

# Shifting the Overton Window To Get To 51 (and 218 in the House)

*Where We've Been, Where Are We Going?*

Conference Edition: Lets get Congress high...

...On Freedom

# Political Science 201

- The **Overton window** is a political theory that describes as a narrow "**window**" the range of ideas that the public will find acceptable, and that states that the political viability of an idea is **defined** primarily by this rather than by politicians' individual preferences.

Never Underestimate The Power of a  
Personal Interaction



Canada went from the lame cousin to cool cousin in one policy decision

...Fine, and one very attractive leader.

Today, Trudeau and his advisers trace the shift to a meeting with two women in his office in November of that year, who armed him with some of the pro-legalization arguments that he's still using today — now, as prime minister. The two women were Kelly Coulter and Andrea Matrosovs, then representing what was known as the women's alliance of the National Organization for the Reform of Marijuana Laws (NORML).

Coulter, who now lives in Victoria, remembers the meeting well, and is heartened to hear that Trudeau traces his conversion to this encounter.

**“I actually saw the ‘aha’ moment,”** Coulter says. It had been an emotional meeting in Trudeau's tiny Parliament Hill office; the three of them talked about their own personal experience with marijuana. Trudeau talked about his mother using pot, and his brother, Michel, who had been charged with possession not long before he died. ***(Trudeau has subsequently told the story publicly of how his father used connections to get the charges dropped so that his son didn't have a criminal record.)***

Coulter told Trudeau flatly that decriminalization would not keep gangs and organized crime out of the marijuana business. **“Al Capone would have loved it if alcohol had only been decriminalized,”** she said — a line she often used when talking to politicians.

**“I saw the light go on in his eyes,”** Coulter said. **“He was seeing this as a politician, realizing ‘I can sell this,’ ”** she recalled.

# Who the hell is NORML?

- The National Organization for the Reform of Marijuana Laws (NORML) is a non-partisan educational, legal, and advocacy organization founded in Washington, DC in 1971.
- NORML provides a voice in the public policy debate for those who oppose the criminal prohibition of cannabis and favor an end to the practice of arresting those who possess or consume it in private.
- NORML's mission is to move public opinion sufficiently to achieve the repeal of marijuana prohibition so that the responsible use of cannabis by adults is no longer subject to arrest and criminal penalty.

## Why NORML?

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## Why Not?

- With nearly 30% name recognition nationwide, over 150 chapters lead by extraordinary citizens leverage the shared banner to advocate for reform
- Decentralized structure allows chapters to leverage their own identity and ownership to employ best practices at the local level, be it for decriminalization, medical marijuana access, or outright legalization

NORML's membership consists of:

- 27% Republican / Conservative
- 38% Democrat / Progressive
- 35% Independent

# Brief History of Prohibition

- 1911-1937 – Multiple states enact criminalization
  - Massachusetts is the first state to outlaw cannabis in 1911
- 1937 – Congress enacts the Marihuana Tax Act
- 1970 – Congress enacts the Controlled Substances Act
  - Cannabis and all of its biological components are classified as Schedule I prohibited substances.
- **"a high potential for abuse ... no currently accepted medical use, ... [and] a lack of accepted safety for the use of the drug ... under medical supervision."**
- 1972 – Shafer Commission recommends decriminalizing cannabis
  - "[T]he Commission recommends ... the possession of marijuana for personal use no longer be an offense."

## Brief History of Prohibition (Cont.)

- 1985 – FDA approves dronabinol (synthetic THC in sesame seed oil)
- Schedule II substances, later downgraded to Schedule III because of its safety profile
- 1996-2016 –Thirty states and Washington, DC enact laws allowing for the physician-recommended use of cannabis therapy for qualifying conditions
- November 2012 – **Colorado and Washington legalize** the adult possession and use of specific quantities of cannabis for non-medical purposes
- November 2014 – **Alaska, Oregon, and Washington, DC legalize** the adult possession and use of specific quantities of cannabis for non-medical purposes
- November 2016 – **California, Maine, Massachusetts, and Nevada legalize** the adult possession and use of specific quantities of cannabis for non-medical purposes
- August – Gallup finds nationwide support for legalization at **an all- time high, 61%**

