



Working to Reform Marijuana Laws

## **NORML's Testimony on Medical Marijuana Before Congress (1996) Keith Stroup, Esq.**

**NORML Testimony before the House  
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National Organization for the Reform of Marijuana Laws (NORML)  
before the  
Subcommittee on Crime  
Judiciary Committee  
U.S. House of Representatives

**Wednesday, March 6th, 1996**

I want to thank Chairman McCollum and the members of the subcommittee for the opportunity to appear here today to present our views regarding marijuana policy.

Since 1970, NORML has been a voice for Americans who believe it is both counter-productive and unjust to treat marijuana smokers as criminals. Arresting and jailing otherwise law-abiding citizens who happen to be marijuana smokers serves no legitimate societal purpose. Rather it is an enormous waste of valuable law enforcement resources that should be focused on truly serious crime, and it has a terribly destructive impact on the lives, careers and families of those Americans who are arrested and jailed. We have declared war against a whole segment of our own citizens, without cause. It is time to end marijuana prohibition.

We do not suggest that marijuana is totally harmless or that it cannot be abused. That is true for all drugs, including those which are legal. We do believe that moderate marijuana use is relatively harmless -- far less harmful to the user than either tobacco or alcohol, for example -- and that any risk presented by marijuana smoking falls well within the ambit of choice we permit the individual in a free society. Today, far more harm is caused by marijuana prohibition than by marijuana itself.

### **Recreational Marijuana Smokers**

It's time we 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 NIDA data<sup>1</sup>, between 65 and 71 million Americans have smoked marijuana at some time in their lives, and 10 million are current smokers (have smoked as at least once in the last month). In fact, NIDA found that 61% of all current illicit drug users report that marijuana is the only drug they have used; this figure rises to 80% if hashish (a marijuana derivative) is included. A recent national survey of voters found that 34% -- one third of the voting adults in the country -- acknowledged having smoked marijuana at some point in their lives<sup>2</sup>. Many successful business and professional leaders, including many state and federal elected officials from both political parties, admit they have smoked marijuana. We should begin to reflect that reality in our state and federal legislation, and stop acting as if otherwise law-



abiding marijuana smokers are part of the crime problem. They are not, and it is absurd to continue to spend law enforcement resources arresting them.

Marijuana smokers in this country are no different from their non-smoking peers, except for their marijuana use<sup>3</sup>. Like most Americans, they are responsible citizens who work hard, raise families, contribute to their communities, and want a safe, crime-free neighborhood in which to live. Because of our marijuana laws, these citizens face criminal arrest and imprisonment solely because they choose to smoke a marijuana cigarette when they relax, instead of drinking alcohol. They simply prefer marijuana over alcohol as their recreational drug of choice. This is a misapplication of the criminal sanction which undermines respect for the law in general and extends government into areas of our private life that are inappropriate.

### **Responsible Marijuana Use**

At NORML, we believe that marijuana smokers, like those who drink alcohol, have a responsibility to behave appropriately and to assure that their recreational drug use is conducted in a responsible manner. Neither marijuana smoking nor alcohol consumption is ever an excuse for misconduct of any kind, and both smokers and drinkers must be held to the same standard as all Americans.

The NORML Board of Directors recently issued the following statement entitled *Principles of Responsible Cannabis Use*, which defines the conduct which we believe any responsible marijuana smoker should follow.

#### **I. ADULTS ONLY**

**Cannabis consumption is for adults only. It is irresponsible to provide cannabis to children.**

Many things and activities are suitable for young people, but others absolutely are not. Children do not drive cars, enter into contracts, or marry, and they must not use drugs. As it is unrealistic to demand lifetime abstinence from cars, contracts and marriage, however, it is unrealistic to expect lifetime abstinence from all intoxicants, including alcohol. Rather, our expectation and hope for young people is that they grow up to be responsible adults. Our obligation to them is to demonstrate what that means.

#### **II. NO DRIVING**

**The responsible cannabis consumer does not operate a motor vehicle or other dangerous machinery impaired by cannabis, nor (like other responsible citizens) impaired by any other substance or condition, including some medicines and fatigue.**

Although cannabis is said by most experts to be safer than alcohol and many prescription drugs with motorists, responsible cannabis consumers never operate motor vehicles in an impaired condition. Public safety demands not only that impaired drivers be taken off the road, but that objective measures of impairment be developed and used, rather than chemical testing.

### **III. SET AND SETTING**

**The responsible cannabis user will carefully consider his/her set and setting, regulating use accordingly.**

"Set" refers to the consumer's values, attitudes, experience and personality, and "setting" means the consumer's physical and social circumstances. The responsible cannabis consumer will be vigilant as to conditions -- time, place, mood, etc. --and does not hesitate to say "no" when those conditions are not conducive to a safe, pleasant and/or productive experience.

