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Working to Reform Marijuana Laws

## **NORML Report on Sixty Years of Marijuana Prohibition in the U.S.**

### **Marijuana Prohibition 1937-1997**

A report prepared by the National Organization for the Reform of Marijuana Laws (NORML) on the occasion of the 60th anniversary of the adoption of the "Marijuana Tax Act of 1937."

### **Executive Summary**

#### **Part I.**

Marijuana cultivation in the United States can trace its lineage some 400 years. Cultivation of marijuana for fiber continued in America through the turn of the 20th century.

Marijuana first earned recognition as an intoxicant in the 1920s and 1930s. During this time, exaggerated accounts of violent crimes allegedly committed by immigrants intoxicated by marijuana became popularized by tabloid newspapers and the newly formed Federal Bureau of Narcotics. Congress approved the "Marijuana Tax Act of 1937" based almost entirely on this propaganda and misinformation.

#### **Part II.**

Marijuana remains the third most popular recreational drug of choice in the United States despite 60 years of criminal prohibition. *According to government figures, nearly 70 million Americans have smoked marijuana at some time in their lives. Of these, 18 million have smoked marijuana within the last year, and ten million are regular marijuana smokers.*

The vast majority of these individuals are otherwise law-abiding citizens who work hard, raise families, and contribute to their communities. They are not part of the crime problem and should not be treated as criminals.

#### **Part III.**

The Clinton administration is waging a more intensive war on marijuana smokers than any other presidency in history. *Presently, law enforcement arrests a marijuana smoker every 45 seconds in America at a tremendous cost to society.* This represents a 60 percent increase in marijuana arrests since Clinton took office. Over ten million Americans have been arrested on marijuana charges since the National Commission on Marijuana and Drug Abuse issued its recommendation to Congress in 1972 to decriminalize marijuana.

Because of harsh federal and state penalties, marijuana offenders today may be sentenced to lengthy jail terms. Even those who avoid incarceration are subject to an array of additional punishments, including loss of driver's license (even where the offense is not driving related), loss of occupational license, loss of child custody, loss of federal benefits, and removal from public housing. Under state and federal forfeiture laws, many suspected marijuana offenders lose their cars, cash, boats, land, business equipment, and houses. Eighty percent of the individuals whose assets are seized are never charged with a crime.

Marijuana prohibition disproportionately impacts minorities. Blacks and Hispanics are over-represented both in the numbers of arrests and in the numbers of marijuana offenders

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incarcerated. Blacks and Hispanics make up 20 percent of the marijuana smokers in the United States, but comprise 58 percent of the marijuana offenders sentenced under federal law last year.

### Part IV.

Nonviolent marijuana offenders often receive longer prison sentences than those allotted to violent offenders.

Most Americans do not want to spend scarce public funds incarcerating nonviolent marijuana offenders, at a cost of \$23,000 per year. Politicians must reconsider our country's priorities and attach more importance to combating violent crime than targeting marijuana smokers.

### Part V.

Marijuana prohibition costs taxpayers at least \$7.5 billion annually. This is an enormous waste of scarce federal dollars that should be used to target violent crime.

### Part VI.

Marijuana prohibition makes no exception for the medical use of marijuana. The tens of thousands of seriously ill Americans who presently use marijuana as a therapeutic agent to alleviate symptoms of cancer, AIDS, glaucoma, or multiple sclerosis risk arrest and jail to obtain and use their medication.

Between 1978 and 1996, *34 states passed laws recognizing marijuana's therapeutic value.* Most recently, voters in two states -- Arizona and California -- passed laws allowing for the medical use of marijuana under a physician's supervision. Yet, states are severely limited in their ability to implement their medical use laws because of the federal prohibition of marijuana.

### Part VII.

America tried alcohol prohibition between 1919 and 1931, but discovered that the crime and violence associated with prohibition was more damaging than the evil sought to be prohibited. With tobacco, America has learned over the last decade that education is the most effective way to discourage use. Yet, America fails to apply these lessons to marijuana policy.

