microscope. "Our previous experience with similar conditions," Dr. Heath stated, "would lead us to assume that this chronic smoking of marijuana has probably produced irreversible changes in brain function."

Dr. Campbell's 10 patients and Dr. Heath's two monkeys provide the only direct evidence of possible brain damage to date. Indirect evidence, however, comes from Drs. Harold Kolansky and William Moore, psychiatrists at the University of Pennsylvania School of Medicine and the Institute of the Philadelphia Association for Psychoanalysis. Drs. Kolansky and Moore are convinced, on the basis of their observations of marijuana-smoking patients, that chronic smoking produces "a specific and separate clinical syndrome," or pattern of behavior, which has been called "the amotivational syndrome." The hallmarks of this syndrome are said to be "disturbed awareness of the self, apathy, confusion, and poor reality testing." Other signs are sleep disturbances, memory defects, and impairment of the time sense.

"Many of those we examined," Dr. Kolansky said, "were physically thin and often appeared so tired that they simulated the weariness and resignation of some of the aged. All appeared older than their chronological age. . . ." These observations, the Philadelphia psychiatrists concluded, "seemed to imply some form of organic change" in the brains of

chronic marijuana smokers.

2. Smoking marijuana lowers the body's resistance to infectious diseases and cancer.

The human body has several defenses against infectious diseases, foreign protein substances, and possibly even against some types of cancer. One of these immunological defenses is provided by the "T-lymphocytes"—certain white blood cells derived from the thymus gland. When viruses or some other foreign substances invade the body, the T-lymphocytes multiply very rapidly and attack the invaders. This is an important aspect of the "immune response."

Dr. Gabriel G. Nahas and his associates at Columbia University's College of Physicians and Surgeons reported in *Science* in February 1974 that the immune response of marijuana smokers is impaired. The Nahas group based its conclusion on a complex series of laboratory procedures. They removed some T-lymphocytes from the blood of 34 marijuana smokers, allowed the cells to multiply in laboratory cultures for 72 hours, and then exposed them to pooled donor lymphocytes or to a specific chemical—either of which normally evokes the immune response in those cells.

Under these circumstances, the T-lymphocytes of the marijuana smokers assimilated less thymidine (an important cell building block) from the culture solution than did those of the nonsmokers. This result suggested that the cells from the smokers were not multiplying normally.

Dr. Nahas interprets this finding to mean that the immune response of the T-lymphocytes of marijuana smokers is impaired. In this respect, he states, they resemble the T-lymphocytes of some patients with cancer or kidney disease. He concludes that marijuana smokers lack an essential means of defense against infectious diseases and cancer.

In October 1974, Dr. Sudhir Gupta and his associates at Roosevelt and St. Luke's Hospitals in New York City reported related findings in *The New England Journal of Medicine*. Using a procedure that tests the response of T-lymphocytes to sheep red blood cells, they observed that the reaction of T-lymphocytes from marijuana smokers was weaker than the reaction of T-lymphocytes from nonsmokers. They concluded that marijuana might induce a reduction of T-lymphocyte function in human beings.

3. Smoking marijuana increases the likelihood of birth defects and of hereditary diseases.

Most normal human cells have 46 chromosomes. Each chromosome carries numerous genes, or units of DNA (deoxyribonucleic acid), which govern the manufacture of proteins within the cell and regulate many of the cell's other functions. Sperm cells and ova each contain only 23 chromosomes; these are of particular importance, for they carry the DNA "genetic code" from parents to offspring.

Back in 1967, reports began to appear alleging that the drug LSD damages chromosomes. Subsequent careful studies failed to confirm this allegation, and the earlier reports are now generally discredited.

Among those who reported that LSD does not damage chromosomes was Dr. Morton Stenchever of the University of Utah College of Medicine. In January 1974, however, Dr. Stenchever and his associates reported in the *American Journal of Obstetrics and Gynecology* that they had found

a somewhat elevated proportion of damaged chromosomes in the lymphocytes of 49 marijuana smokers, including some who smoked marijuana only twice a week or less.

Another chromosome study, not published at this writing, was described at hearings of the U.S. Senate Subcommittee on Internal Security last May. Dr. Akira Morishima, an associate of Dr. Nahas, told the subcommittee that he had compared 956 lymphocytes from marijuana smokers with 954 from nonsmokers. More than 30 per cent of the lymphocytes from smokers contained fewer than 31 chromosomes instead of the usual 46. Among lymphocytes from nonsmokers, only about 10 per cent contained so few chromosomes.

"Since lymphocytes constitute an essential component of cellular immunity and chromosomes are basic units of inheritance at the cellular level," Dr. Morishima told the Senate subcommittee, "it seems logical to anticipate potential danger in [the] immune defense system, development of cancer . . . , genetic mutation and birth defects."

In the Nahas experiment, it will be recalled, T-lymphocytes failed to multiply rapidly when challenged with foreign substances. The *reason* they failed to multiply, Dr. Nahas declares, was that they could not manufacture enough DNA. Dr. Morishima similarly attributes his finding of too few chromosomes to a defect in DNA manufacture.

4. Smoking marijuana causes precancerous changes in the lung cells and other lung damage.

Damage to lung cells from marijuana smoke has been reported by Drs. Cecile and Rudolph Leuchtenberger of Switzerland and also by Dr. Forest S. Tennant, whose studies were performed while he was a medical officer stationed with the U.S. Armed Forces in Europe. In addition, some clinical studies suggest that those who smoke large amounts of marijuana for long periods may be more likely to develop chronic bronchitis or other conditions indicating lung-cell damage than those who do not.

Dr. Cecile Leuchtenberger's work, however, goes far beyond lung-cell damage. She grew lung cells of human origin in her laboratory and subjected them to repeated whiffs of marijuana smoke. Under these conditions, she found damage to chromosomes, changes in the number of chromosomes, and changes in DNA manufacture—which she interpreted as suggesting precancerous changes. She also reported abnormal sperm cells in mice exposed to marijuana. Thus, Dr. Leuchtenberger alleges five different kinds of marijuana damage—more than any other scientist to date.

5. Smoking marijuana may lead to sterility, impotence, or both, among men.

Testosterone is the most potent male sex hormone. The concentration of testosterone in the blood of a human male can be readily measured. In April 1974, Dr. Robert C. Kolodny and his associates at the Reproductive Biology Research Foundation in St. Louis (the Masters-Johnson sex research center) reported in *The New England Journal of Medicine* that they had studied testosterone blood levels of 20 frequent marijuana smokers and 20 nonsmokers. The levels in the marijuana smokers, though within normal limits, were lower than the levels in the nonsmokers. And the levels in subjects who smoked 10 or more marijuana cigarettes

"If the [marijuana] epidemic continues...we may find ourselves saddled with a large population of semi-zombies."

Senator James O. Eastland



per week were lower than the levels of those who smoked only five to nine per week.

Six marijuana smokers had relatively low sperm counts and two complained of impotence; such effects might (or might not) be related to low testosterone levels. When one of the men who complained of impotence stopped smoking marijuana, he reported his potency had been restored.

SENATOR EASTLAND'S CONCLUSIONS

Many of the findings reviewed above were nationally publicized last spring at hearings of the Senate Internal Security Subcommittee, chaired by Senator James O. Eastland of Mississippi. Senator Eastland drew these personal conclusions from the testimony:

"(1) If the cannabis [marijuana] epidemic continues to spread . . . we may find ourselves saddled with a large population of semi-zombies—of young people acutely afflicted by the amotivational syndrome. . . .

"(2) We may also find ourselves saddled with a partial generation of young people—people in their teens and early twenties—suffering from irreversible brain damage. . . .

"(3) The millions of junior high school and grade school children who are today using marijuana may produce another partial generation of teen-agers who have never matured, either intellectually or physically, because of hormonal deficiency and a deficiency in cell-production during the critical period of puberty. . . . We may witness the phenomenon of a generation of young people who have begun to grow old before they have even matured.

"(4) . . . There is the possibility . . . that we may develop a large population of youthful respiratory cripples. And there is the possibility—which can only be confirmed by epidemiological studies—that marijuana smokers are producing far more than their quota of malformed and genetically damaged children. . . ."

If the scientific reports of adverse marijuana effects are well-founded, there can of course be no possible objection to their then being widely publicized through Congressional hearings, news accounts, or other means. The truth about

marijuana should be known. But if the reports are poorly founded, that fact needs to be reported, too. For such misinformation serves only to frighten the public unnecessarily, especially the millions of marijuana smokers, former smokers, and their families—many of whom may now be waiting in dread for brain damage, cancer, and other predicted disasters to strike themselves or their loved ones. Accordingly, it may prove useful for CU to review recent medical evidence overlooked—or ignored—by the Eastland subcommittee and by the press that covered the hearings.

THE JAMAICA STUDY

Back in 1970, when CU's "Licit and Illicit Drugs" was still in the research stage, a different but almost equally horrifying collection of marijuana hazards was being publicized. Yet many marijuana smokers appeared to remain in good health and in good spirits, just as they do today. Perhaps, we reasoned, it is too early to gauge the true effects of marijuana smoking in the United States or Canada.

But what of other countries where marijuana has been a daily custom for generations? If dire adverse effects existed, they would surely be readily visible there, observable without air encephalograms, implanted electrodes, or other sophisticated laboratory procedures. Scientists dispatched to such countries would not have to *predict* the long-term consequences of marijuana use; they could readily see and measure those effects.

The same idea, of course, occurred to others, including administrators at the National Institute of Mental Health. They commissioned the Research Institute for the Study of Man to study marijuana effects on the island of Jamaica. For decades, Jamaicans have smoked marijuana much stronger than that smoked in the United States.

Although the Jamaica report was completed nearly three years ago, it has still not been published in the United States. Indeed, CU was unable to obtain a copy from the Government agencies concerned. An edition in English was finally scheduled to be published in mid-April 1975 by Mouton, a Dutch firm in The Hague. The report, titled "Ganja in Jamaica," is by Drs. Vera Rubin and Lambros Comitas, director and associate director, respectively, of the Research Institute for the Study of Man.