### **IV. RESIST ABUSE**

**Use of cannabis, to the extent that it impairs health, personal development or achievement, is abuse, to be resisted by responsible cannabis users.**

Abuse means harm. Some cannabis use is harmful; most is not. That which is harmful should be discouraged; that which is not need not be.

Wars have been waged in the name of eradicating "drug abuse", but instead of focusing on abuse, enforcement measures have been diluted by targeting all drug use, whether abusive or not. If marijuana abuse is to be targeted, it is essential that clear standards be developed to identify it.

### **V. RESPECT RIGHTS OF OTHERS**

**The responsible cannabis user does not violate the rights of others, observes accepted standards of courtesy and public propriety, and respects the preferences of those who wish to avoid cannabis entirely.**

No one may violate the rights of others, and no substance use excuses any such violation. Regardless of the legal status of cannabis, responsible users will adhere to emerging tobacco smoking protocols in public and private places.

As these principles indicate, we believe there is a difference between use and abuse, and the government should limit its involvement and concentrate its resources to discourage irresponsible marijuana use. Responsible marijuana use causes no harm to society and should be of no interest to the government in a free society.

### **It's Time To Stop Arresting Marijuana Smokers**

The "war on drugs" is not really about drugs; if it were, tobacco and alcohol would be your primary targets. They are the most commonly used and abused drugs in America and unquestionably they cause far more harm to the user and to society than does marijuana. Instead, the war on drugs has become a war on marijuana smokers, and in any war there are casualties. According to the latest FBI statistics, in 1994 nearly one-half million (482,000) Americans were arrested on marijuana charges. That is the largest number of marijuana arrests ever made in this country in any single year, and reflects a 67% increase over 1991 (288,000). Eighty four percent (84%) of those arrests were for possession, not sale. Those were real people who were paying taxes, supporting their families, and working hard to make a better life for their children; suddenly they are arrested and jailed and treated as criminals, solely because of the

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recreational drug they had chosen to use. This is a travesty of justice that causes enormous pain, suffering and financial hardship for millions of American families. It also engenders disrespect for the law and for the criminal justice system overall. Responsible marijuana smokers present no threat or danger to America, and there is no reason to treat them as criminals. As a society we need to find ways to discourage personal conduct of all kinds that is abusive or harmful to others. Responsible marijuana smokers are not the problem and it's time to stop arresting them.

### **Contemporary Experience with Marijuana Decriminalization**

Our most comprehensive modern study of marijuana policy was the report of the National Commission on Marijuana and Drug Abuse, *Marijuana, A Signal of Misunderstanding* (1972)<sup>4</sup>. Established by Congress, the Marijuana Commission found that moderate marijuana smoking presents no significant risk to the user or to society, and recommended that the country "decriminalize" minor marijuana offenses; i.e., that penalties be removed for personal use and possession. Following that report, eleven American states adopted modified versions of decriminalization, led by Oregon in 1973. Each of these states retained a modest civil fine for minor marijuana offenses, but eliminated arrest and jail, substituting a citation, similar to a traffic ticket. The advantage of this approach to the marijuana smoker is obvious: the individual is spared the indignity of an arrest and the threat of jail, and avoids a criminal record. But this approach also benefits law enforcement by freeing up police to focus on serious crime.

Nearly one-third of Americans live in states which have now had a 15-20 year real-world experience with marijuana decriminalization, and the experience has been overwhelmingly favorable<sup>5</sup>. Contrary to the fears expressed by some, marijuana usage rates (both the percentage reporting having ever used marijuana, and the frequency of use by those who do smoke) are the same in states that have decriminalized and in states where marijuana smokers are still arrested. Nor has there been any change in attitudes toward marijuana use among young people (high school seniors) in those states. In short, the evidence indicates that we can stop arresting marijuana smokers without harmful consequences.

### **Time For Peace, Not War**

As a nation, we've talked too long and too loud in the language of war. It's time that we begin to talk of peace. It's time to seek a policy that minimizes the harm associated with marijuana smoking and marijuana prohibition -- a policy that distinguishes between use and abuse, and reflects the importance we have always attached in this country to the right of the individual to be free from the overreaching power of government. Most of us would agree the government has no business knowing what books we read, the subject of our telephone conversations, or how we conduct ourselves in the privacy of our bedroom. Similarly, whether we smoke marijuana or drink alcohol to relax is simply not an appropriate area of concern for the government.

The subcommittee is right to be concerned about adolescent drug use of all kinds. We all want our children to grow up safe, healthy and drug free. The recent data showing an increase in marijuana smoking among adolescents is strong testimony to the failure and ineffectiveness of our current drug education programs -- including most prominently the DARE program. NORML would be pleased to work with this subcommittee and others to develop more effective programs to discourage adolescent marijuana smoking, and to instill in children an understanding that neither marijuana smoking, tobacco smoking or alcohol drinking is appropriate behavior for



minors. NORML's involvement in such a campaign might enhance the campaign's credibility with young people.