By stubbornly defining all marijuana smoking as criminal, including that which involves adults smoking in the privacy of their own homes, we are wasting police and prosecutorial resources, clogging courts, filling costly and scarce jail and prison space, and needlessly wrecking the lives and careers of genuinely good citizens.

## I. Marijuana Use in America Before 1937; Sowing the Seeds for Prohibition

Marijuana cultivation in the United States can trace its lineage some 400 years. For most of our nation's history, farmers grew marijuana -- then known exclusively as hemp -- for its fiber content. Colonialists planted the first American hemp crop in 1611 near Jamestown, Virginia. Soon after, King James I of Britain ordered settlers to engage in wide scale farming of the plant. <sup>1</sup> Most of the sails and ropes on colonial ships were made from hemp as were many of the colonists' bibles, clothing, and maps. <sup>2</sup> According to some historians, George Washington and Thomas Jefferson cultivated marijuana and advocated a hemp-based economy. <sup>3</sup> Some colonies even made hemp cultivation compulsory and called its production necessary for the "wealth and protection of the country." <sup>4</sup> Marijuana cultivation continued as an agricultural staple in America through the turn of the 20th century.

Marijuana first earned recognition as an intoxicant in the 1920s and 1930s. Recreational use of the drug became associated primarily with Mexican-American immigrant workers and the African-American jazz musician community. It was during this time that hemp was renamed "marihuana" and the plant's long-standing history as a cash crop was replaced with a new image: "The Devil's Weed."

In 1930, the federal government founded the Federal Bureau of Narcotics (FBN), headed by Commissioner Harry Anslinger. The group launched a misinformation campaign against the drug and enrolled the services of Hollywood and several tabloid newspapers. Headlines across the nation began publicizing alleged reports of insanity and violence induced by "reefer-smoking." Exaggerated accounts of violent crimes committed by immigrants reportedly intoxicated by marijuana became popularized. Once under the influence of the drug, criminals purportedly knew no fear and lost all inhibitions. For example, a news bulletin issued by the FBN in the mid-1930s purported that a user of marijuana "becomes a fiend with savage or 'cave man' tendencies. His sex desires are aroused and some of the most horrible crimes result. He hears light and sees sound. To get away from it, he suddenly becomes violent and may kill." <sup>5</sup>

Similar reports swept the country. A widely publicized issue of the *Journal of Criminal Law and Criminology* asserted that the marijuana user is capable of "great feats of strength and endurance, during which no fatigue is felt. ... Sexual desires are stimulated and may lead to unnatural acts, such as indecent exposure and rape. ... [Use of marijuana] ends in the destruction of brain tissues and nerve centers, and does irreparable damage. If continued, the inevitable result is insanity, which those familiar with it describe as absolutely incurable, and, without exception ending in death." <sup>6</sup> A *Washington Times* editorial published shortly before Congress held its first hearing on the issue argued: "The fatal marihuana cigarette must be recognized as a deadly drug and American children must be protected against it." <sup>7</sup> This steady stream of propaganda influenced 27 states to pass laws against marijuana in the years leading up to federal prohibition and set the stage both culturally and politically for the passage of the "Marihuana Tax Act in 1937."

Rep. Robert L. Doughton of North Carolina introduced the Act in Congress on April 14, 1937 to criminalize the recreational use of marijuana through prohibitive taxation. The bill was the brainchild of Commissioner Anslinger who later testified before Congress in support of the bill.

Congress held only two hearings to debate the merits of marijuana prohibition. The hearings totaled just one hour. [8](#) Federal witness Harry Anslinger testified before the House Ways and Means Committee that "this drug is entirely the monster-Hyde, the harmful effect of which cannot be measured." He was joined by Assistant General Counsel for the Department of the Treasury, Clinton Hester, who affirmed that the drug's eventual effect on the user "is deadly." These statements summarized the federal government's official position and served as the initial justification for criminalizing marijuana smoking. [9](#)

