

A Perspective on Marijuana Legalization

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Session: XL

11/09/12

Over the past decade numerous communities and states across the country have legalized marijuana for medical purposes. As of January 2012, seventeen states and the District of Columbia have legalized marijuana, at least to some extent, for medical use. Two states, Washington and Colorado, voted to decriminalize marijuana in 2012. In November, residents of Arkansas voted on Issue 5 better known as the Arkansas Medical Marijuana Act. If passed, Arkansas would have become the first state in the south and the only state in the “Bible Belt” to legalize medical marijuana. The proposal did not require doctors to prescribe marijuana to their patients; rather, if a doctor diagnosed a patient with one of several illnesses listed in the law, the patient would have been issued a medical marijuana card by the Arkansas Department of Health. On November 6, 2012, the Arkansas Medical Marijuana Act was narrowly defeated. The extremely close vote leads most to believe medical marijuana will return to the ballot again. Two communities in Arkansas; Eureka Springs and Fayetteville, already have established laws making marijuana a low priority for law enforcement. Marijuana advocates believe it is a safe, non-habit forming drug with certain medicinal purposes making it helpful for those with serious medical ailments. Those against the issue believe medical marijuana would lead to legalization and increased crime. Like most controversial issues, the truth probably lies somewhere in the middle; however, law enforcement is left having to deal with the complexity of the issue. The Federal Government has not succumbed to the pressure and continues to prosecute marijuana distributors in states where it is now legal. The issue of marijuana legalization is not going away and communities and their law enforcement must be prepared to deal with it. Law enforcement, law makers, and the community need to be involved in the planning process from the beginning to avoid pitfalls experienced by other communities. Marijuana should not be treated as a

medicine and legalized for medical purposes; however, it should be treated similarly to alcohol and tobacco where it is regulated and taxed.

I spent several years as an investigator for a narcotics unit in Fayetteville, AR. Fayetteville is a college community of about 72,000 full-time residents. During my tenure in the unit, I investigated numerous cases involving “medical marijuana”. The majority of the marijuana I purchased or seized, originated from states allowing medical marijuana. During interviews with suspects, I learned it was much more lucrative to transport and distribute marijuana in states where medical marijuana was not legal. In fact, the profit margins doubled when the product was sold in non-medical marijuana states. I had the opportunity to travel to Oregon and observe medical marijuana growing operations first hand. My experience left me with no doubt the manufacturing of marijuana in medical marijuana states had very little to do with its medicinal properties and had much more to do with profit and recreational use. When I spoke with state, local, and federal law enforcement officials it was apparent the drawback of their medical marijuana acts was the lack of regulation. It became easier to obtain marijuana than alcohol or tobacco. This seems common in states which have legalized medical marijuana. There are few checks and balances in place and certainly little or no control. For example, I observed marijuana being produced in a way, which would be considered violations by the Food and Drug Administration if it were a regulated like an agricultural product or pharmaceutical. Large volumes of unregulated chemicals were being utilized on the marijuana plants to prevent disease and insect damage. This was a direct result of limited or no regulations.

To better understand marijuana it is beneficial to understand cannabis, the genus of plant which is better known as marijuana. The marijuana plant produces dozens of chemicals; however, Delta 9-Tetrahydrocannabinol or THC is the one most associated with the medicinal

effects of the plant. In fact, synthetically manufactured THC known by its brand name Marinol has been available for years with a prescription. When smoked, THC quickly travels from the users lungs into the blood stream. Growers of medical marijuana are interested in obtaining the highest level of THC possible in their product. This is achieved in altering the genetics of the plant, growing conditions and how it is harvested. This process has lead to an increase in the THC content over the past several years. In fact, average THC content has risen from 1.5% in the 1960s to 5% in 2001 with indoor plants obtaining levels as high as 20% (Utah Poison Control Center 2002). Medical marijuana has turned into a generic term for marijuana sold in states where it has been approved for medical purposes; however, this is not how it is known to buyers in the illegal market. Medical marijuana is also known as high grade, kush, swag and other various monikers when purchased illegally. Medical marijuana is very different from marijuana illegally imported from other countries such as Mexico. In Mexico, marijuana plants are typically grown in very large crops. When harvested, the entire plant is cut down and chipped into small pieces before being compressed into large square bales. Medical marijuana is grown and harvested much differently. The growers of medical marijuana are mostly interested in the bud produced by the female plant. The bud is removed from the plant and not compressed. The remainder of the plant is often used to produce other marijuana products such as hash.