In Jamaica, the report explains, marijuana is called "ganja" and is used in many ways. It is smoked, brewed as a tea, chewed, and used in cooking. In rural areas especially, it is an important element of folk medicine and superstition. "Children are introduced to ganja quite early," the Jamaica report notes, "first as a medicament in 'bush tea' or in a crude method of vaporizing, where adults blow smoke at an infant with respiratory congestion." Increasing doses of marijuana tea throughout infancy are recommended as a prophylaxis against disease. Schoolboys are urged to smoke marijuana to "help them study," to "improve memory," and to "help pass examinations." This widespread use of marijuana is found both among farmers and villagers and among residents of the slums of Kingston, Jamaica's capital.

The Jamaica study was launched in June 1970, when six anthropologists were sent into the field—five into rural districts and the sixth into an urban slum neighborhood.

They had heavy ganja smoking common among the poor, despite severe legal penalties (not less than 18 months' imprisonment with hard labor for a first offense).

One of the anthropologists, Dr. Joseph H. Schaeffer, studied the effects of marijuana on ability and willingness to work. He recorded in detail how much work both smokers and nonsmokers did in a sample week and how much metabolic energy they expended while at work. In general, Dr. Schaeffer found that field laborers actually performed more motions and expended more energy after smoking marijuana than before. But they appeared to accomplish less when on marijuana—weeding a smaller patch of crops in an hour, for example. Dr. Schaeffer also reported, however, that marijuana use in group labor situations tended to increase the social cohesiveness of the workers. While it may have decreased overall efficiency, it appeared to make the prospect of long hours in the field more palatable and increase the laborers' willingness to work.

The Jamaica report calls this the "motivational syndrome"—as distinguished from the "amotivational syndrome" described by other psychiatrists.

Following this and other field studies, the Jamaica research team brought 30 male marijuana smokers and 30 nonsmokers to University Hospital at the University of the West Indies for six days of intensive medical examinations. The 60 subjects ranged in age from 23 to 53; the average age was 34. All but one of the marijuana smokers had first smoked before the age of 20; they had been smoking marijuana for 17.5 years, on the average (the range was from 7 to 37 years). They did not smoke marijuana while in the hospital.

But it was the frequency with which they smoked that will startle American readers. To qualify as a "heavy" smoker in the Jamaica study, one had to smoke at least eight "spliffs" (ganja cigarettes) a day. In the U.S., a "heavy" smoker is often defined as one who smokes more than seven marijuana cigarettes a week. And the typical Jamaican spliff is more potent than the typical North American marijuana "joint." Thus, Jamaicans smoke considerably heavier doses than their American counterparts, even though the latter tend to inhale more deeply than Jamaicans.

The 30 control subjects were matched with the ganja smokers for age and socio-economic status. It was, however, impossible to enlist enough working class males in the right age bracket who had never once used marijuana. Accordingly, the control group was composed of 12 men who had never smoked ganja plus 18 confirmed nonsmokers who had smoked only occasionally in the past. All but three of the ganja smokers and all but 11 of the controls also smoked tobacco cigarettes. (Tobacco is also sometimes mixed with ganja in spliffs to make a "better smoke.")

Summarizing the examination findings, the Jamaica report notes "no significant physical abnormality" in any of the controls or in 28 of the 30 ganja smokers. One ganja smoker had a long history of asthma; another had a little-understood nervous condition known as "Jamaican neuropathy," suspected of being an atypical form of neurosyphilis. "There is nothing to suggest that these disabilities were in any way related to the use of cannabis," the report

states.

The marijuana smokers and controls were well matched in height as well as age, but the smokers weighed seven pounds less on the average—a difference, the report noted, that "might indicate that the chronic use of cannabis causes some suppression of appetite."

X-rays of the lungs were normal in both groups except for some scarring of the lungs in one of the subjects who did *not* smoke marijuana. Since smoking tobacco cigarettes impairs lung function, it was also necessary to discount that effect when gauging the effects of marijuana. At worst, the Jamaica findings suggest, impaired lung function is produced by inhaling smoke, whether tobacco or marijuana.

Since the marijuana smokers in the Jamaica study were also in many cases the children and grandchildren of persons who smoked marijuana, and since many of them were probably exposed to marijuana before birth as well as during infancy, childhood, adolescence, and adult life, the study of their chromosomes by Dr. Marigold J. Thorburn of the University of the West Indies is of no small interest. Briefly, the chromosomes of the marijuana smokers were in good condition. In fact, they showed slightly fewer abnormalities than were found in the control group, though the difference was not statistically significant.

In addition to these and other studies of physical health, both ganja smokers and controls were given thorough psychiatric examinations by Drs. Michael H. Beaubrun and Frank Knight, both psychiatrists. Only one ganja smoker and one control reported a history of past mental illness. Four ganja smokers and three controls had had alcohol problems sufficiently acute to interfere with work or social functioning. Two ganja smokers, however, "reported that they had been able to reduce their alcohol intake, and seemed to relate this to ganja use."

On the Eysenck personality test, the "extroversion scores" were identical for ganja smokers and controls. The only man suffering from depression, as gauged by the Hamilton Ratings Scale for Depression, was not a marijuana smoker. Not a single smoker or control appeared to be schizophrenic on either of two rating scales.

The brain-wave recordings of both ganja smokers and controls were also compared. Significant differences were not found.

A battery of 19 psychological tests, designed to compare ganja smokers and nonsmokers on 47 measures, including 11 measures of intelligence, was administered in the Jamaica study. Smokers had not smoked marijuana for two days before the tests and did not smoke on the test day. The marijuana smokers scored better on 29 of the 47 measures—a statistically insignificant finding.

Drs. Beaubrun and Knight summed up as follows: "The data clearly indicate that the long-term marijuana use by these men did not produce demonstrable intellectual or ability deficits when they were without the drug for three days. There is no evidence in the results to suggest brain damage."

The psychiatrists also asked about regularity and continuity of employment and frequency and nature of job changes. No significant differences were found between marijuana smokers and controls. Thus, careful psychiatric

Examination showed no evidence that these Jamaicans were "semi-zombies" after having smoked very large quantities of very strong marijuana for an average of 17.5 years.

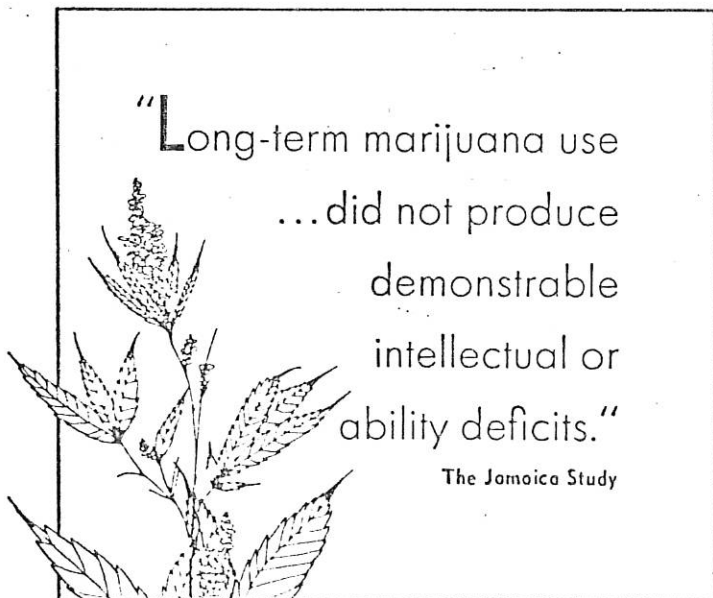
CONFLICT OF EVIDENCE

By far the greatest conflict of evidence on marijuana exists between the Jamaica study and the studies cited earlier. But there are also notable conflicts among the latter studies themselves. Here are some examples.

1. Brain damage. The Campbell report, it will be recalled, found evidence of brain damage in a group of marijuana smokers. But was the damage present before the patients started to smoke marijuana? If not, was it caused by marijuana, by some other drug, or by some nondrug factor, such as a blow on the head? Here is what Dr. Kolodny—the scientist who believes marijuana smoking lowers testosterone levels—has to say about the Campbell report:

Research in cannabis effects on humans has not always been performed or presented with objectivity. Many studies have been severely limited by indiscriminately including multiple drug users, thus frequently raising more questions than providing useful information. As an example of such research, I would like to comment briefly on the [Campbell] study entitled "Cerebral Atrophy in Young Cannabis Smokers. . . ." In the 10 cases reported, all 10 men had used LSD—many of them over 20 times—as well as cannabis, and 8 of the 10 had used amphetamines. One subject had a previous history of convulsions, four had significant head injuries, and a number had used sedatives, barbiturates, heroin, or morphine. On the basis of these facts, speculative connection between cannabis use and brain damage is highly suspect. Unfortunately, this type of report is typical of much of the research done in this field.

Next, consider this comment on the work of Dr. Heath, who reported brain-wave changes in rhesus monkeys exposed to marijuana smoke, by Dr. Julius Axelrod, who won a 1970 Nobel Prize for two studies, one of them concerned with the effects of drugs on the brain. Dr. Axelrod appeared as a witness before the Eastland subcommittee to warn against marijuana. Asked at the subcommittee hearings about Dr. Heath's experiments, Dr. Axelrod replied:



"Long-term marijuana use
... did not produce
demonstrable
intellectual or
ability deficits."
The Jamaica Study

. . . One of the fundamental principles in pharmacology is the amount of a compound or drug that enters the body. You could take the most poisonous compound, and if you take too little, there is no effect. One may take a very supposedly safe compound, and if you give enough of it, it will cause toxic effects. This, I think, all pharmacologists recognize. I respect Dr. Heath; he is a fine neurologist; but the doses he has given for the acute effect, for example, would be equivalent to smoking 100 marijuana cigarettes, a very heavy dose of marijuana. And the amount he has given for the chronic effect represents smoking 30 marijuana cigarettes three times a day for a period of six months. [Even the heavy ganja smokers in the Jamaica study smoked only a fraction of this.] The results indicate that marijuana causes an irreversible damage to the brain. But the amounts used are so large that one wonders whether it's due to the large toxic amounts Dr. Heath has given. I think it would be a better experiment if he had done what is done in pharmacology, a dose-response [curve]; smaller amounts equivalent to that used by an occasional marijuana smoker and larger amounts used by a chronic smoker [would be given] to see what levels would produce these irreversible effects. I hope that this will be done.