The American Medical Association (AMA) represented the lone voice against marijuana prohibition before Congress. AMA Legislative Counsel Dr. William C. Woodward testified, "There is no evidence" that marijuana is a dangerous drug. Woodward challenged the propriety of passing legislation based only on newspaper accounts and questioned why no data from the Bureau of Prisons or the Children's Bureau supported the FBN's position. He further argued that the legislation would severely compromise a physician's ability to utilize marijuana's therapeutic potential. Surprisingly, the committee took little interest in Woodward's testimony and told the physician, "If you want to advise us on legislation, you ought to come here with some constructive proposals ... rather than trying to throw obstacles in the way of something that the federal government is trying to do." [10](#)

After just one hearing, the Ways and Means Committee approved the "Marihuana Tax Act." The House of Representatives followed suit on August 20 after engaging in only *90 seconds* of debate. During this abbreviated floor "discussion," only two questions were asked. First, a member of congress from upstate New York asked Speaker Sam Rayburn to summarize the purpose of the bill. Rayburn replied, "I don't know. It has something to do with a thing called marijuana. I think it is a narcotic of some kind." The same representative then asked, "Mr. Speaker, does the American Medical Association support the bill?" Falsely, a member of the Ways and Means Committee replied, "Their Doctor Wharton (sic) gave this measure his full support ... [as well as] the approval [of] the American Medical Association." [11](#) Following this brief exchange of inaccurate information, the House approved the federal prohibition of marijuana without a recorded vote.

Doughton's bill sailed though the Senate with the same ease. The Senate held one brief hearing on the bill before overwhelmingly approving the measure. President Franklin Roosevelt promptly signed the legislation into law on August 2, 1937. The "Marihuana Tax Act" took effect on October 1, 1937.

Thus began the criminal prohibition of marijuana that remains in place today.

## **II. Marijuana Prohibition Is a Failure - Millions of Americans Smoke Marijuana Despite Laws Outlawing Its Use**

Marijuana remains the third most popular recreational drug of choice in the United States despite 60 years of criminal prohibition. Only alcohol and tobacco are regularly consumed by a greater percentage of the population. Clearly, prohibition fails to eliminate or even significantly deter the use of marijuana among the American public.

It is time to put to rest the myth that smoking marijuana is a fringe or deviant activity engaged in only by those on the margins of American society. In reality, marijuana smoking is extremely common and marijuana is the recreational drug of choice for millions of mainstream, middle class Americans. According to the most recent data from the United States Department of Health and Human Services (HHS), *nearly 70 million Americans have smoked marijuana at some time in their lives*. [12](#) Of these, 18 million have smoked within the past year, and approximately 10 million are current smokers (defined as having smoked at least once in the last month). [13](#) In fact, HHS found that 57 percent of all current illicit drug users report that marijuana is the *only* illegal drug they have used; this figure rises to 77 percent if hashish (a more concentrated form of marijuana) is included. [14](#)

A recent national survey of voters conducted by the American Civil Liberties Union (ACLU) found that 34% -- one third of the voting adults in the country -- acknowledged having smoked marijuana at some point in their lives. [15](#) Many successful business and professional leaders, including many state and federal elected officials from both political parties, admit they used marijuana. It is time to reflect that reality in our state and federal legislation, and stop acting as if marijuana smokers are part of the crime problem. They are not, and it is absurd to continue spending limited law enforcement resources arresting them.

Marijuana smokers in this country are no different from their nonsmoking peers, except for their marijuana use. Like most Americans, they are responsible citizens who work hard, raise families, contribute to their communities, and want to live in safe, crime-free neighborhoods. They are otherwise law-abiding citizens who live in fear of arrest and imprisonment solely because they choose to smoke marijuana for relaxation instead of drinking alcohol. Marijuana prohibition is a misapplication of the criminal sanction which undermines respect for the law in general and extends government into inappropriate areas of private lives.

Millions of Americans use marijuana; few abuse it. The government should limit its involvement in this issue solely to address and sanction irresponsible marijuana use. Responsible marijuana use causes no harm to society and should be of no interest to the federal government.

