

Legalizing Marijuana

Legalizing Marijuana

A Shift in Policies Across America

Edited by
Nancy E. Marion
Joshua B. Hill



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*This book is dedicated to Lynda Block Hill.
Thanks for everything.*

Contents

Introduction	xiii
1 · Federalism and US Marijuana Laws: A Constitutional Crisis	3
<i>Willard M. Oliver</i>	
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	19
<i>Edward L. W. Green and Kevin F. Steinmetz</i>	
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	43
<i>Brooke Shannon</i>	
Background	43
Country Case Studies	44

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
<i>Joshua B. Hill</i>	
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
<i>John R. Turner</i>	
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	89
<i>Kenneth Leon and Ronald Weitzer</i>	
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	119
<i>Mary K. Stohr and Cheyenne Foster</i>	
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	135
<i>Nicholas Lovrich, Ericka Christensen, and Douglas Routh</i>	
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	161
<i>David A. Licate</i>	
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?	187
<i>Andrea Walker, Brianne Posey, and Craig Hemmens</i>	
Marijuana Legalization: Trends and Implications	187
From Criminalization to Legalization	187
Impetus for Change	189
Employment	190
The War on Drugs, Criminalization of Marijuana, and Workplace Usage	191
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	213
<i>Nancy E. Marion</i>	
Introduction	213
New Businesses	216

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

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.