Dr. Lester Grinspoon of the Harvard Medical School similarly points out that the monkeys in the Heath study did not smoke marijuana voluntarily but had the heavy doses forced into their lungs. Since the monkey lung is about 1/15th the size of a human lung, the concentration of marijuana in the monkey lung may have been 15 times as high as that of a comparable dose in the human lung. Allowing for this and other dosage disparities, Dr. Grinspoon notes, it is possible that Dr. Heath's monkeys were exposed to marijuana concentrations vastly greater than those experienced by the usual human smoker.

Nor have the brain-damage allegations of Drs. Kolansky and Moore gone unchallenged. At the University of Pennsylvania (with which Drs. Kolansky and Moore are associated), another team of researchers headed by Dr. Igor Grant administered a neurological examination to 29 marijuana smokers and 29 nonsmoking controls, all of them medical students. In addition to the neurological functions usually tested, six measures specifically designed to reveal brain damage were used. The examiners did not know which examinees were marijuana smokers and which were nonsmokers. No difference was found between the two groups.

In addition, the Grant team administered a battery of neuropsychological tests designed to reveal brain damage. "We found no difference between marijuana smokers and nonsmokers on seven out of eight measures," Dr. Grant and his associates reported. "Marijuana smokers did not perform quite as well as nonsmokers . . . on one of the three subtests of the Tactual Performance Test." The team added, however, that "the absence of confirmatory findings in the other tests has led us to conclude that this one finding did not indicate a neuropsychological deficit among marijuana smokers." They summed up their findings in these terms:

A battery of the most sensitive neuropsychological tests now available could demonstrate essentially no difference between moderate users and nonusers of marijuana. These results agree with those of Mendelson and Meyer who employed similar tests with 10 casual and 10 heavy users.

Finally, the allegations of an "amotivational syndrome" and of brain damage are challenged by the findings of Dr. Norman Q. Brill and his associates at the University of Cali-

from the Los Angeles School of Medicine. This group checked the college grades of 1380 UCLA undergraduates in 1970, then followed up on the same sample in 1971 (1133 students) and 1972 (901 students). Many of those who left college as well as those who stayed on were followed up.

Six groups of students could be discriminated during this study: those who had never smoked marijuana; those who began smoking during the study; those who increased use during the study; those whose usage remained stable throughout the study; those who decreased use; and those who quit marijuana altogether.

All six groups showed a steady improvement in college grades from year to year. The nonsmokers had the highest grades as freshmen but the lowest grades as seniors and graduate students; the differences were not statistically significant. Neither college grades nor other factors checked by the UCLA scientists supplied any evidence of brain damage or of an amotivational syndrome. "So far as we have been able to determine by this longitudinal study," the Brill group concluded, "the dire consequences that were predicted have not materialized."

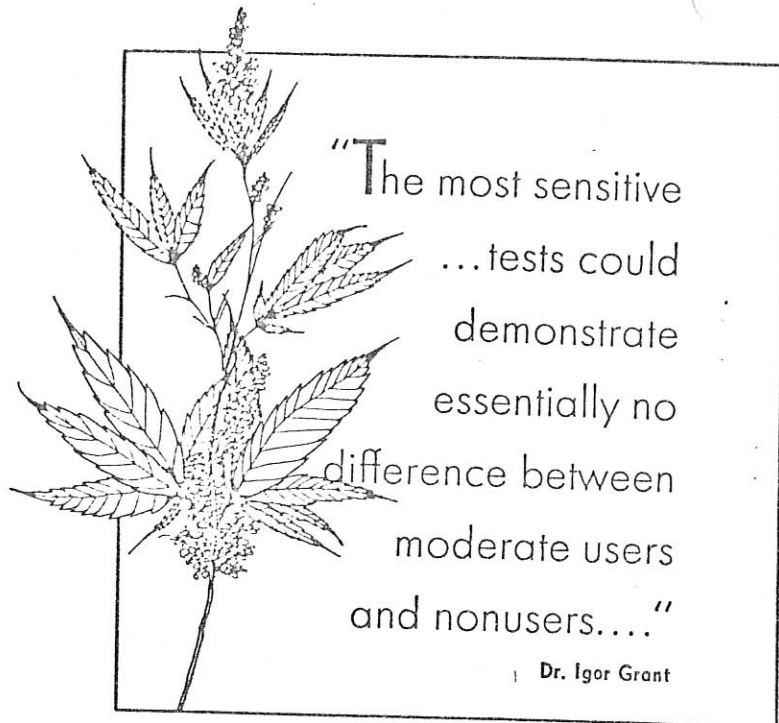
2. Lowered resistance to disease. Dr. Nahas, it will be recalled, grew T-lymphocytes from marijuana smokers in laboratory cultures and then challenged them with foreign substances. He interpreted his results as indicating an impairment of the immune response among marijuana smokers—an impairment similar to that found in some cancer patients.

Among those alarmed by the Nahas findings were Dr. Melvin J. Silverstein and his associate, Ms. Phyllis J. Lessin, at the University of California at Los Angeles. Patients with this kind of defect in immunity, they noted in a recent issue of *Science*, "develop cancer at rates at least 80 times that of the general population." But was Dr. Nahas right in interpreting his results to mean a loss of immune response?

To check on the Nahas claim, Dr. Silverstein and Ms. Lessin took an approach that determines the immune response in the human body itself instead of in a test tube. They challenged chronic marijuana smokers with a foreign substance called DNCB (2,4-dinitrochlorobenzene). A small amount of DNCB was first rubbed on the skin to sensitize it; two weeks later, small doses of DNCB were injected into the skin. Under these circumstances, 96 per cent of all adults develop an immune reaction—a reddening of the skin around the test area and sometimes more severe skin changes. These changes can be graded from 1-plus (a minimum reaction) to 4-plus (a very severe reaction, including blistering).

When this test was run on 22 marijuana smokers, the results clearly indicated that their immune responses were intact and vigorous. All 22 showed a response to even a small (50-microgram) dose of DNCB, and in 21 of the 22 the response was severe (3-plus or 4-plus). Even with only a 25-microgram dose, 21 of the 22 showed an immune reaction, and 14 of the reactions were 3-plus or 4-plus. No resemblance was found to the immune reactions of a control group of cancer patients. Tests with other foreign substances confirmed this finding of a normal immune response in marijuana smokers.

"... There is no clinical or epidemiologic evidence to suggest that chronic marijuana users might be more prone to



the development of neoplastic [cancerous] or infectious processes," Dr. Silverstein and Ms. Lessin noted. "Since responses were normal in the chronic marijuana users we tested, it would appear that chronic marijuana smoking does not produce a gross cellular immune defect that can be detected by skin testing."

3. Birth defects and hereditary disease. The Stenchever report that marijuana damages chromosomes, like earlier claims that LSD damages chromosomes, is being heavily challenged by contradictory evidence.

At the Institute for Medical Research in Camden, N.J., for example, Dr. Warren W. Nichols and his associates performed a well-controlled study of marijuana effects on chromosomes. They first checked the chromosomes of 24 occasional marijuana smokers and found them to be in good condition. They then gave their 24 subjects measured doses of marijuana daily for five or 12 days and checked their chromosomes again. No damage was detected.

Other investigators who have failed to find marijuana damage to chromosomes include Dr. Thorburn of the University of the West Indies (in the Jamaica study), Dr. Henry B. Pace and his associates at the University of Mississippi, and Dr. Richard L. Neu of the Upstate Medical Center, State University of New York. Animal studies have also failed to provide evidence of chromosome damage.

As for the Morishima report that the lymphocytes of marijuana smokers have fewer than the normal number of chromosomes, two difficulties should be noted.

First, all of the lymphocytes studied by Dr. Morishima and reported by him to the Eastland subcommittee came from just three marijuana smokers and three nonsmokers; this is an extremely modest base from which to anticipate, in Dr. Morishima's words, "potential danger in [the] immune defense system, development of cancer . . . genetic mutation and birth defects."

The second difficulty: if more than 30 per cent of the

lymphocytes of chronic marijuana smokers contain fewer than 31 chromosomes instead of the normal 46, how could this gross lack of chromosomes have escaped the attention of Drs. Nichols, Stenechever, Thorburn, Pace, Neu, and others who have been intensively examining lymphocytes for chromosome breaks and other minor abnormalities?

4. Lung damage. Though the evidence to date is far from decisive, there is no reason to doubt that marijuana smoke, like tobacco smoke and other kinds of smoke, may damage human lung cells. *How much* damage remains an unanswered question. But the extent of damage is probably more closely related to the amount of smoke inhaled than to the type of smoke. Thus, it is hardly plausible at this stage of scientific knowledge to worry that someone who is smoking a pack of tobacco cigarettes a day—140 a week—may experience further lung damage by adding two or three marijuana cigarettes a week.

For very heavy users who smoke many marijuana cigarettes a week, of course, the risk of lung damage may be serious. Dr. David E. Smith of the University of California at San Francisco Medical School, who is also medical director of the Haight-Ashbury Free Clinic, has accordingly suggested that such users switch from marijuana smoking to other forms of marijuana consumption—such as drinking marijuana tea—to protect their lungs from smoke.

5. Sterility and impotence. Back in 1971, Dr. Kolodny and his associates at the Masters-Johnson sex research center in St. Louis reported that male homosexuals have lower testosterone levels than male heterosexuals. That report, like the Kolodny report on low testosterone levels in marijuana smokers, was widely circulated by the mass media. Within two or three years, however, three efforts to replicate the Kolodny finding failed, and it is now generally agreed that no significant difference exists between homosexual and heterosexual testosterone levels. The Kolodny report on testosterone levels and marijuana is now experiencing a similar challenge.