### **III. Law Enforcement Arrests a Marijuana Smoker Every 45 seconds in America at a Tremendous Cost to Society.**

In 1972, a blue-ribbon panel of experts appointed by President Richard Nixon and led by former Pennsylvania Governor Raymond Shafer concluded that marijuana prohibition posed significantly greater harm to the user than the use of marijuana itself. The National Commission on Marijuana and Drug Abuse recommended that state and federal laws be changed to remove criminal penalties for possession of marijuana for personal use and for the casual distribution of small amounts of marijuana. [16](#) That year, law enforcement arrested almost 300,000 Americans on marijuana charges. [17](#)

A 1982 National Academy of Sciences' (NAS) report on marijuana reaffirmed that criminal justice approaches were inappropriate and harmful. It recommended not only that marijuana possession be decriminalized, but that lawmakers give serious consideration to creating a system of regulated distribution and sale. [18](#) Law enforcement arrested over 450,000 Americans for violating marijuana laws that year. [19](#)

In May of this year, research findings from a comprehensive, long term study performed by Kaiser Permanente concluded that no link existed between regular marijuana smoking and mortality and emphasized that marijuana prohibition posed the only significant health hazard to the user. The report advocated that "medical guidelines regarding [marijuana's] prudent use ... be established, akin to the common-sense guidelines that apply to alcohol use." In 1995, the most recent year for which the federal government has arrest statistics, law enforcement charged almost 600,000 Americans with marijuana violations. This figure is the greatest number ever recorded since marijuana prohibition began; it means that *one marijuana smoker is arrested every 45 seconds in America*.

Despite criticism that President Clinton is "soft" on drugs, annual data from the Federal Bureau of Investigation's (FBI) Uniform Crime Report demonstrate that Clinton administration officials are waging a more intensive war on marijuana smokers than any other presidency in history. Law enforcement arrested approximately 1.5 million Americans on marijuana charges during the first three years of Clinton's administration -- 84 percent of them for simple possession. The average number of yearly marijuana arrests under Clinton (483,548) is 30 percent higher than under the Bush administration (338,998), and last year's total alone is more than double the 1991 total (287,850). [22](#)

Marijuana penalties vary nationwide, but most levy a heavy financial and social impact for the hundreds of thousands of Americans who are arrested each year. In 42 states, possession of any amount of marijuana is punishable by incarceration and/or a significant fine. [23](#) For example, individuals arrested for simple marijuana possession in Arizona may face eighteen months in jail and a \$150,000 fine. [24](#) Many states also have laws automatically suspending the drivers' license of an individual if they are convicted of any marijuana offense, even if the offense was not driving related.

Penalties for marijuana cultivation and/or sale also vary from state to state. Ten states have maximum sentences of five years or less and eleven states have a maximum penalty of thirty years or more. [25](#) Some states punish those who cultivate marijuana solely for personal use as severely as large scale traffickers. For instance, medical marijuana user William Foster of Oklahoma was sentenced to 93 years in jail in January 1997 for growing 10 medium-sized marijuana plants and 56 clones (cuttings from another plant planted in soil) in a 25-square-foot underground shelter. [26](#) Foster maintains that he grew marijuana to alleviate the pain of rheumatoid arthritis. Unfortunately, Foster's plight is not an isolated event; marijuana laws in six states permit marijuana importers and traffickers to be sentenced to life in jail. [27](#)

Even those who avoid state incarceration are subject to an array of punishments that may include submitting to random drug tests, probation, paying for mandatory drug counseling, loss of an occupational license, expensive legal fees, lost wages due to absence from work, loss of child custody, loss of federal benefits, and removal from public housing. In some states, police will notify the employers of people who are arrested. As a result, employees may lose their job. [28](#)

Federal laws prohibiting marijuana are also severe. Under federal law, possessing one marijuana cigarette or less is punishable by a fine of up to \$10,000 and one year in prison, the same penalty as for possessing small amounts of heroin and cocaine. In one extreme case, attorney Edward Czaprynski of Michigan served 14 months in federal prison for possession of 1.6 grams of marijuana before a panel of federal appellate judges reviewed his case and demanded

his immediate release. [29](#) Cultivation of 100 marijuana plants or more carries a mandatory prison term of five years. Large scale marijuana cultivators and traffickers may be sentenced to death.