But we don't arrest responsible adult alcohol drinkers because we want adolescents to avoid alcohol, and neither can we justify arresting responsible adult marijuana smokers to protect our underage children from marijuana smoking. By stubbornly defining all marijuana smoking as criminal, including that which involves adults smoking in the privacy of their home, 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. It's time we ended marijuana prohibition and stopped arresting and jailing hundreds of thousands of average Americans whose only "crime" is that they smoke marijuana. This is a tragic and senseless war against our own citizens; it must be ended.

### **Medical Marijuana**

The final point I would like to make to the subcommittee is that marijuana should immediately be made available by prescription to the tens of thousands of seriously ill Americans who need marijuana to alleviate pain and suffering. Of all the negative consequences of marijuana prohibition, none is as tragic as the denial of medicinal marijuana to those who need it.

Because of the importance we place on the need for medical marijuana, we had asked if we might have Harvard Professor Lester Grinspoon, an international authority on medical marijuana, present our testimony here today, but were told by the committee that would not be possible. Dr. Grinspoon, a psychiatrist, is a professor at the Harvard Medical School and a well published author in the field of drugs and drug policy. He has authored more than 140 articles in scientific journals and twelve books, including *Marihuana Reconsidered* (Harvard University Press, 1971); *The Speed Culture: Amphetamine Use and Abuse in America* (Harvard University Press, 1975); *Cocaine: A Drug and Its Social Evolution* (Basic Books, 1976); *Psychedelic Drugs Reconsidered* (Basic Books, 1979); and most relevant for this discussion, *Marihuana, The Forbidden Medicine* (Yale University Press, 1993), which has been translated into nine languages. Dr. Grinspoon is available should this committee elect to hear from him at some point.

The question of permitting medical marijuana must be separated from the question of decriminalizing or legalizing marijuana for recreation use. These are separate issues and they must be judged on their own merits. The country has reached a consensus on the former, even as we remain divided on the latter.

On the question of whether seriously ill patients should have legal access to marijuana to relieve pain and suffering, 85%<sup>6</sup> of the American public already support this change. Many of them (22%) have had a family member or friend sick with cancer, AIDS, multiple sclerosis, glaucoma or some other potentially devastating disease, who has had to risk arrest and jail to obtain marijuana to alleviate the side effects of cancer chemotherapy, overcome the AIDS wasting syndrome, or treat other life threatening or serious illnesses. Basic compassion and common sense demand that we allow these citizens to use whatever medication is most effective, subject to the supervision of a physician.

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Although more research is needed, it is clear from available studies and rapidly accumulating anecdotal evidence that marijuana is a valuable therapeutic in the treatment of a number of serious ailments<sup>7</sup> and that it is both less toxic and costly than the conventional medicines for which it may be substituted. In many cases it is more effective than the commercially available drugs it replaces. Groups such as the American Public Health Association<sup>8</sup> and the Federation of American Scientists<sup>9</sup> have recently endorsed the medical use of marijuana.

Marijuana is an effective means of overcoming the nausea and vomiting associated with cancer chemotherapy, and the nausea and appetite loss in the wasting syndrome of AIDS. It is useful for various spastic conditions including multiple sclerosis, paraplegia, and quadriplegia. It also lowers intraocular pressure in people who suffer from open-angle glaucoma. For some people with epilepsy it is the only anticonvulsant that works. For centuries, it has been used as an analgesic and is considered by many to be the best approach to migraine. It is also useful to some patients for the symptomatic treatment of depression, menstrual cramps, asthma and pruritus.

Many seriously ill patients in this country are already using marijuana to reduce their pain and suffering, even though it means they and their families must risk arrest. Informal buyers' clubs, which supply marijuana to the seriously ill, have been formed in many cities. Some of these clubs are small and clandestine; a few, such as the one in San Francisco<sup>10</sup>, operate openly and serve several thousand clients on a regular basis. Despite these heroic efforts, the underground emergency distribution system reaches only a small proportion of the tens of thousands of patients who could benefit from legal marijuana.

NORML first raised this issue in 1972 in an administrative petition asking that marijuana be moved from schedule I to schedule II of the federal Controlled Substances Act, so that it could be prescribed as a medicine. After 16 years of legal battles and appeals, in 1988, the DEA's own administrative law judge, [Judge Francis Young](#), found that "marijuana has been accepted as capable of relieving distress of great numbers of very ill people, and doing so with safety under medical supervision. It would be unreasonable, arbitrary and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in light of the evidence in this record."<sup>11</sup> Judge Young recommended "that the Administrator transfer marijuana from Schedule I to Schedule II, to make it available as a legal medicine". The DEA Administrator overruled Judge Young, and the Court of Appeals allowed that decision to stand, denying medical marijuana to seriously ill patients. Congress must act to correct this injustice.