Does marijuana have a legitimate medical purpose? This question is the one which seems to bring the most passion in the marijuana debate. Many people suffering from multiple sclerosis, cancer, or AIDS attest to the medicinal properties of marijuana. Often, the counter argument is synthetically produced pharmaceuticals are manufactured to treat these conditions so there is no need to include marijuana as a possibility in the treatment plan. However, it must be considered there has never been a documented case of an accidental or intentional overdose from

ingesting marijuana in history. This is not the case with synthetically manufactured painkillers.

According to the Center for Disease Control (2012):

Overdose deaths from prescription painkillers have skyrocketed in the past decade. Every year, nearly 15,000 people die from overdoses involving these drugs—more than those who die from heroin and cocaine combined. Overdoses involving prescription painkillers—a class of drugs that includes hydrocodone, methadone, oxycodone, and oxymorphone—are a public health epidemic. These drugs are widely misused and abused. One in 20 people in the United States, ages 12 and older, used prescription painkillers non-medically (without a prescription or just for the "high" they cause) in 2010.

Since the passage of California's medical marijuana laws the Center for Medicinal Cannabis Research (CMCR) was established at the University of California. Researches at the CMCR have developed evidence indicating the medicinal properties of marijuana exist and are possibly capable of reducing pain. The studies are in their infancy and the exact medicinal properties are yet to be determined. The consequences of long term marijuana use are also of concern. The effects of marijuana and the mind, particularly the psychotropic effects, are still a concern. (Wallace, 2007, p. 19). The administration method of smoking marijuana and its potentially hazardous side affects is also widely debated. One day science may support the medicinal properties of marijuana; however, at this time there is not enough evidence to support marijuana as a legitimate medicine; however, even the Federal Government seems to contradict themselves on the issue. According to Meyer (2004):

FDA has not approved marijuana for medical use in the United States. Despite its status as an unapproved new drug, there has been considerable interest in its use for the treatment of a number of conditions, including glaucoma, AIDS wasting, neuropathic pain, treatment of spasticity associated with multiple sclerosis, and chemotherapy-induced nausea. Under the Controlled Substances Act (CSA) Congress listed marijuana in Schedule I. Schedule I substances have a very high potential for abuse, no accepted medical use in the United States, and lack accepted safety data for use under medical supervision. Schedule I substances can still be the subject of an IND; however, the conditions for its use are more restrictive.

Marijuana was originally made illegal nationwide in 1937. In 1972, the United States began to draft the Uniform Controlled Substance Act. As a part of this process, the Shafer Commission was formed. The Schaffer Commission recommended simple possession of marijuana be decriminalized and be treated as a social problem. The Commission's recommendations were met with resistance and marijuana was eventually added to the Controlled Substance Act. The Drug Enforcement Administration currently lists marijuana as a Schedule I controlled substance meaning it has no acceptable medical use and has a high potential for abuse. This classification seems inappropriate and contradictory considering today's research. The same agency allows the synthetic alternative Marinol to be deemed a Schedule III drug meaning the drug has less potential for abuse and abuse may lead to moderate or low dependency. For that matter, what is the accepted medical practice for tobacco and is not nicotine highly addictive? Is marijuana is no different than alcohol or tobacco which are both legal to individuals of a certain age. The Drug Enforcement Administration's classifications do little besides confuse an unbiased onlooker. The difference between tobacco and marijuana