Presently, Congress is proposing that the amount of marijuana necessary to trigger the death penalty be substantially lowered. The "Drug Importer Death Penalty Act of 1997," introduced by admitted former marijuana smoker Newt Gingrich (R-Ga.), would potentially sentence first offenders convicted of bringing more than 50 grams (less than two ounces) of marijuana across U.S. borders to life in prison without parole. Those offenders convicted for a second time -- presumably the first offense would have been convicted before H.R. 41's enactment -- would be sentenced to death. Thirty-seven members of Congress are present cosponsors of this bill.

Federal laws also deny entitlements to marijuana smokers. Under legislation introduced by Sen. Phil Gramm (R-Texas) and signed into law last year, states may deny cash aid (e.g., welfare, etc.) and food stamps to anyone convicted of felony drug charges. For marijuana smokers, this includes most convictions for cultivation and sale, even for small amounts and nonprofit transfers. Currently, a murderer, rapist, or robber could receive federal funds and benefits, but not most individuals convicted of cultivating a small amount of marijuana.

In addition, under both state and federal law, mere investigation for a marijuana offense can result in the forfeiture of property, including cash, cars, boats, land, business equipment, and houses. Amazingly, the owner does not have to be found guilty or even formally charged with any crime for the seizure to occur. In 1993, Illinois Congressman Henry Hyde (R) reported that 80 percent of the individuals whose assets are seized by the federal government under drug forfeiture laws are never charged with a crime. Law enforcement often targets suspected marijuana offenders for the purpose of seizing their property, sometimes with tragic results. For example, millionaire rancher Donald Scott was shot and killed by law enforcement officials in 1992 at his Malibu estate in a botched raid. Law enforcement failed to find any marijuana plants growing on his property and later conceded that their primary motivation for investigating Scott was to eventually seize his land. [30](#)

State and federal marijuana laws also have a disparate racial impact on ethnic minorities. While blacks and Hispanics make up only 20 percent of the marijuana smokers in the U.S., [31](#) they comprised 55 percent of the marijuana offenders sentenced under federal law in 1995. [32](#) State arrest and incarceration rates paint a similar portrait. For example, in Illinois, 57 percent of those sent to prison for marijuana in 1995 were black or Hispanic. [33](#) In California, 49 percent of those arrested for marijuana offenses in 1994 were black or Hispanic. And in New York state, 71 percent of those arrested for misdemeanor marijuana charges in 1995 were non-white. [35](#)

Since the Shafer Commission reported their findings to Congress in 1972 advocating marijuana decriminalization, *over ten million Americans have been arrested on marijuana charges*. Marijuana prohibition is a failed public policy that is out of touch with today's social reality and inflicts devastating harm on millions of citizens.

#### **IV. Nonviolent Marijuana Offenders Often Serve Longer Sentences Than Murderers or Rapists.**

Elected officials at both the state and federal level often engage in what the National Criminal Justice Commission calls "bait and switch." Employers of this technique exploit the public's natural fear of violent crime and propose harsh, sometimes mandatory anti-drug legislation in response. Unfortunately, this legislation seldom targets violent criminals or large drug traffickers. Rather, it often inflicts a devastating impact on minor, non-violent drug offenders.

For example, harsh federal and state sentences often apply to *all* marijuana distribution and "possession with the intent to distribute" offenses, regardless of whether any violence was associated with the event or the defendant is a significant marijuana trafficker. Even minor offenses may qualify for harsh mandatory sentences. This is a needlessly destructive policy that is both a misuse of the criminal process and a waste of criminal justice resources. If combating violent crime is the reason for imposing harsh and unyielding mandatory sentences, then such legislation should solely target violent offenders. There is no justification for treating non-violent marijuana offenses differently, yet many laws continue to do so.

For instance, many adult marijuana smokers share marijuana on a nonprofit basis with friends. Under many state laws, this activity could subject them to lengthy prison sentences.