Rep. Barney Frank (D-MA), along with co-sponsors Nancy Pelosi (D-CA) and Harry Johnston (D-FL), recently introduced H.R. 2618, which reschedules marijuana from schedule I to schedule II, thereby making it available by prescription to patients with serious illnesses. (Reps. Anthony Beilenson (D-CA), John Conyers (D-MI), Ron Dellums (D-CA), Steven Gunderson (R WI), Joseph Kennedy (D-MA), Zoe Lofgren (D-CA), John Olver (D-MA), Pete Stark (D-CA), Gerry Studds (D-MA) and Lynn Woolsey (D-CA) have also signed on as co-sponsors of this measure). This bill would amend federal law to permit physicians to prescribe marijuana to patients suffering from cancer, AIDS, glaucoma and spastic conditions including multiple sclerosis, paraplegia and quadriplegia. Thirty-six states have adopted legislation designed to facilitate the availability of medical marijuana, ranging from simple resolutions calling on Congress to permit legal medical marijuana, to state rescheduling laws that make marijuana available as a medicine to serious ill patients. Tragically, none of these programs can be implemented unless federal law is amended.

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A bill similar to this was first introduced in 1981,<sup>12</sup> initially co sponsored by Rep. Newt Gingrich (R-GA) and three other Republicans. The measure was reintroduced in 1983 and again in 1985, eventually co sponsored by a bipartisan coalition of more than 75 members of Congress, including Subcommittee Chair Bill McCollum. The proposal was the compassionate thing to do then, and it is the compassionate thing to do now. Whatever you may feel about the war on drugs, denying medical marijuana to seriously ill people should not be part of it. These are seriously ill people who find marijuana the most effective way to relieve their pain and suffering and we cannot, in good conscience, deny them that medication. I urge this subcommittee to move promptly to approve H.R. 2618 to allow the medical use of marijuana.

### FOOTNOTES

{1} National Institute on Drug Abuse, National Household Survey on Drug Abuse: Population Estimates - 1994 (Department of Health and Human Services, Public Health Service, Bethesda, MD, 1995).

{2} ACLU National Survey of Voters' Opinions on the Use and Legalization of Marijuana for Medical Purposes (March 31-April 5, 1995).

{3} National Commission on Marijuana and Drug Abuse, Marijuana, A Signal of Misunderstanding (New York: The New American Library, Inc., 1972).

{4} Id.

{5} Single E.W., The Impact of Marijuana Decriminalization: An Update (Journal of Public Health Policy, Vol. 10, P. 456-66, 1989); Johnston L., O'Malley P., and Bachman J., Marijuana Decriminalization: The Impact on Youth, 1975-80 (Monitoring the Future, Occasional Paper Series #13); Maloff D., A Review of the Effects of the Decriminalization of Marijuana, (Contemporary Drug Problems, Fall 1981).

{6} Ibid, at 2.

{7} Grinspoon L., Bakalar J., Marihuana, the Forbidden Medicine (Yale University Press, New Haven, Conn. 1993); Grinspoon L., Bakalar J., Marihuana as a Medicine: A Plea for Reconsideration (JAMA, June 21, 1995, Vol. 273, No. 23); The American Public Health Association, Resolution 9513, Access to Therapeutic Marijuana/Cannabis (APHA Public Policy Statements, Washington, DC, November 1995); Federation of American Scientists, Medical Use of Whole Cannabis (Washington, DC, 1994); National Task Force on Cannabis, The Health and Psychological Consequences of Cannabis Use (Australian Government Publishing Service, Canberra, Australia, 19 -need year); Institute of Medicine, National Academy of Sciences, Marijuana and Health, A Report of a Study by a Committee of the Institute of Medicine (National Academy Press, Washington, DC, 1982).

{8} The American Public Health Association, Resolution 9513, Access to Therapeutic Marijuana/Cannabis (APHA Public Policy Statements, Washington, DC, 1995).

{9} Federation of American Scientists, Medical Use of Whole Cannabis (Washington, DC, 1994).

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{10} Goldberg C., Marijuana Club Helps Those In Pain (N.Y. Times, February 25, 1996).

{11} In the Matter of Marijuana Rescheduling Petition, Docket 86-22, Opinion, Recommended Ruling, Finding of Fact, Conclusions of Law, and Decision of Administrative Law Judge, September 6, 1988 (Drug Enforcement Agency, Washington, DC, 1988).

{12} H.R. 4498 (94th Congress, 2nd session).