however is simple. Tobacco does not create the impairment marijuana does; however, it is ironic that at the same time tobacco is becoming more and more regulated, society is opting to legalize another drug which is inhaled. What about alcohol? Just as with tobacco, alcohol is not a scheduled drug by the Drug Enforcement Administration's guidelines; however, it also does not have a medical use and is highly addictive. Unlike tobacco, alcohol does create impairment so what is the difference? Even in states where medical marijuana is legalized, there is no standard in determining how much THC an individual ingest per administration. Marijuana is most commonly sold by weight of the plant not the amount of the impairing chemical THC. Therefore a purchase of a quarter ounce of marijuana may contain 3 percent THC or 20 percent THC depending on the particular plant, genetics, and other factors. This makes marijuana different from alcohol or any other drug. For example, when a person purchases an alcoholic beverage the label clearly indicates the amount of alcohol in that particular drink not the weight of the liquid. Likewise, a prescription narcotic will contain the amount of the actual drug not the weight of the pill. In order for marijuana to be legalized it must be treated much like alcohol and regulated in the same manner. Alcohol and tobacco are both regulated by a multitude of agencies on the federal, state, and local levels. Marijuana needs to be treated the same way to ensure safe product is being provided to those who chose to use it.

The addictive qualities of marijuana are widely debated primarily because the term addiction is widely debated. Unlike heroin or alcohol, which are physically addictive, marijuana is considered psychologically addictive by some. Others will concede a user can become dependent on marijuana but not addicted. According to the Substance Abuse and Mental Health Services Administration (2011), "Of the 7.1 million Americans with illicit drug dependence 4.5 million of those suffered from an addiction to marijuana." Although marijuana is the most

widely abused illicit drug in the world, this study clearly shows marijuana is clearly addictive among a large number of users. The National Highway Traffic Safety Administration says, “Marijuana is addicting as it causes compulsive drug craving, seeking, and use, even in the face of negative health and social consequences.” Although marijuana can be addictive it is no more so than other legal products such as alcohol, tobacco, and caffeine.

At this time, medical marijuana is a very lucrative illegal business in the majority of the country. A pound of medical marijuana produced in the United States sells for \$4,000 to \$5,000 when sold illegally in non-medical marijuana states. The same pound would sell for half of that in a medical marijuana state. For comparative purposes, a pound of marijuana smuggled from Mexico typically is sold for \$800. The valuation of the product has significantly increased violent crime associated with the illegal sale of medical marijuana. Home invasions, assaults, and homicides have all been directly linked to illegal marijuana sales. The exact numbers are difficult to know because the crimes are either not reported or misrepresented to protect the illegal operation. Legalization advocates believe if marijuana was legal for everyone the violence would subside. I will point to the end of prohibition and the repeal of 18th Amendment and the ratification of 21st Amendment to be a predictor of the future. During prohibition, there was large scale violence associated with illegal alcohol sales. This led to large scale organized criminal enterprises. This obviously echoes the current state of American society and illegal drugs. This is the primary argument against just legalizing medical marijuana only. With more and more communities passing medical marijuana laws, it will continue to fuel the illegal sales of the product.

I also point to the exorbitant amount of money being missed by local, state, and federal government by not legalizing and taxing the production of marijuana. Some quantify marijuana