Similarly, many seriously ill people -- including AIDS and cancer patients -- use marijuana to relieve their pain and suffering. Often their illness requires that a primary caregiver obtain marijuana for them. Many of these caregivers could serve a mandatory prison sentence if convicted under existing marijuana laws. Also at great risk are the proprietors of cannabis buyers' clubs (CBCs) who supply marijuana to seriously ill patients who possess a doctor's recommendation. Despite operating with the tacit acceptance of local law enforcement, all clubs operate in violation of federal law and most are in violation of state law. Owners of these clubs, who sometimes grow medical marijuana on site, often face federal mandatory minimum sentences for their activities. For example, federal agents confiscated over 300 marijuana plants at a California CBC called Flower Therapy on April 24, 1997. <sup>36</sup> Even though the club operated in accordance with state law and the plants confiscated were grown for medicinal purposes only, the owners of the club face a mandatory minimum sentence of at least five years in prison if they are found guilty of cultivation. This mandatory sentence is equal to the average prison time served by defendants convicted of violent crimes like manslaughter and is over one-year longer than the average federal sentence served for assault. <sup>37</sup> Likewise, individual patients preferring to avoid the black market altogether and grow a few marijuana plants in their homes are also subject to stiff state and/or federal penalties.

Marijuana possession and cultivation offenses have absolutely nothing to do with violence, yet people convicted of these offenses regularly serve longer sentences than those convicted of violent offenses, including rape and murder. State and national leaders need to reconsider our country's priorities and attach more importance to combating violent crime rather than targeting marijuana smokers.

Most Americans do not want to spend public funds incarcerating nonviolent marijuana offenders, at a cost of \$23,000 per year. <sup>38</sup> NORML insists that our elected officials recognize that marijuana smokers are not part of the crime problem and it is wasteful, deleterious, and inhumane for our criminal statutes to treat them as if they were.

## V. Marijuana Prohibition Costs Taxpayers at Least \$7.5 Billion Annually



While there is a lack of information on the precise costs of marijuana prohibition in the available literature, it is possible to estimate the tremendous annual fiscal costs of marijuana prohibition.

Annual federal government expenditures on the "war on drugs" average \$15.7 billion annually. [39](#) In addition, state and local governments also spend \$16 billion per year enforcing drug laws. [40](#) In 1995, nearly 600,000 of the total 1.5 million drug arrests in America were for marijuana offenses. [41](#) Therefore, it is reasonable to assume that between 25 and 40 percent of the total \$31 billion annual costs are related to marijuana prohibition. Using this basic calculation, marijuana prohibition costs the American taxpayers between \$7.5 and \$10 billion annually in enforcement alone.

A second way to quantify the costs of marijuana prohibition is to isolate the yearly financial burden inflicted on the criminal justice system by arresting over half a million otherwise law-abiding citizens on marijuana charges. Every time a marijuana arrest occurs -- even the most trivial arrest -- at least two police officers are taken off the street for several hours to prepare the paperwork and process the defendant. (This occurs even if the individual is allowed to later go free on bond.) If one assumes for simplicity that all the approximately 600,000 marijuana arrests reported in 1995 were simple cases involving no prior use of police time or resources and taking no more than two hours to process, then marijuana prohibition costs law enforcement a minimum of 2,400,000 man hours annually. These are police man hours and fiscal costs that could be better spent targeting violent crime. For example, following the adoption of marijuana decriminalization in California in 1976, the state saved an average of \$95.8 million annually. [42](#)

Of course, these fiscal costs do not end with an arrest. In many instances, police continue to investigate the facts of the case, prosecutors prepare the case for trial or negotiate a plea bargain (estimated at between five and ten hours per case), [43](#) and judges and court personnel engage in a trial or accept a plea agreement in open court. These prosecutorial costs alone likely cost Americans hundreds of millions of dollars annually.

Clearly more sophisticated economic analysis is needed in this area. Unfortunately, there is no evidence that government is interested in calculating the precise cost of marijuana prohibition because it does not want to have to justify these costs to the American public. It is wasteful and disadvantageous to spend billions of otherwise limited federal dollars on a failed and ineffective public policy at the expense of already underfunded social programs.

## **VI. Marijuana Prohibition Makes No Exception for Medical Users**

Marijuana prohibition applies to everyone, including the sick and dying. Of all the negative consequences of marijuana prohibition, none is as tragic as the denial of medicinal marijuana to the tens of thousands of seriously ill patients who could benefit from its therapeutic use.

