Legalizing Marijuana
Legalizing Marijuana
A Shift in Policies Across America

Edited by
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Carolina Academic Press
Durham, North Carolina
This book is dedicated to Lynda Block Hill.
Thanks for everything.
## Contents

### Introduction  

**1 · Federalism and US Marijuana Laws: A Constitutional Crisis**  
*Willard M. Oliver*  
Introduction 3  
History of Marijuana in the US 4  
Federalism 7  
Making of a Modern Crisis in Federalism 9  
Marijuana and the Federalism Crisis 12  
Conclusion 15  
References 15

**2 · Up in Smoke: Marijuana, Abstract Empiricism, and the Criminological Imagination**  
*Edward L. W. Green and Kevin F. Steinmetz*  
A Brief History of Reefer 23  
The Rise of Cannabis 23  
“Reefer Madness”: The Criminalization of a Plant 25  
Contradicting Mythology: A Counter-Narrative of Marijuana 27  
Moving Toward a Criminological Imagination: Steering Criminology Away from an Atheoretical Iceberg 29  
Marijuana and Moral Panics: Jump-Starting the Criminological Imagination 32  
Moral Panic Theory 33  
Conclusion 38  
References 39

**3 · Decriminalization of Cannabis in Portugal, Uruguay, and the Netherlands: Lessons Learned**  
*Brooke Shannon*  
Background 43  
Country Case Studies 44
viii CONTENTS

Portugal 44
Uruguay 47
The Netherlands 49
What This Means for the US 52
References 53

4 · Marijuana and the Media: Changes in Bias 57
Joshua B. Hill
Introduction 57
Literature Review 58
Methods 60
Results 61
  Overall Themes 61
  Overall Tone 63
  Comparison of Themes Pre- and Post-Initiatives 64
  Comparison of Tone Pre- and Post-Initiatives 65
Discussion 65
Limitations 67
Conclusion 67
References 68

5 · Recreational Marijuana Implementation in Colorado and Washington: Referendum v. Initiative 71
John R. Turner
Introduction 71
Marijuana and the Law: A Brief History 72
Public Support for Marijuana 72
Differences in Implementation 73
Direct Democracy: Defining Initiatives and Referendums 74
General Problems with Implementation 75
Washington: The Initiative Process 77
Colorado: The Referendum Process 77
Impact of Initiative and Referendum: After the Election 78
Current Status in Colorado and Washington 81
Positive Side of the Initiative Process 83
Current Status of Other “Legal” States 83
The Future of Recreational Marijuana 84
Conclusion 85
References 86
6 · Marijuana Legalization: Comparing Recent Ballot Initiatives
Kenneth Leon and Ronald Weitzer
Introduction 89
Background 90
Predictors of Vice Legalization 93
Methods 95
Findings 97
   California 97
   Oregon 101
   Colorado 104
   Washington 106
Discussion 109
References 114

7 · No Tokes over the Line: Marijuana Decriminalization, Medicalization and Legalization As It Affects Decarceration
Mary K. Stohr and Cheyenne Foster
Introduction 119
The Evolving History of the “Evil Weed”: Marijuana 120
Medicinal Challenges and the Reported Benefits of Marijuana 124
Decriminalization and Legalization: A Recognition of Failed Policy 125
Decarceration: Marijuana Convictions No Longer Provide a Gateway to Prison (or Jails) 127
Conclusions 131
References 131
Relevant Laws 134

8 · Cannabis-Impaired Driving: The Extent of the Problem and Countermeasures Being Taken Now and to Be Taken in the Future
Nicholas Lovrich, Ericka Christensen, and Douglas Routh
Introduction 135
Extent of the Problem 137
Limited Success of Youth Desistance Messaging 141
Evidence on the Effect of Cannabis Use on Driving 144
The Call to Arms for Traffic Enforcement 146
Combating the Dramatic Increase in Drug-Impaired Driving Offenses 147
The Track Record on DRE Assessments in Cannabis Cases 153
Research Being Done to Aid Drugged Driving Enforcement 155
Conclusion 156
References 157
9 · Marijuana Enforcement and a Crime Analyst’s Daydream
David A. Licate
Crime Analysis and Policing Strategies 163
Analyzing the Marijuana Issue 169
A Policy Perspective 177
Back to Reality 182
References 183