In November 1974, Dr. Jack H. Mendelson and his associates at the Alcohol and Drug Abuse Research Center, Harvard Medical School-McLean Hospital, reported a carefully controlled study of marijuana effects on testosterone. Like the Kolodny study, the Mendelson study was published in *The New England Journal of Medicine*.

The Mendelson group selected for its study 27 young male marijuana smokers, some of them casual smokers and others heavy smokers who had consumed more than one marijuana

cigarette a day for the past year and who had been smoking marijuana for an average of 5.6 years (range, three to nine years). All subjects were requested to refrain from marijuana smoking for two weeks and were then admitted for a 31-day stay in a locked hospital ward, where access to marijuana and other drugs was rigorously controlled.

During the first six days of the experiment, no marijuana was permitted. Testosterone levels were measured each morning. The average levels were in "the upper range of normal adult male levels." The heavy smokers had somewhat higher levels than the casual smokers, but the difference was not statistically significant.

During the next 21 days, the subjects were allowed to "earn" marijuana by performing a simple manual task. They were required to smoke this marijuana under observation to make sure it was really consumed. As the days rolled by, both the casual and the heavy marijuana smokers gradually increased their consumption, some smoking very large quantities. Their testosterone levels did not fall. Under these carefully controlled conditions, the Mendelson group concluded, "high-dosage marijuana intake was not associated with suppression of testosterone levels. . . ."

THE PATTERN OF EVIDENCE

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—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.

After reviewing the voluminous evidence available up to January 1972, CU did not conclude in "Licit and Illicit Drugs" that marijuana was "harmless." On the contrary, we then pointed out, "no drug is safe or harmless to all people at all dosage levels or under all conditions of use." We see no need to withdraw or modify that conclusion.

We do, however, see a need to comment on the adverse legal and social consequences of misinformation about the health effects of marijuana. We shall do so next month.

Dr. Nahas reports on the classification of marijuana as a "stupefying drug," and cites scientific evidence that chronic smoking can impair cellular-mediated immunity, may lead to genetic damage, possibly cause sterility, and damage the bronchial tract and lungs.

Marihuana

by Gabriel G. Nahas, M.D., Ph.D.

"Marihuana is no more dangerous than alcohol or cigarettes and should be legalized for anyone over the age of sixteen." So declared Margaret Mead in 1968. Ever since, similiar statements have been made with increasing regularity by others who wish to see the use of marihuana legalized, or at the very least "decriminalized."

And yet, in that same year, 1968, a joint statement was issued by the Committee on Drug Dependence of the National Research Council, National Academy of Sciences, and the American Medical Association, stressing the following points:

1. Cannabis is a dangerous drug and a public health concern. In virtually all societies where it has been extensively used, sanctions against both users and distributors have been necessary.

2. Legalization of marihuana would create a serious abuse problem in the United States.

3. Penalties for violations of marihuana laws are too harsh. They should therefore be modified to penalize distributors and to deal with users in a flexible manner.

4. Additional research on marihuana should be encouraged. All presently available knowledge warrants an effort to reduce the use of this drug.

This joint statement was in keeping with those issued by all the international conventions of scientific and legal experts assembled since 1924 under the aegis first of the League of Nations and then of the United Nations. All of these conventions have recommended that cannabis derivatives, as well as opium and coca-leaf derivatives, be classified as "stupefying drugs."

Such drugs were considered to be profoundly destructive to man and society, and their use was to be limited to medical purposes only. These conventions also recommended that private possession for nonmedical use be considered an offense

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to be penalized. As marihuana has no therapeutic value, the Single Convention of the United Nations on Stupefying Drugs (1961), of which the United States is a party, recommended that cultivation of the drug-type plant be eliminated over the next 25 years. These recommendations were taken at the initiative of the representatives from Asia and Africa, who claimed that the widespread usage of marihuana was associated with physical and mental morbidity of a large number of their people as well as with social stagnation. And yet, at the same time that President Johnson signed the Single Convention in 1967, millions of young Americans were beginning to smoke and enjoy marihuana.

As the use of marihuana spread throughout America and Canada, a growing number of psychologists, sociologists, lawyers, and physicians have urged that marihuana be treated as a soft, recreational drug that should be made freely available, discounting the empirical historical reports about cannabis from Asia and Africa. These intellectuals, despite the absence of any hard scientific evidence, have claimed that cannabis use produces little physical damage, is less harmful than alcohol or tobacco, and may have redeeming social value.

Marihuana Not Harmless

In contrast, recent scientific evidence has shown that marihuana is not at all harmless. It contains unique substances, the "cannabinoids," which are soluble only in fat and are stored in body tissues, including the brain, for weeks and months, in the same manner as DDT. Anyone using marihuana more than once a week (the time required for its elimination) cannot be drug-free, in contrast to the use of tobacco and alcohol. Two review articles published in *Science* (185:683-685, 775-776, 1974) have summarized this scientific evidence.

1. Chronic marihuana smoking impairs cellular-mediated immunity as measured by the tests of lymphocyte transformation or a T-lymphocyte rosette formation. T-lymphocytes sampled from heavy marihuana smokers show a decreased ability to undergo proper cell division due to a general antimitotic property of the cannabinoids. Our own

studies indicate that besides Δ^9 -tetrahydrocannabinol (THC, the psychoactive substance), all other natural cannabinoids and their metabolites contained in marijuana inhibit in lymphocyte cultures the synthesis of DNA, RNA, and protein by impairing the precursor uptake of these molecules so essential for proper cell division. This antimetabolic effect of marijuana products, which is due to olivetol, the small molecule which they all have in common, has been observed by others. Zimmerman from Toronto has observed the effect in tetrahymena. Blevin and Regan from Oak Ridge, using normal and malignant human cell cultures, have observed a 40% to 50% decrease of DNA, RNA, and protein synthesis by THC 10^{-5} M. Harris and Colleagues from Richmond, Va, have used the cell impairment ability of THC to inhibit malignant tumor growth in mice. They have observed immune depression in rodents in related experiments. No impairment of human clinical immunity, however, has been reported in chronic marijuana smokers (who, like 98% of the population, present a positive dinitrochlorobenzene test). Nevertheless, one may well ask what will happen to them in a decade or two, when the aging process has further decreased their immune mechanisms.

2. Cannabis may cause chromosome abnormalities that could lead to genetic damage. Further studies at Columbia by A. Morishima show that many of the cultured lymphocytes sampled from marijuana smokers are also structurally abnormal: 30% of these cells in metaphase contained only 5 to 30 chromosomes, whereas in nonsmokers the percentage is only 7%. Very similar findings were reported by Cecile and Rudolf Leuchtenberger in lung cultures exposed to marijuana smoke.

These studies lead to the speculation that marijuana products that accumulate in ovaries and testes might also interfere with DNA metabolism of the germ cells. Such alterations of the gonads raises the possibility that marijuana might have mutagenic effects. Both THC and crude marijuana extract cross the placental barrier. (In this regard, it must be remembered that in countries where long-term cannabis use has prevailed, only the male population has indulged).

3. Cannabis may act on hormone regulators and produce impotence and temporary sterility. Confirming animal studies, Robert Kolodny and associates from St. Louis have observed in heavy marijuana smokers a lowered sperm count and impotence (impotence has also been reported by John Hall of Jamaica, as well as by Indian and Moroccan physicians). Hormones such as luteinizing hormone, antidiuretic hormone, growth hormone, and prolactin are also affected by marijuana.

4. Heavy use of cannabis is severely debilitating to the bronchial tract and lungs. Reports from areas where potent cannabis preparations are used, such as India, Egypt, and Morocco, indicate that excessive smoking produces bronchial irritation, chronic catarrh, laryngitis, and "asthma." Studies in Boston in 1971 for the National Commission on Marijuana showed impairment of lung function. Similar upper respiratory and bronchial tract symptoms have been observed in studies on young American soldiers. Lung biopsy specimens showed that squamous cell metaplasia and atypical cells occurred in all, with basal cell hyperplasia and subepithelial gland changes in most, lesions that are statistically and anatomically related to carcinoma of the lung. Tar yield from marijuana smoke

condensate has been shown to be as carcinogenic to the skin of a mouse, as is smoke from the tobacco of commercial cigarettes.

5. Marijuana causes sharp personality changes that lead to marked deterioration in what is normally considered good mental health. Cannabis products are psychoactive and induce temporary effects, such as impairment of short-term memory storage and alterations in electroencephalographic patterns, especially when measured with deep electrodes. The storage of THC and of the other natural cannabinoids and their metabolites in the brain has not been related to permanent brain damage; however, this is difficult to show histologically for any psychotropic drug. Robert Heath of Tulane has conducted experiments with rhesus monkeys that have shown alterations of brain wave patterns that persisted when smoking was discontinued.

Impairment of psychomotor performance, symptoms of physical and mental deterioration, and lack of motivation have been associated with long-term use of marijuana ever since Moreau made such observations of hashish users in Egypt 150 years ago. When such symptoms were reported in the United States, sociologists and psychologists coined the term "amotivational syndrome" and argued whether it was due to impairment of the brain or only reflected the "subculture" with which marijuana users associate!

It is now well established that in all animal species, including man, a considerable degree of tolerance to the physiological and psychological effects of marijuana develops rapidly. American volunteers in Boston or Los Angeles, after a few weeks are able to increase 10 to 20 times the number of joints they smoke daily! Such observations, which are in keeping with older ones, put to rest the so-called reverse tolerance discovered by some students at Harvard, who claimed that marijuana was the only psychoactive drug that required a smaller dose to obtain the initial effect!

Need for Studies

Because of these scientific findings, even those who claimed that marijuana was harmless are now heeding the danger signals. They are calling for longitudinal, epidemiological studies of marijuana similar to those that took 40 years to ascertain the damaging effects of tobacco. Such longitudinal studies, which should concentrate on investigating cellular damage, will take at least a decade to complete in America. As a result, some are now being undertaken abroad in areas of chronic marijuana consumption. In the meantime, preventive medicine would dictate that a moratorium be called on any further attempts to make marijuana socially acceptable and more readily available to the youth of America. This attitude would be welcomed by all the national and international organizations that are trying to maintain a measure of control over the growing use of dangerous drugs in the Western world.