It is clear from available studies and rapidly accumulating anecdotal evidence that marijuana is therapeutic in the treatment of a number of serious ailments and is less toxic and costly than the conventional medicines for which it may be substituted. In many cases, marijuana is more effective than the commercially available drugs it replaces. Prestigious groups such as the American Public Health Association, the Federation of American Scientists, and the British Medical Association, as well as *New England Journal of Medicine* editor Jerome Kassirer, publicly

endorse the medicinal use of marijuana. Moreover, in 1988, the Drug Enforcement Administration's own chief administrative law judge, Francis L. Young, declared that marijuana was "one of the safest therapeutically active substances known to man." [44](#)

The best-established medical use of smoked marijuana is as an anti-nauseant for cancer chemotherapy. During the 1980s, smoked marijuana was shown to be an effective anti-emetic in six different state-sponsored clinical studies involving nearly 1,000 patients. [45](#) For the majority of these patients, smoked marijuana proved more effective than both conventional prescription anti-nauseants and oral THC (marketed today as the synthetic pill, Marinol). Currently, many oncologists are recommending marijuana to their patients despite its prohibition. [46](#)

In addition to its usefulness as an anti-emetic, scientific and anecdotal evidence suggests that marijuana is a valuable aid in reducing pain and suffering for patients with a variety of other serious ailments. For example, marijuana alleviates the nausea, vomiting, and the loss of appetite experienced by many AIDS patients without accelerating the rate at which HIV positive individuals develop clinical AIDS or other illnesses. In addition, it is generally accepted -- by the National Academy of Sciences (NAS) and others -- that marijuana reduces intraocular pressure (IOP) in patients suffering from glaucoma, the leading cause of blindness in the United States.

Clinical and anecdotal evidence also points to the effectiveness of marijuana as a therapeutic agent in the treatment of a variety of spastic conditions such as multiple sclerosis, paraplegia, epilepsy, and quadriplegia. A number of animal studies and a handful of carefully controlled human studies have supported marijuana's ability to suppress convulsions. A summary of these findings was published by the National Academy of Sciences' (NAS) Institute of Medicine in 1982. [48](#)

Between 1978 and 1996, legislatures in [34 states](#) passed laws recognizing marijuana's therapeutic value. Twenty-five of these laws remain in effect today. Most recently, voters in two states -- Arizona and California -- overwhelmingly passed laws allowing for the legal use of marijuana under a physician's supervision. Unfortunately, all of these laws are limited in their ability to protect patients from criminal prosecution or provide medical marijuana to those who need it by federal prohibition. In addition, federal officials have threatened to sanction physicians who recommend or use marijuana in compliance with state laws. Clearly, patients who could benefit from marijuana's therapeutic value are being held hostage by a federal government that continues to treat the issue as if it were part of the "war on drugs" instead of a legitimate public health issue. Congress must act to correct this injustice. *When compassion and justice are in conflict with current law, then the law must change.*

At NORML's urging, Rep. Barney Frank (D-Mass.), along with co-sponsors Nancy Pelosi (D-Calif.) and Zoe Lofgren (D-Calif.), introduced legislation in Congress on June 4, 1997, that would remove federal obstacles which currently interfere with an individual state's decision to permit the medicinal use of marijuana. H.R. 1782, the "Medical Use of Marijuana Act," allows physicians to legally recommend or prescribe marijuana to seriously ill patients where state law allows them to do so. In addition, it permits states to legally implement different systems of growing and distributing medical marijuana under state law.

H.R. 1782 is not a mandate from Washington and would not require any state to change its current laws. It is a states' rights bill that acknowledges the will of the American people and would

allow states to determine for themselves whether marijuana should be legal for medicinal use. It is a common-sense solution to a complex issue and would provide a great deal of relief from suffering for a large number of people. NORML implores Congress to support this compassionate proposal to protect the ten of thousands of Americans who currently use marijuana as a medicine and the millions who would benefit from its legal access. Many seriously ill patients find marijuana the most effective way to relieve their pain and suffering and federal marijuana prohibition must not, in good conscience, continue to deny them that medication.