10 · What Are the Legal Implications of Marijuana Legalization?
Andrea Walker, Brianne Posey, and Craig Hemmens
Marijuana Legalization: Trends and Implications 187
   From Criminalization to Legalization 187
   Impetus for Change 189
Employment
   The War on Drugs, Criminalization of Marijuana, and Workplace Usage 190
   Termination of Job Based on Positive Marijuana Test 191
   Denial of Job Based on Positive Marijuana Test 193
   Marijuana and Workplace Safety 194
Higher Education 196
Insurance and Marijuana 197
   Medical Marijuana 197
   Health Care Coverage and Medical Marijuana 199
   Insurance Coverage in the Marijuana Business 200
Family Law/Divorce 200
   Child Custody 200
   Grounds for Divorce 202
Marijuana Transportation 202
   Transportation within Colorado 203
   Transportation within Washington 203
   Transportation Outside of Washington and Colorado 204
Offenders under Community Supervision 204
Local Government Opt-Out Options 205
Retroactivity 205
Conclusion 206
References 207

11 · Marijuana Businesses in Colorado: Three Hurdles for Success
Nancy E. Marion
Introduction 213
New Businesses 216
## CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Laws</td>
<td>220</td>
</tr>
<tr>
<td>Taxes</td>
<td>220</td>
</tr>
<tr>
<td>Spending</td>
<td>224</td>
</tr>
<tr>
<td>Banking</td>
<td>226</td>
</tr>
<tr>
<td>Conclusion</td>
<td>228</td>
</tr>
<tr>
<td>References</td>
<td>231</td>
</tr>
<tr>
<td><strong>12 · Legally High on Campus?</strong></td>
<td>233</td>
</tr>
<tr>
<td><em>Kelley A. Cronin</em></td>
<td></td>
</tr>
<tr>
<td>Introduction</td>
<td>233</td>
</tr>
<tr>
<td>Marijuana: The Campus Culture</td>
<td>233</td>
</tr>
<tr>
<td>Federal Law and the Drug Free Schools and Communities Act Amendment of 1989</td>
<td>234</td>
</tr>
<tr>
<td>Campus Life under New Laws</td>
<td>237</td>
</tr>
<tr>
<td>Washington State</td>
<td>237</td>
</tr>
<tr>
<td>Colorado</td>
<td>238</td>
</tr>
<tr>
<td>Challenges for College and University Officials</td>
<td>239</td>
</tr>
<tr>
<td>Searching for Ways to Respond</td>
<td>239</td>
</tr>
<tr>
<td>Marijuana Programs as Retention Strategy</td>
<td>240</td>
</tr>
<tr>
<td>Preparing Students for Legalization</td>
<td>241</td>
</tr>
<tr>
<td>Conclusion</td>
<td>242</td>
</tr>
<tr>
<td>References</td>
<td>243</td>
</tr>
<tr>
<td><strong>About the Authors</strong></td>
<td>247</td>
</tr>
<tr>
<td><strong>Index</strong></td>
<td>251</td>
</tr>
</tbody>
</table>
Introduction

Nancy E. Marion and Joshua B. Hill

Laws and policies that allow for the manufacture, distribution, sale, and use of marijuana, for either medicinal purposes or recreation, are becoming more accepted across the United States. At the time of this book’s publication, seventeen states and the District of Columbia have passed laws that decriminalize, or lessen the punishments, for marijuana possession and use. Twenty-three other states and the District of Columbia have opted to pass laws to legalize marijuana use by those residents suffering from medical conditions and for whom the use of the drug brings relief of their symptoms. Four states and the District of Columbia have also passed laws that allow its residents to use marijuana for recreation or pleasure.

The public support for legalized marijuana, both medical and recreational, is growing. A Gallup poll taken in October 2014 shows that 51% of respondents favored legalizing marijuana, up from 46% in October 2010, and 12% in October 1969 (Gallup Organization). In a poll by NBC News and the Wall Street Journal, respondents were asked to identify the most harmful substance to a user’s overall health. Only eight percent of those taking part indicated that marijuana was the most harmful substance. Moreover, in a poll taken by the Pew Research Center in 2014, 47% of respondents admitted to trying the drug.

This public support for legalized marijuana has been the impetus behind the changes in the states’ laws. In some states, supporters have collected enough signatures on a petition to place the issue on a state-wide ballot, at which point all voters can indicate their support or opposition. This process, called an initiative, was the process followed in states such as Alaska and Oregon. Other states, such as Colorado, have followed another path for legalization. Here, a referendum for the new law began in the state legislature. The proposal for a law
allowing for marijuana use was debated and eventually passed by the elected officials in the state. In the end, the new law amended the state constitution.