And the time for unlimited experimentation is rapidly running out. Throughout history, social acceptance of marijuana in a society sets citizens on a one-way downward course; in the past, there has been no way to turn back. In any event, the idea that marijuana is harmless must be reviewed. For too long, with a near-total-lack of scientific evidence, this notion has enjoyed a high degree of acceptance, with a complete disregard for both history and preventive medicine.



The Legal Question

Last month CU reviewed the spate of recent reports of physiological damage allegedly caused by smoking marijuana. Marijuana, it is said, causes brain damage and premature aging of the brain; lowers the body's resistance to infectious diseases and cancer; increases the likelihood of birth defects and of hereditary diseases; damages the lungs; and may lead to impotence, sterility, or both, in men.

Those reports, most of which were the subject of testimony last spring before the Senate Internal Security Subcommittee chaired by Senator James O. Eastland of Mississippi, had gained widespread currency in the media. But few Americans had seen or heard the countervailing evidence. Senator Eastland's committee did not seek it out, nor has the press delved very deeply into the subject.

CU's March article evaluated both the publicized reports mentioned above and the unpublicized reports that fail to show significant ill effects from use of the drug even at extraordinarily high dosage levels. Our review concentrated on studies made since preparation of CU's book, "Licit and Illicit Drugs," published in 1972. We concluded that recent reports, like past reports, fail to prove that marijuana is either harmful or harmless.

As CU pointed out in 1972, no drug is harmless to all persons at all dosage levels or under all conditions of use. Since marijuana, like any other drug, is probably harmful in at least some respects to at least some users at some dosage levels under some conditions of use, the question naturally arises, what should society do about it? More specifically, should laws that require the arrest and imprisonment of persons found with marijuana in their possession remain on the books?

The notion that arrest and imprisonment are the proper social responses to possession of a hazardous product or substance appears inconsistent with society's usual approach to products, even to hazardous products. When an electrical appliance constitutes a potentially lethal shock hazard, no one demands the arrest and imprisonment of those who own the offending appliance. Alcohol and nicotine are both demonstrably harmful drugs, but society does not arrest and imprison those found to possess them.

Arrest and imprisonment are harmful to those who experience them—that can hardly be disputed. Why should marijuana smokers, unlike tobacco smokers and alcohol drinkers, be deliberately subjected to damage by society in addition to any damage they may do to themselves through

the use of a drug?

The chief argument against arrest or imprisonment for the possession of marijuana, even if marijuana were known to be hazardous, is that arrest and imprisonment do not curb marijuana use. Indeed, strict enforcement of antipossession laws may actually make marijuana more generally available and encourage use, as CU has demonstrated in "Licit and Illicit Drugs." The recent evidence confirms this view.

Here is what has been happening. Finding that the heavy penalties formerly decreed for marijuana possession were making it difficult or impossible to secure convictions in court, prosecutors and the police a few years ago joined the chorus of voices that were already recommending milder penalties. Penalties were in fact reduced by all 50 state legislatures. Given these milder, enforceable laws, the police devoted an ever-increasing portion of their energies to marijuana "busts." State and local marijuana arrests reported to the F.B.I. rose steadily and precipitously. There were 18,815 arrests reported in 1965. By 1971, arrests had risen to 225,828. Two years later, arrests had nearly doubled—to 420,700.

Has this massive police effort curtailed the use of marijuana? Hardly. The National Institute on Drug Abuse reported to Congress in 1974 that marijuana use remained at an all-time high. Between 1969 and 1973, as marijuana arrests increased from 119,000 to 421,000, marijuana experimentation among high school senior boys increased from 20 per cent to 60 per cent. In short, gargantuan police efforts have been paralleled by an explosive and continuing increase in use among young people.

"It is now much too late to debate the issue: marijuana versus no marijuana," CU noted in 1972. "Marijuana is here to stay. No conceivable law-enforcement program can curb its availability." Nearly one million marijuana arrests have occurred since those words were written—and marijuana remains almost universally available.

THE OREGON EXPERIENCE

But wouldn't marijuana be even more widely smoked in the absence of arrests and criminal penalties? Evidence on this issue comes from Oregon, which reformed its marijuana laws in October 1973. Possession of small amounts of marijuana was decriminalized; it became a civil "violation" rather than a crime. Those found in possession of an ounce or less are subjected to a civil fine not to exceed

\$100. In lieu of being arrested they are given a ticket resembling a traffic ticket, thus avoiding both an arrest record and a criminal record. They do not sit in jail awaiting bail or trial.

One year later, in October 1974, the results of decriminalization were checked through a series of interviews with 802 respondents—a cross-section of Oregon residents aged 18 and over. The study was commissioned by the Drug Abuse Council, a private agency funded by private foundations. Despite a year without criminal penalties, only 72 respondents (9 per cent) reported being current marijuana smokers—and almost all of them reported that they had begun smoking marijuana before decriminalization. Indeed, only four respondents out of the 802 (0.5 per cent) reported that they had started smoking following decriminalization. This is certainly not the “marijuana explosion” predicted by opponents of decriminalization.

The 91 per cent of Oregon respondents who were not smoking marijuana a year after decriminalization reported various reasons for refraining: not interested, 53 per cent; health danger, 23 per cent; risk of prosecution, 4 per cent; marijuana not available, 2 per cent; other reasons, 9 per cent; undecided, 9 per cent.

Most nonusers of marijuana, in short, had enough persuasive reasons for not using it without the need to buttress their decisions with fear of criminal penalties.

But while Oregon's decriminalization of marijuana had little apparent effect on the number of users, it did have other readily visible effects, described in detail by J. Pat Horton, district attorney for Oregon's Lane County, which includes the city of Eugene.

“Decriminalization has, in fact, prioritized police work into areas of violent crime and crime against property,” District Attorney Horton told a conference of the National Organization for the Reform of Marijuana Laws. “When possession of small amounts of marijuana was a crime, we found that police officers allocated a disproportionate amount of their time to the apprehension of those individuals. Currently, law enforcement officers spend more time in the area of violent crime and, thus, better serve the community. . . . There is a growing recognition on behalf of the citizens in the state of Oregon that police are truly serving the interests of society rather than attempting to enforce unenforceable laws.”

The relationship between young people and the police,

Horton continued, “has improved substantially. . . . The community leaders of tomorrow no longer need fear the threat of criminal convictions on their record for engaging in behavior that is socially acceptable in many quarters.”

Further, “The impact on the criminal courts has been significant, for [decriminalization] has removed approximately one-third of the total number of cases awaiting trial from the docket, thus freeing valuable space in our courtrooms to adjudicate matters which have a serious concern to the community. By the same token, the jail population now is made up of serious felons rather than young people accused of possessing small amounts of marijuana who usually had no other criminal history.”

Legislators in other states still fear that if they vote for marijuana decriminalization, they may be defeated at the next election. That was not Oregon's experience. “Acceptance of the new legislation in Oregon has been overwhelmingly positive,” Horton reported, “especially among middle-aged people who have children in grade, junior high, or the high school level. An attempt by a small number of people in the state to restore criminal penalties for possession was overwhelmingly defeated. Virtually every candidate for office and every incumbent in the state of Oregon, when questioned on the new decriminalization law, has indicated publicly that he favored such legislation and would vote legislatively to continue it.

“By all measurable standards, decriminalization was a comfortable transition, signifying fair play to the individual and widespread acceptance by our electorate.”

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. (Our full position is spelled out in the book.) Other organizations that have come to the same conclusion include: American Bar Association; American Public Health Association; Governing Board of the American Medical Association; National Advisory Commission on Criminal Justice Standards and Goals; National Commission on Marijuana and Drug Abuse (The Shafer Commission); National Conference of Commissioners on Uniform State Laws; National Council of Churches; National Education Association.

Oregon's experience with the practical results of decriminalization buttresses our decision to remain on that list.

#3

DRUG ABUSE NEWS SUMMARIES

EFFECTS OF POT MORE DEPENDENT ON DRUG AND SET THAN SETTING ...

The effects of marijuana on human subjects are determined far more by the make-ups of individuals who take it and by the drug, itself, than by the settings in which it is taken, according to a study in the June, 1975, issue of the *Archives of General Psychiatry*. "The first implication of these findings is that, for research purposes, studies done in neutral environment are not likely to be misleading in regard to the pharmacological effects that marijuana produces ... Second, that except in cases where marijuana is administered in threshold doses ... it is clearly a drug that can be distinguished from a placebo. Third, the subjects taking marijuana determine to a major degree those drug effects, either in kind or degree, that they report experiencing." The researchers gave marijuana and placebos to subjects in two distinct environments: a favorable one, which was located in a private home and which included burning incense, taped music, posters, and sweet candies; and a neutral one, which consisted of laboratory rooms at a Veterans Administration Hospital. Researchers were Leo Hollister, M.D.; John Overall, Ph.D.; and Michael Gerber, M.D. For reprints, contact Dr. Overall, VA Hospital, 3801 Miranda Ave., Palo Alto, Cal. 94304.

MAINE DECRIMINALIZES POT POSSESSION; THREE OTHER STATES SAY NO ...

Maine Governor James B. Longley has signed legislation making possession of up to 1.5 ounces of marijuana a civil offense subject to a fine of up to \$200. Selling or providing the drug, or possessing more than 1.5 oz., remain criminal offenses. Maine is the third state, behind Oregon and Alaska, to decriminalize private possession of small amounts of the drug. Meanwhile, the

DRUG ABUSE NEWS SUMMARIES - (Continued)

legislatures of Florida, Connecticut and Massachusetts have rejected similar decriminalization approaches. The Connecticut bill would have legalized private use of small amounts of the drug.

AROUND THE STATES - (Continued)

Alaska became the second state to abandon criminal penalties for possession of small amounts of marijuana.