## **VII. It Is Time To End Marijuana Prohibition and To Stop Arresting Otherwise Law-Abiding Marijuana Smokers**

The "war on drugs" is not really about drugs; if it were, tobacco and alcohol would be the primary targets. They are the most commonly used and abused drugs in America and unquestionably cause far more harm to the user and to society than does marijuana. Yet neither is illegal.

America tried to prohibit alcohol, but soon discovered that the crime and violence associated with prohibition was more damaging than the evil sought to be prohibited. With tobacco, America has learned over the past two decades that education is the most effective way to discourage use. Americans smoke far fewer cigarettes today than in the past without having the criminal justice system issue a single arrest, administer one drug test, seize any property, or sentence anyone to jail. Yet, the federal government fails to apply these lessons toward a rational and effective marijuana policy. Instead, politicians continue to support and enforce a failed, 60-year old public policy at the expense of rational discourse, billions in misappropriated funds and resources, and many of the founding principles and freedoms that America was built upon. The "war on drugs" has become largely a war on marijuana smokers, and the casualties of this war are the wrecked lives and the destroyed families of the half a million otherwise law-abiding citizens who are arrested each year on marijuana charges.

As a nation we have talked too long in the language of war. It is time to seek a policy that distinguishes between use and abuse, and reflects the importance America places on the right of the individual to be free from the overreaching power of government. Most would agree that the government has no business knowing what books we read, the subject of our telephone conversations, or how we conduct ourselves in the bedroom. Similarly, whether one smokes marijuana or drinks alcohol to relax is simply not an appropriate area of concern for the government. By stubbornly defining all marijuana smoking as criminal, including that which involves adults smoking in the privacy of their home, government is wasting police and prosecutorial resources, clogging courts, filling costly and scarce jail and prison space, and needlessly wrecking the lives and careers of genuinely good citizens.

Responsible marijuana smokers present no threat or danger to America, and there is no reason to treat them as criminals. To do so is to wage war without cause against a significant segment of our nation's adult population.

Speaking before Congress on the 40th anniversary of marijuana prohibition -- August 2, 1977 - President Jimmy Carter stated: "Penalties against drug use should not be more damaging to an individual than use of the drug itself. Nowhere is this more clear than in the laws against possession of marijuana in private for personal use." Twenty years later, the former president's

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words ring as urgent as ever. After 60 years of a failed and destructive policy, it is time to once and for all end marijuana prohibition.

## Footnotes

### References

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- <sup>3</sup> Grinspoon, p. 12; John Roulac, *Industrial Hemp: Practical Products -- Paper to Fabric to Cosmetics* (Ojai, California: Hemptech Publishing, 1995), p. 8; Rowan Robinson, *The Great Book of Hemp* (Rochester, Vermont: Park Street Press, 1996) pp. 129-133.
- <sup>4</sup> Wayne D. Rasmussen, ed., *Readings in the History of American Agriculture* (Urbana, Illinois: University of Illinois Press, 1969), p. 296; Roulac, p. 7
- <sup>5</sup> Grinspoon, p. 17.
- <sup>6</sup> Robinson, p. 147.
- <sup>7</sup> U.S. Congress, House, Ways and Means Committee, *Taxation of Marihuana, Hearings on H.R. 6385*, 75th Cong., 1st sess., April 27, 1937, statement of Clinton Hester.
- <sup>8</sup> Richard J. Bonnie, *The History of the Non-Medical Use of Drugs in the United States: A Speech to the California Judges Association 1995 Annual Conference*, (reprinted not for profit by Iowa NORML, 1997).
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- <sup>11</sup> U.S. Congress, House of Representatives, *Congressional Record*, 75th Cong., 1st sess., June 14, 1937, p. 5575.
- <sup>12</sup> Substance Abuse and Mental Health Services Administration Office of Applied Studies, *Preliminary Estimates from the 1995 National Household Survey on Drug Abuse* (Washington, DC: U.S. Department of Health and Human Services, 1996), pp. 56-60.
- <sup>13</sup> Ibid.
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