# The Drug War Is An Utter Failure

- • 1970: Nixon administration declares a 'war' on drugs; declares marijuana 'public enemy #1'
  - In 1973, there were **328,670 arrests for drug law violations**, out of a total 9,027,700 arrests nationwide for all offenses (**3% of all arrests**). That year, authorities reported 380,560 arrests for all violent crimes
  - In 2014, the number of arrests for drug law violations rose to **1,561,231** out of a total 11,205,833 arrests nationwide for all offenses (**14% of all arrests**). Authorities reported 498,666 arrests for all violent crimes
- **700,993 marijuana arrests in 2014**; 45% of *all* drug arrests are for pot possession only
  - Since 1970, illicit drug experimentation among the general public is up, annual drug overdose deaths are up, average drug potency has risen, street value of illicit substances has fallen, greater varieties of illicit substances are now available on the market, **the total number of offenders in prison for drug crimes today totals the number of persons in prison in 1980 for all crimes**

# Tactics of the Drug War

- – Mandatory minimum sentencing
- – Asset forfeiture
- – Suspicionless drug testing
- – Dog searches
- – Establishment of the DEA and ONDCP
- – D.A.R.E./Just Say No
- – Drug Courts
- – ‘Coerced’ Treatment
- – Federal anti-drug budget 1970: \$100 million | Federal anti-drug budget FY 2014: \$16.1 billion (Associated Press, ONDCP)
- – DEA 2014 budget: 2.5 billion, 11,000 employees

# So Why Does the Drug War on Marijuana Federally Continue Unabated?

- Culture war broadly
- Entrenched bureaucratic interests
- It's an effective way to stifle civil liberties by criminalizing relatively common behavior and then selectively enforcing this prohibition
- Democrats
- Republicans
- Apathy

Who are Politicians?

Give them a reason to be loved.

# Talking to Conservatives About Marijuana

- **Speak their Language!**
- Identify intersections of traditionally conservative philosophy and the descheduling of marijuana:
- Taxpayer Burden
- Law Enforcement Priorities
- Limits Freedom / “States Rights”

# Taxpayers Cannabis Prohibition Financially Burdens Taxpayers

- States in 2010 spent an estimated **\$3.6 billion enforcing marijuana possession laws**, a 30 percent increase from ten years earlier (ACLU, 2013)
- This total included \$1,747,157,206 in police time, \$1,371,200,815 to adjudicate marijuana possession cases, and \$495,611,826 to incarcerate individuals for marijuana possession.
- Nearly **13 percent of state inmates** and just over **12 percent of federal inmates** are incarcerated for marijuana-related drug violations (Bureau of Justice Statistics)
- An estimated 90 percent of all state-level marijuana arrests are for possession only, not cultivation, sale, or trafficking

## Just some of the ways the money has been spent

- \$20 billion to fight drug traffickers in their home countries.
- \$33 billion in marketing “Just Say No style messages to America’s youth and other ‘prevention’ programs
- \$49 billion for law enforcement along America’s borders
- \$121 billion to arrest more than 37 million drug offenders.
- \$450 billion to lock those people up in federal prisons
- **Overall total: Over \$1 trillion spent over the past 40 years**

*“In the grand scheme, it (the US drug war) has not been successful. Forty years later, the concern about drugs and drug problems is, if anything, magnified, intensified.”*

*- Former US Drug Czar Gil Kerlikowske (2009-2014)*

# Police – Community Relations and Prioritization

- Decriminalization is in line with those of numerous other states, including Mississippi, Nebraska, and Ohio. If these policies were ineffective, surely the conservatives in control of the state would have undone it.
- Minor marijuana possession offenders, many of them young people, should not be saddled with a criminal record and the lifelong penalties and stigma associated with it.
- \$1,747,157,206 in police time, \$1,371,200,815 to adjudicate marijuana possession cases, and \$495,611,826 to incarcerate individuals for marijuana possession.
- Prohibition is essentially the state ceding control of the marijuana market to untaxed criminal enterprises