The governors of Colorado and Maine signed similar bills reducing marijuana possession penalties. Possessing an ounce or less of marijuana now calls for fines up to \$100. Amounts in excess of one ounce are punished as misdemeanors and selling marijuana still remains a criminal offense.

Maine's James Longley, the country's only governor elected as an independent, signed a bill establishing a maximum \$200 civil fine for possessing not more than an ounce and a half of marijuana.

Reform bills in Georgia, Hawaii and Tennessee must wait until 1976 for action.

All of the laws vary somewhat in their provisions and definitions, but in each case, possession of a small quantity of marijuana has been made the legal equivalent of a traffic offense that is enforceable by a citation instead of an arrest.

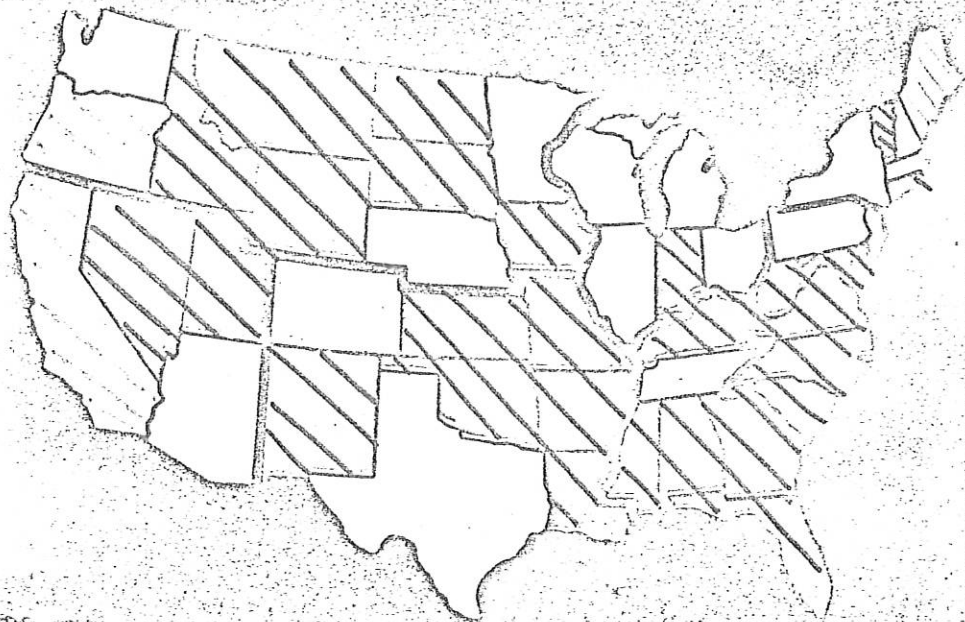
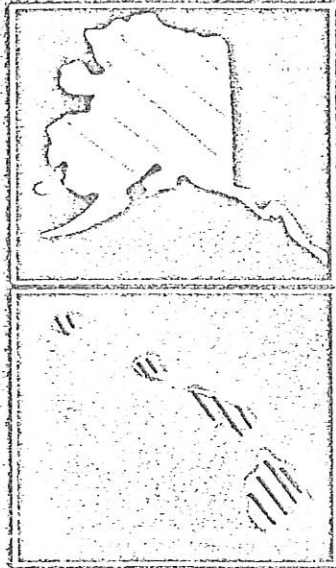
Delegates to the Episcopal Diocese of New York annual convention adopted a resolution calling for the immediate decriminalization of possession and use of small quantities of marijuana. They also supported a model of state regulated control of marijuana sales to adults. The Rev. Canon Walter Dennis, of the Cathedral Church of St. John the Divine, and a member of the National Organization for the Reform of Marijuana Laws advisory board, said the national Episcopal church will be asked to adopt the resolution.

A proposed Maryland legislative bill to decriminalize marijuana received a friendly reception at Senate committee hearings. The hearings were marked by an absence of hostile questions. Senator Melvin Steinberg of Baltimore, who was instrumental in killing the bill last year, said he thought chances of passing the measure would depend on whether legislators and the public could be convinced that the bill would not legalize or condone the use of marijuana, but merely make possession of small amounts a violation similar to a traffic offense.

A New Jersey state legislative study commission recommended again that possession of small amounts of marijuana be decriminalized but proposed tough penalties for large scale trafficking of hard drugs.

A new bill to revise Ohio's drug laws, taking a hard stand against traffickers and offering treatment for users, was passed by the legislature. Legislature spokesmen said the bill would give Ohio the nation's toughest drug laws.

REEFER REFORM COMES TO AMERICA



Red: reform not foreseen this year
Yellow: reform delayed but pending, or modified penalties on the books
Green: reform bills passed

By Frank Fioramonti

A State-by-State Wrap-up of the Latest Gains and Losses

1975 is the year of marijuana reform consciousness. The public and political moods are signaling green for pot activism in many states. Decriminalization bills have been introduced in 14 states and the District of Columbia. Hearings have been held or scheduled in ten of these, and in six states— Illinois, New Jersey, Ohio, Tennessee, Texas, Washington — the bills have been voted out of committee and only await floor action.

But passing a controversial reefer reform law is a slow, tortuous process involving many public hearings, an avalanche of press releases and much back-room horse trading. That decriminalization has come to a vote in six states, with favorable committee action in 12 states, represents a tremendous step forward.

In many cases, key legislators are now pub-

licly committed to making reefer reform a top priority. In private they are negotiating the necessary votes to bring it about. Little doubt exists that changes in marijuana legislation are inevitable.

What is uncertain, however, is just how soon. The answer in every state is the general public. When legislators think it will be good for their political future, then there will be reefer reform.

Penalties for marijuana use and possession are being modified and lessened state by state. However, completely legal marijuana is not expected to become a reality for some time. In only one state has the constitutional right to smoke pot been established,

Frank Fioramonti is the legislative counsel for the National Organization for Reform of Marijuana Laws.

and there sale is still considered a criminal offense. What follows are the latest developments in reefer reform.

Alaska

The most exciting development in the evolving process of marijuana law reform occurred in America's last frontier, Alaska. On May 27, Alaska became the first state to establish the constitutional right to smoke and possess marijuana in the privacy of one's home, in the case of *Ravin v. Alaska*. The decision of the Alaska Supreme Court came shortly after the Alaska legislature passed an Oregon-style decriminalization bill.

Combined, these two developments eliminate entirely fines, arrests, arrest records and jail sentences for possession, in private, of small amounts of marijuana. The stash, says the Alaska court, is protected

For Colorado lawmen, the romance, fulfillment and joy is gone from harassing private marijuana smokers.

within the constitutional right to privacy. The police may not search a person's car or home looking for marijuana. However, the court specified that the state retains the right to control the sale, the public possession and public use of marijuana. Thus, after September 1, 1975, smoking on the street and driving an automobile with marijuana on one's person will become nonjail misdemeanors punishable by a maximum fine of \$1,000.

Senator Terry Miller (R.—Fairbanks) sponsored the Alaska bill, which passed the Alaska state senate by a vote of 11 to 9. Antimarijuana forces imported as a witness Dr. Harvey Powelson of Berkeley, an antimarijuana propagandist who has dubbed marijuana "the most dangerous drug we must contend with," claiming that dope smoking leads to "a deterioration in body and mental functioning which is difficult and perhaps impossible to reverse."

At the request of NORML (National Organization for the Reform of Marijuana Laws), Dr. Thomas Ungerleider, of the National Commission on Marijuana and Drug Abuse, and the Honorable J. Pat Horton, district attorney from Eugene, Oregon, flew to Juneau to provide a balanced view. Horton presented a comprehensive analysis of the Oregon decriminalization experience since October 1973. He was careful to stress the value of grass reform from a law enforcement perspective.

S350 was finally passed by the house. Senator Miller said approval of the legislation "signaled the end of the war between the generations in Alaska."

Within a month after Alaska's successes three other states — Maine, California, and Colorado—made significant breakthroughs.

Maine

On June 18, Maine's James B. Longley, the only governor in the nation elected as an independent, signed into law a bill abolishing criminal penalties and jail sentences for the possession of small amounts of marijuana. As of March 1, 1976, persons found in the Pine Tree State with less than 1½ ounces of marijuana will face a fine of \$200, with a traffic-type citation instead of an arrest. Misdemeanor rather than felony penalties apply to larger amounts. Maine's approach is modeled after the Oregon civil-fine legislation.

California

Three years after California voters rejected decriminalization in a statewide referendum by a 2-to-1 margin, Governor Edmund G. Brown signed a measure providing for a \$100 maximum fine for possession of less than one ounce of marijuana. A mandatory citation system will be used, eliminating most of the 100,000 felony marijuana arrests per year in California. Under the new law, no distinction will be made between prior and first offenders — persons arrested earlier on marijuana charges will be subject to no more than a \$100 fine. Possession for personal use of quantities greater than one ounce will now face a maximum misdemeanor penalty of six months in jail or a \$500 fine.

Colorado

Colorado proved the importance of having a local marijuana reform advocate to assist the legislature.

The scenario began early in the legislative session when Colorado state Representative Charles Howe (D.—Boulder) sponsored legislation mandating a \$100 fine for possession of under an ounce of marijuana. An additional provision spares offenders who sign a summons a trip to jail. The revised bill provides that nonpublic transfers of an ounce of marijuana for no money would also be citation offenses.

As amended by a house-senate conference committee, the bill also makes first-offense possession of over an ounce a misdemeanor punishable by a maximum \$500 fine or one year in jail. Subsequent offenses are felonies carrying fines between \$500 and \$2,000 and maximum penitentiary terms of one to 14 years. Sale of marijuana is also punishable by a maximum prison sentence of one to 14 years or a \$1,000 fine. A mandatory minimum term of three years for sale was sought but rejected. The final element of the compromise needed to capture two essential votes establishes stiff penalties (three to 15 years, \$15,000 fine) for dispensing marijuana to persons under 18 years of age by persons over 18, with a mandatory three-year term for a second conviction for sale to a minor.