Whether the state laws permitting marijuana are the result of an initiative or a referendum, they all currently violate federal law. The manufacture, use, and distribution of marijuana were made illegal when Congress passed the Controlled Substances Act in 1970, which identified marijuana as a Schedule I drug. As such, according to the US government, marijuana has no recognized medical benefits and a high potential for abuse. Other drugs identified as Schedule I drugs include heroin and LSD.

Because marijuana is currently illegal under federal law, it means that, at any time, federal law enforcement could arrest and detain any person currently possessing, growing, selling, or distributing marijuana in any fashion, even in those states with laws permitting it. Federal agents from the Drug Enforcement Administration (DEA) or the Federal Bureau of Investigation (FBI) could raid dispensaries and retail stores to arrest employees and customers, but also seize any property or profits related to the drug. While the current president has announced that he would not pursue this option, the next president may alter this policy.

In those states that have passed laws permitting marijuana use either for medical or recreation reasons, marijuana-based businesses are thriving. All types of businesses have opened and range from those that grow the plant to those that sell it, both for smoking or eating. Many of these businesses have made millions of dollars. However, because of federal laws, banks are not permitted to allow the business owners to deposit their money into an account. This makes the marijuana industry an all-cash business, leading to other problems such as a potential for more theft related offenses.

The debate over the legalization and/or decriminalization of marijuana, both medical and recreational, continues to rage. Opponents point to the dangers of marijuana use, particularly for young people as their brains continue to grow. They also point to the dangers of increased crime and violence in areas where the drug is sold. On the other hand, supporters argue that the drug is a relatively safe one, with mild effects if used safely and not mixed with other drugs. They also point out that the sale of marijuana, if taxed, could provide the state with millions of dollars of revenue, thus decreasing the burden on taxpayers.

The articles included in this text each focus on a different aspect of the debate over marijuana legalization. The first article, by Oliver, sets up the quandary over federalism. He points out that despite state laws, marijuana is illegal under the federal criminal code, and therefore, according to the supremacy clause
found in the US Constitution, all state laws permitting its use are unconstitutional. A different perspective is taken by Green and Steinmetz, who take a critical look at the social construction surrounding the illegalization of the drug and how criminology has chosen to examine the topic. An international critique of marijuana use is provided by Shannon, who focuses on drug use in Portugal, Uruguay, and the Netherlands. Together, these articles provide readers with a foundation for understanding recent marijuana-related legislation in the United States.

The next set of articles focus on the growing public acceptance of marijuana use and related campaigns to legalize the drug. Hill shows how the media has covered issues pertaining to the drug and how that coverage has changed over time as public acceptance of marijuana use grows. Clearly, these changes in public opinion and associated media coverage play a large role the passage of new marijuana laws. The process by which new laws are passed, either by referendum or initiative, and the effect on implementation of the new laws, is discussed by Turner. Authors Leon and Weitzer examine ballot initiatives for marijuana legalization in more detail, identifying factors that lead to successful ballot initiatives.

The effects of marijuana legalization on the criminal justice system are the topics of the following three articles. Stohr and Foster examine the consequences of the new laws on corrections facilities and treatment programs. The impact of the new policies on law enforcement, and in particular their efforts to detect impaired drivers, is discussed by Lovrich, Christensen, and Routh. The quandary law enforcement officials face when dealing with some of the problems posed by the legalization of marijuana is outlined by Licate’s article. The legal implications of the new laws are indicated by Walker, Posey, and Hemmens. Together, these three articles provide a basis for understanding the impacts of these laws on state justice systems.

The final articles included in the text, by Marion and Cronin respectively, concentrate on the effects of the new laws on other groups, namely businesses and college students. These are two populations directly affected by marijuana legalization, and can also be affected if the federal government changes its current position of “looking the other way.”

In total, the articles in this book present a variety of perspectives on the constantly changing realm of marijuana legalization in the United States. These laws are controversial and have been the basis of copious debate by practitioners, lawmakers, and citizens alike. There is no doubt that these debates will continue as more states consider legalizing marijuana for either recreation
or medical reasons. The articles contained in this book will provide a basis for that debate.