**“Al Capone would have loved it if alcohol had only been decriminalized”**

# Freedom

- This effort is only tangentially about a plant; it is about freedom
  - Freedom from government overreach
    - Who decides what we can and can't ingest in the privacy of our own homes?
- Freedom from a police state
  - Suspicionless drug testing, asset forfeiture, dog searches, etc.
- Freedom of how we recreate and/or how we medicate
- Freedom to possess autonomy over our own bodies and minds

## “States Rights”

- *Whatever that means to whomever you are talking about:*
  - The Tenth Amendment
  - The 10<sup>th</sup> Amendment
  - The X Amendment
  - Amendment X
  - “The Bill of Rights Big-10 Roundout of Freedom”

# Talking to Progressives About Marijuana

- **Speak their Language!**
- Identify intersections of traditionally progressive philosophy and the descheduling of marijuana:
- Tax revenue potential / Job Creation Potential
- Racial Disparity In Enforcement

# Taxes / Jobs

- Eight states, encompassing 20 percent of the population, now impose adult-use regulations.
- It is time to stop ceding control of the marijuana market to untaxed criminal enterprises
- Revenues from Colorado's legal cannabis industry have [surpassed](#) over a half-billion dollars since retail sales began on January 1, 2014.
- The legal cannabis industry is responsible for the creation of an estimated 123,000 full-time jobs in the United States\*\*

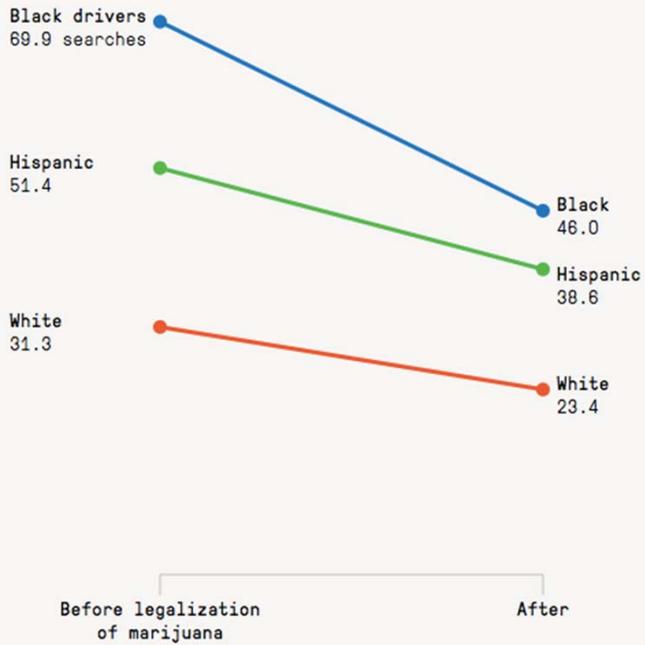
# Racial Disparity In Enforcement

- According to the ACLU, “On average, a Black person is 3.73 times more likely to be arrested for marijuana possession than a white person, even though Blacks and whites use marijuana at similar rates”
- Arrests and convictions for possessing marijuana can negatively impact public housing and student financial aid eligibility, employment opportunities, child custody determinations, and immigration status.