Of more immediate concern to most marijuana smokers are provisions limiting the penalty for public display or consumption of an ounce or less to 15 days in jail or a \$100 fine. Both public and nonpublic possession are considered petty offenses.

Said NORML's Colorado coordinator James Moore of the new law: "I don't expect we'll see any more busting down doors to give \$100 tickets to people with a little grass in their house. The romance, fulfillment and joy are gone from harassing private marijuana smokers."

Minnesota

In several other states, marijuana legislation fell victim to political events. In Minnesota a novel approach to pot reform was making considerable headway. Unfortunately, it was tangled in an end-of-session log jam, and legislative leaders decided that other bills, mostly involving state expenditures, took priority over marijuana rights.

The Minnesota reform bill would have made possession of less than an ounce of marijuana a civil offense punishable by a \$50 fine or an optional drug-education program. Second offenders within a two-year period would receive a maximum \$100 fine or, as an alternative, could choose to take a "chemical-dependency-evaluation" test. This legislation passed the Minnesota house of representatives by an easy 84-to-45 vote and was accepted by the senate judiciary committee in a 9-to-4 vote. Then the bill ran into trouble with modification. Next session, maybe.

Connecticut

Pot law reform attempts in Connecticut ended with the bitter accusation that de-

criminalization was sacrificed to political ambition. Senator Lawrence De Nardis (R.—Hamden) leveled the charge at Ella T. Grasso. De Nardis, an influential Republican, has introduced legislation that attaches no penalty whatsoever to possession of marijuana in private and a \$50 civil fine to public use.

After the bill passed the senate judiciary committee by a surprisingly wide 8-to-2 margin, Governor Grasso, looking to a vice-presidential nomination in 1976, put the heat on to kill the legislation. In addition, she appointed a commissioner of state police who announced his opposition to the bill the day he was appointed.

Massachusetts

Massachusetts also came up a loser on reform. Seven marijuana bills were introduced and favorable action was taken on three bills. Of the three reform bills, one would have totally decriminalized possession of any amount of marijuana in private; a second would have totally decriminalized possession of up to an ounce, and a third would have made possession a civil offense punishable by a \$50 fine, with defendants given a citation returnable within 21 days. People caught with marijuana could simply mail in their summons with the appropriate fine. The civil-fine bill had the strongest sponsorship, so it was decided to concentrate lobbying efforts on this measure.

However, for the first time in any state, organized opposition surfaced in the form of a group known as Citizens for the Prevention of Drug Abuse. They sought a minimum jail sentence for marijuana possession and circulated an inflammatory *Reader's Digest* article to all members of the Massachusetts house.

The civil-fine bill was ultimately reconsidered, amended and defeated. After the vote, NORML worker Marsha Samuels said, "It's like hitting your head against a brick wall. Legislators seem to vote against decriminalization just because they're scared, not because people actually think it's good to arrest and send to jail young marijuana smokers."

New Hampshire

In New Hampshire, a maximum \$100 civil-fine proposal was gavelled through the house of representatives without a vote. Virtually no opposition was noted, but the bill lost in a vote on the senate floor.

Arizona

Arizona, home of senator Barry Goldwater and an entry point for large quantities of Mexican marijuana, retains one of the stiffest marijuana laws in the United States.

Hard-line conservative philosophy has until recently been the dominant public attitude in the Grand Canyon State, and the possibilities for marijuana law reform have looked dim. A bill was introduced making marijuana possession a civil offense punishable by a \$100 fine. The bill was amended to retain a misdemeanor status for possession, with jail sentences eliminated for first offenders and a maximum fine between \$100 and \$300.

(continued on page 63)



REEFER REFORM COMES TO AMERICA

(continued from page 41)

The bill was killed for the session, but nevertheless, a key vote was provided in the senate by Robert Hungerford (R. — Scottsdale), a conservative who tallied in favor of pot reform on the grounds that government has no right to interfere with private behavior. This view represents true conservative philosophy and has gained momentum among many public officials who may dislike marijuana but who dislike government interference even more.

New York

Since enactment of the notorious "Rockefeller Drug Law," interest in marijuana reform has been growing. Before passage of the Rockefeller law and its extremely harsh mandatory penalties for drug possession, very few people realized how severe New York's marijuana laws were. Actually, the Rockefeller law made only a minor change in marijuana laws that were already among the stiffest in the country. Possession of any amount of marijuana is currently a misdemeanor punishable by a year in prison; possession of

Carey admitted that he was dropping plans to urge decriminalization because of the opposition from the senate Republican leadership. He chose to ignore a decriminalization recommendation advanced by his own law enforcement task force, headed by former chief assistant district attorney for Manhattan, Alfred J. Scotti.

The Nation

On Capitol Hill, attention is finally focusing on the need to revise federal marijuana laws. Senator Jacob Javits (R. — N.Y.) has for the past three years cosponsored legislation to decriminalize possession of up to three ounces of marijuana. Senator Javits and Representative Ed Koch (D.—N.Y.) have reintroduced the bill this year, and it is joined by another proposal, the Marijuana Control Act of 1975. Cosponsoring the bills in the Senate are Jacob Javits, Allan Cranston (D.—Calif.), Edward Brooke (R. — Mass.), and Gaylord Nelson (D.—Wis.). In the House of Representatives, 17 members joined with Representative Koch in cosponsoring an identical bill.

The Justice Department shift to decriminalization may signal another, larger shift toward reform.

more than ¼ ounce of marijuana is a felony punishable by seven years. Possession of over an ounce of marijuana or sale are felonies punishable by 15 years, the same as grand larceny, robbery, forgery, arson and manslaughter. Few people ever receive the maximum jail sentences, but reform is understandably a hot issue.

Three significant marijuana bills were introduced in the New York legislature this past year. One, sponsored by Sen. Franz Leichter (D.—Manhattan) and Assemblyman Alan Hevesi (D.—Queens) calls for the legal sale of marijuana through state-licensed liquor stores. A state nonnarcotic drug advisory council would decide the appropriate methods of packaging and selling marijuana. Advertising would be prohibited under Leichter's bill, but the state would levy a tax on each unit sold.

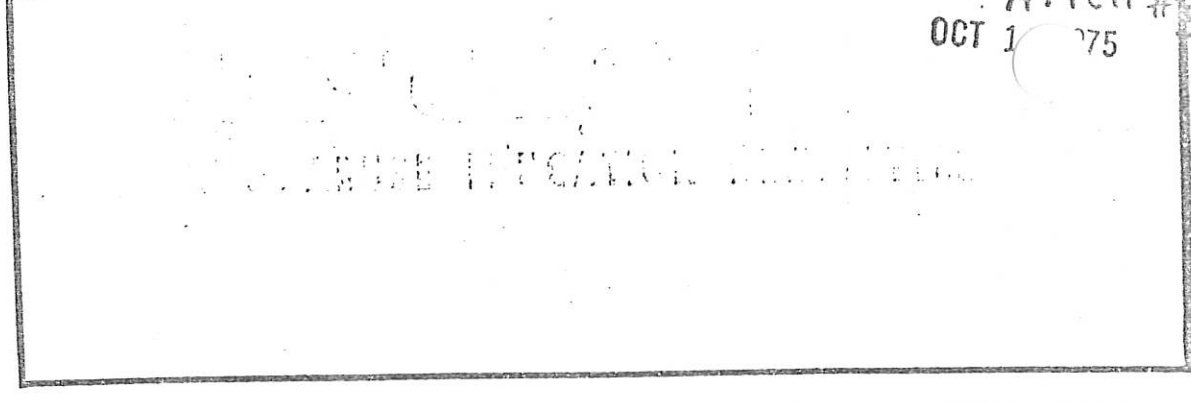
Two other bills call for total marijuana decriminalization. The first, sponsored by state Senator Roy Goodman (R.—Manhattan) and Assemblyman Richard Gottfried (D.—Manhattan), would legalize private possession of up to 4 ounces of marijuana while establishing a \$50 fine for public dope smoking. The second bill, introduced by Assemblyman H.J. Miller (D.—Queens), would decriminalize possession of up to an ounce of marijuana.

All this activity has yet to produce legislative action. Governor Hugh Carey failed to submit compromise legislation that could satisfy conservative legislators. Finally, as the legislative session neared its close,

The Senate Juvenile Delinquency Subcommittee, chaired by Senator Birch Bayh (D.—Ind.), held hearings on the Javits bill, with Senator Bayh using the occasion to voice his support for decriminalization. The subcommittee focused on the mechanics of a civil citation system. Pat Horton was again called from Oregon to illuminate the senators. NORML director Keith Stroup testified in favor of the legislation, observing that "sky diving, drinking alcohol, smoking cigarettes and overeating are but some of the high-risk activities people engage in every day. Yet they remain free from arrest. But the 13 million persons who regularly smoke marijuana are still classified as 'criminals' by the federal government and 48 of the 50 states."

A third witness offered the most significant testimony. Donald E. Miller, chief counsel of the beleaguered Drug Enforcement Administration, indicated that the once-adamant Justice Department was in the process of changing its antimarijuana stance toward a milder approach. This apparent shift to decriminalization in the Justice Department cannot be underestimated. It may signal another, larger move toward reform. Says Stroup, "Should the Attorney General or, better still, President Ford go on record in favor of a civil citation system as opposed to criminal arrest of marijuana smokers, not only would federal legislation be enacted in the future, but a large number of state legislatures would then feel free to move ahead with decriminalization."

It's only a matter of time. ■



Publications, Inc., 1937 North ...