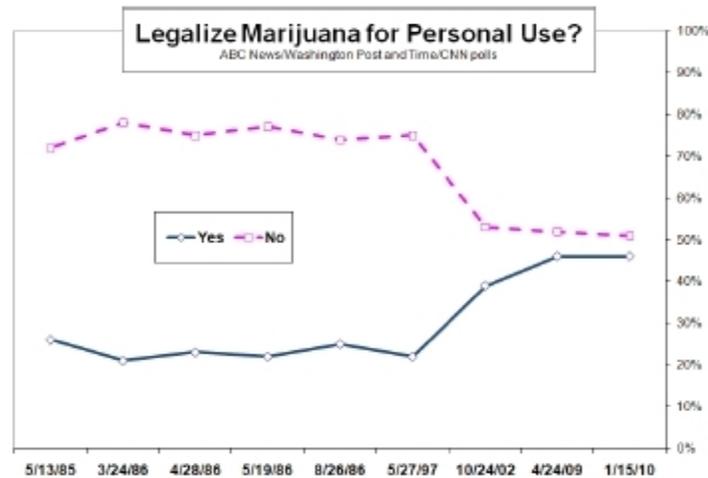
as one of United States largest cash crops, even listing as the top cash crop for several states. This is completely speculative at best. There is no definitive way to know exactly how much marijuana is being sold since most of it continues to be sold illegally. According to Gettman (2007), in 2006, domestic marijuana cultivation was worth \$35.8 billion, more than corn or wheat combined. Gettman specifically said over 56 million marijuana plants were cultivated outdoors with a value of \$31.7 billion and 11.7 million plants were cultivated indoors at a value of \$4.1 billion. First, if marijuana is legalized and cultivated as any normal agricultural product it would certainly lower the price. Secondly, to assume marijuana, when produced legally, would produce a larger cash crop than corn and wheat combined is absurd. One only has to simply examine the number of products containing both of these items and the fact they are consumed by nearly every American to realize this claim to be completely inflated; however, there is no doubt in certain regions, marijuana could become a viable cash crop. Areas such as Oregon, Colorado, and Northern California would certainly benefit from the legalization and taxation of marijuana.

The illegal sale of narcotics is deeply connected with violent crime. Marijuana is no exception and in fact a growing trend of home invasion and robberies specifically target those involved in the illegal sale of medical grade marijuana. This is likely because of the large amount of cash typically possessed by those involved in illegal marijuana sales. This is not typically disputed by those for or against the legalization of marijuana. As an investigator, I worked numerous cases of home invasions, robberies, and even homicides directly linked to the illegal sale of marijuana. Most violent crime attributed to illegal narcotics are robberies for product or money, disputes among rival distributors, and debts owed by purchasers. History has provided a link to their argument to the Prohibition Era in the United States. Other countries

such as the Netherlands who have taken a hands off approach to “soft” drugs and enjoy a typically lower violent crime rate when compared to the United States. In the Netherlands, drug use is considered a social problem and not a criminal issue.

The legal issues surrounding marijuana legalization will continue for years. Even as more and more states legalize medical marijuana and still others legalize it altogether, the Federal Government has shown no willingness to budge on the issue. In 2005, the United States Supreme Court unanimously struck down the California Medical Marijuana Act citing the Congress’ right to criminalize marijuana under the commerce act. President Obama and his administration have also failed to act on the rising controversy. The public image of marijuana legalization has changed drastically over the years with nearly 50% of America now supporting legalizing marijuana for personal use as shown in Figure 1.

Figure 1:



I will concede marijuana is not a safe alternative medicine without any potential side effects. Smoking marijuana has been linked to long term and serious medical conditions such as lung cancer, prostate cancer, and mental health issues. Marijuana may be, at least some form,

addictive; however, this is no different from other legal and available items such as alcohol and tobacco. Americans enjoy a number of freedoms which may not be in their health's best interest; however, most of those freedoms are not banned by the government. Law enforcement must be prepared to respond accordingly as the

Marijuana legalization is pushing further and further into the mainstream and it would be in the best interest for communities and law enforcement to move beyond their preconceived notions of the drug and look for ways to regulate it and make the transition as safe as possible. Marijuana manufactured, distributed, taxed and regulated similarly to alcohol and tobacco is the most viable option. Law enforcement agencies need to be created prior to the full legalization of marijuana. Organizations such as the Alcohol, Tobacco, and Firearms (ATF) on the federal level and the Alcoholic Beverage Control (ABC) on the state level would need to be formed to regulate the industry.

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