# Tangible Effects

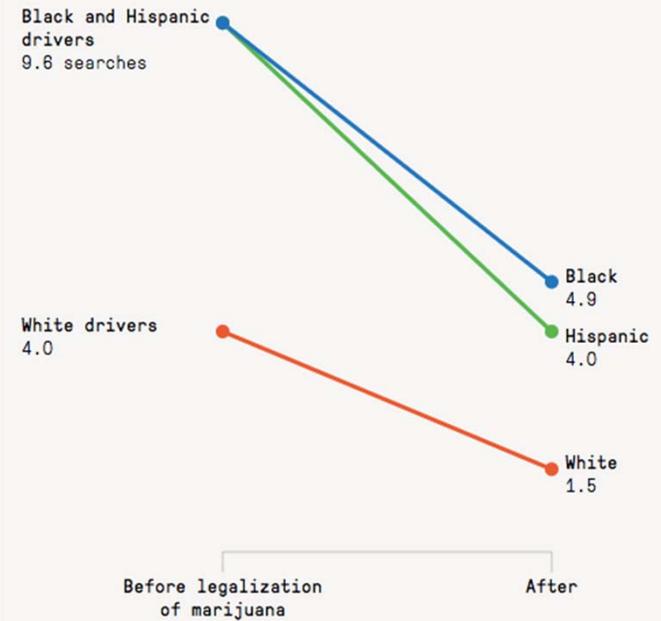
## Searches per 1,000 Washington traffic stops

Drivers 21 and older



## Searches per 1,000 Colorado traffic stops

Drivers 21 and older



# So what are we talking about tomorrow?

- 150+ meetings
- Over 1% of Congress is engaging with this lobby day effort
- Protecting our progress
- Building on the snowball effect

# Amendments Addressing Marijuana Prohibition

- **Rohrabacher-Blumenauer** - *Currently in effect, Bipartisan (formerly Rohrabacher-Farr)*
- A provision protecting those who engage in the state-sanctioned use and dispensing of medical marijuana from undue prosecution by the Department of Justice.
- **Veterans Equal Access** - *Bipartisan*
- A provision to allow VA doctors to have a conversation about including marijuana in regard to veterans healthcare decisions, including PTSD, in the states that have legalized medical marijuana

# Legislation Addressing Marijuana Prohibition

- **Ending Federal Marijuana Prohibition Act - HR 1227 - *Bipartisan Legislation***
- Would take marijuana off of the Controlled Substances Act entirely and allow states to regulate as they see fit free from federal interference.
- **The Respect State Marijuana Laws Act - HR 975- *Bipartisan Legislation***
- This act would halt federal officials from prosecuting individuals and businesses for violating the Controlled Substances Act in the 30 states that permit either medical or adult-use marijuana.

# The Marijuana Justice Act

- (1) remove marijuana from the US Controlled Substances Act, thereby ending the federal criminalization of cannabis;
- (2) incentivize states to mitigate existing and ongoing [racial disparities](#) in state-level marijuana arrests;
- (3) expunge federal convictions specific to marijuana possession;
- (4) allow individuals currently serving time in federal prison for marijuana-related violations to petition the court for resentencing;
- (5) and create a community reinvestment fund to invest in communities most impacted by the failed War on Drugs.

# We're Ready To Win

MJ-01. Do you think that the use of marijuana should be legal, or not?

**\*\* TOTAL RESPONDENTS \*\***

	Total	Rep	Dem	Ind
	%	%	%	%
Legal	61	46	68	64
Not legal	33	49	28	28
Don't know/No answer	6	5	4	8

CBS News, April 2017

b5. Would you support or oppose the government enforcing federal laws against marijuana in states that have already legalized medical or recreational marijuana?

	Tot	Rep	Dem	Ind	Men	Wom	WHITE..... COLLEGE DEG	
							Yes	No
Support	20%	34%	14%	18%	23%	17%	17%	24%
Oppose	75	59	84	77	73	77	78	70
DK/NA	5	8	2	5	4	6	5	6

	AGE IN YRS.....				WHITE.....		Wht	NonWht
	18-34	35-49	50-64	65+	Men	Wom		
Support	21%	13%	20%	26%	23%	19%	21%	18%
Oppose	75	83	78	63	74	74	74	79
DK/NA	4	3	1	11	3	8	6	3

Quinnipiac University, August 2017

Because:



MJ-08. Have you ever tried marijuana?

	All	Rep	Dem	Ind
Yes	50	45	49	55
No	49	55	51	44
Don't know/No answer	1	*	1	1

CBS News, April 2017