TASK FORCE URGES LENIENT STANCE ON MARIJUANA

President Ford's Domestic Council Review Task Force recommends a low priority be given to marijuana law enforcement. The council, in a 150-page report delivered to the President but not yet made public, says the widespread use of marijuana and the "relatively low social cost" associated with use of the drug justifies "de-emphasizing simple possession and use of marijuana in law enforcement efforts...." The position outlined by the Domestic Council is essentially the same as that of the marijuana lobbyists who advocate the "decriminalization" of marijuana laws by making possession of small amounts for personal use a civil violation, like a parking ticket. The report deals with the whole problem of drug abuse, gives heroin a high priority and recommends federal efforts "in both supply and demand reduction be directed toward those drugs which inherently pose a greater risk to individuals and to society...." As an example, the task force cited that in choosing whom to treat "we should encourage judges and other community officials not to overburden existing health facilities with casual users of marijuana who do not exhibit serious health consequences." They also suggested law enforcement officers concentrate on Mexico because it is an important source of heroin and dangerous drugs. The Task Force is headed by Richard D. Parsons, the associate director and counsel of the Domestic Council, and includes Dr. Robert L. Dupont, director of the National Institute on Drug Abuse; John R. Bartels, former administrator of the Drug Enforcement Administration;

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and former Pennsylvania Governor Raymond P. Shafer, who also led the National Commission on Marijuana and Drug Abuse.

DEA DENIES REQUEST TO RECLASSIFY MARIJUANA

The Drug Enforcement Administration denied a request that federal controls on marijuana be relaxed to the point where the drug could be sold over the counter without a prescription. DEA Acting Administrator Henry S. Dugin issued the order rejecting the request filed three years ago by the National Organization for the Reform of Marijuana Laws. NORML had petitioned DEA to remove marijuana from Schedule 1 of the Controlled Substances Act and place it on Schedule 5. Drugs classified in Schedule 1 have no currently accepted medical use in the U.S. and cannot be distributed legally. Drugs in Schedule 5, the least restrictive classification, can be sold in drugstores without a prescription.

Narcotics Officers Oppose Legalizing Pot In Kansas

"Legalize marijuana? My God—No!" says Capt. Ed Ritchie, head of the Narcotics Division for the Topeka Police Department.

"Those people don't know what they are talking about—it's not just a problem of keeping a few young people from getting records—this is a dangerous drug, and there are plenty of expert witnesses who will testify to that," Ritchie continues.

"I know I'm emotional on the subject—and so are my men (Officers K. C. Blodgett and Ed White, who work the narcotics detail) but we actually see what happens to people who use this drug all the time."

Ritchie starts pulling out files of material gathered in eight years on the "Narc" squad—and he has the ammunition to back up what he says.

What set Ritchie and his narcotics officers off was the half-day hearing the legislative interim judiciary committee held last week on the idea of "decriminalizing" the possession of a small amount of marijuana for personal use. No law enforcement officers—

no expert witnesses in the medical profession who oppose legalization were asked to attend the hearing. Only proponents were heard—and they included a menninger psychiatrist; a local judge known to be "soft" on drug offenders and one legislator whose ex-wife was busted in a drug raid in Topeka last February. The same judge who appeared at the hearing threw out the case because he held the search warrant was defective; although the officers found her in possession of marijuana, barbituates, hashish, opiates and amphetamines.

The Pictorial-Times has learned that the judge in that case was Alan Hazlett, the same judge who appeared at the committee hearing last week.

Also appearing at the hearing was a staff physician for the Menninger Foundation, Dr. Herbert C. Modlin, who told the interim legislative committee the AMA board of trustees has recommended legalizing a small amount of pot for personal use.

The medical testimony by several nationally-recognized

doctors however, is much to the contrary of what the committee was told in Topeka last week.

Dr. D. Harvey Powelson, M.D., Program Chief of Mental Health, Calaveras County, Cal., revealed in THE READER'S DIGEST in the December, 1974 issue—that he was a former proponent of legalization—but after 8 years of research with marijuana users—he has become a violent opponent of such a measure.

Dr. Powelson counseled over 1,000 students using marijuana (he is a psychiatrist) over eight years—and the cases convinced him that marijuana is one of the most dangerous drugs in existence. He tells about some of the cases in which students suffered what he believed to be permanent brain damage—became gullible, suspicious, and paranoid. He tells of brilliant careers thrown away after students became pot-users.

Dr. Powelson related that they found heavy users lost a sense of time, their will to do anything sustained, and all users became vulnerable to

the lures of easy solutions to personal and societal problems. Many turned to hard drugs for greater highs.

Dr. Powelson sums up by saying:

"By the spring of 1970, I had seen more than 1,000 patients... I could no longer avoid the conclusion that my first opinion of pot was wrong—and publicly said so.

Medical research groups began to attribute long range ill effects to the use of pot. As a result of these findings and my own, I now believe that marijuana is the most dangerous drug we have to contend with today for these reasons:

(1) Its early use is beguiling. Pot smokers are so enraptured by the illusion of warm feelings that they are unable to sense the deterioration of their own mental and physiological processes.

(2) Its continued use leads to delusional thinking. Along with the delusions comes the strong need to seduce others into using drugs. I have rarely seen a regular marijuana user who didn't actively attempt to influence friends to use the drug.

"Legislators and parents should realize there is NO argument for marijuana. Rationalizations such as "society is sick", "everybody else does it", "the laws are hypocritical", "it's no worse than alcohol" are smoke screens.

"Once we legalize marijuana or remove penalties for its use or possession, hundreds of thousands of young people who have refrained from using it will be tempted to experiment. And many of them will suffer serious consequences," concludes Dr. Powelson.

Dr. Olav J. Braeden, director of the U.N. Narcotics Laboratory testified before the U.S. Senate Internal Security Subcommittee in 1972. "Among the scientists working in the field, it would seem there is a general consensus that cannabis is dangerous."

Dr. Gabriel G. Naha and his colleagues at Columbia Presbyterian Medical Center in New York City, have found evidence that marijuana's chief ingredient, THC (tetrahydrocannabinol), weakens the body's immunity to disease.

ATTACHMENT XIV

Legal Pot Opposed

[Continued From Page 1]

At the research center in Jackson, Miss., there have been discovered over 1,500 different varieties of marijuana plants. Plant leaves run from one to 17 per plant; and color may be green, white or yellow. The amount of THC varies greatly in the plants.

"So—say you pass a law a person can have one ounce of marijuana," Ritchie says. "Maybe the guy has been smoking Kansas pot, and it has only six tenths of one percent of the real drug THC. Then somebody gives him some Columbian weed—and this has 15 percent THC—or almost 30 times more drug in it. So one guy can have a drug 30 times more potent than the other—and still be legal under this proposed law."

Dr. Carlton Turner, Associate Director of the Research Institute of Pharmaceutical Sciences, School of Pharmacy, University of Mississippi, Oxford, Miss., is considered the foremost authority on marijuana in the U.S.

What does Dr. Turner say about it?

"It is now a proven fact that

a chronic user's ability to make rational decisions is affected by the user's marijuana habit. In the heavy marijuana users, there is a strong indication of chromosome damage. The drug has also produced birth defects in animals."

"We know," Dr. Turner continues, "that marijuana lowers the sperm count on heavy users by approximately 20 percent. Extremely heavy users may become impotent. There is frequently a lowering of the sex drive and potency."

Dr. Turner pointed out at a recent seminar that marijuana affects a driver's reaction time. The eyes will not adjust to glare of oncoming headlights if a person has been using marijuana.

Capt. Ritchie stresses emphatically that there is absolutely no test which an officer can take to prove a person is driving while under the influence of marijuana. A blood test will not reveal it—nor will a urine test. Both are used to prove intoxication by alcohol—but there is no test which will prove to a court that a man was stoned out of his mind on pot when the arresting officers picked up the pieces of the automobile crash.

"We had one known pot-head stoned out of his mind so bad he drove right in front of a big semi truck," Ritchie said.

"I'd like to ask the legislators proposing this law—if I go on a drug raid, and I find a half pound of marijuana in the house—and there are eight people living in this house—are all of them then legal? Do we divide up what we find to make it come out the legal one ounce per person? How in hell are we going to enforce such a

law—you tell me?" Ritchie asks, pounding his fist on the desk.

"Another thing—nearly every heroin dealer we have busted in this town was busted because we first got evidence someone was selling or using pot on the premises—we went in with the pot search warrant and we found the hard stuff," Ritchie continues.

"I just wish those legislators and those bleeding hearts who want to legalize pot would go with us sometimes—and see the neglected babies and small children we find in some of these houses; with parents stoned out of their minds and the kids left to shift for themselves," Ritchie says.

"You want to know what kind of people we find on these drug raids? Listen to this—it's the God's truth. We had a house under surveillance recently—and it was a bunch of these young freaks. They had a casket in there—and these two girls were having sexual relations in the casket at various times. Then this guy—he gets stoned and sleeps in this casket every night. They were Satan worshippers—they even had a dried cat's head in there. Now, I'm not saying all pot smokers are like that—but that's the kind of thing we find a lot of times," the Narcotics Division Captain says.

Senator James Parrish, a member of the Legislative Interim Judiciary Committee, says that law enforcement personnel and other opponents of legalizing pot will be heard when the full committee holds hearings on the bill next session.

"I want to know," Ritchie asks, "how am I going to answer my son and daughter in Jr. High School—if this bill

passes and they come home and say, "It's legal, Dad, how can it be any harm?"

"And I want to know this—too," he continues. "What kind of a law will create a legal demand for something that is illegal to sell? If pot is so harmless that I can legally possess an ounce for my own use; and then another ounce—two hours later—and so on—then it must be so harmless that I should be able to sell it—right?"

"I know that K.C., Ed and I are emotional about this issue—we've worked this drug scene a long time. When I went on narcotics—we probably didn't have five heroin addicts in all of Topeka. Today I would estimate we have over 200—maybe as high as 500. Hell—there's no way to tell—we just know there's a helluva lot of the stuff being sold here. We just made the biggest bust we ever made on heroin last week. You gotta have people using a lot of that stuff to find that kind of quantity being hauled into this city. And most of these heroin users we know got started in their teens on pot."

Ritchie thinks again about the people who testified at the hearing last week and he gets mad again.

"So don't try to tell us marijuana is harmless. We've seen it turn too many Topeka kids into vegetables who will do anything to support their habit," he expounds.

You could almost get the idea Capt. Ed Ritchie doesn't approve of legalizing pot.