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**ASSIGN  
BUSTER**

Charles Town, West Virginia  
WAR ON DRUGS: LEGALIZATION OF MARIJUANA AND THE EFFECT ON SOCIETY AND THE CRIMINAL JUSTICE SYSTEM  
A thesis submitted in partial fulfillment of the requirements for the degree of  
OF ARTS  
In CRIMINAL JUSTICE  
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January 20, 2013  
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DEDICATION  
This body of work is dedicated to my husband James Nelson and daughter Mia-Catalina for their support, patience, and unconditional love throughout the course of earning a graduate degree at American Military University.  
ACKNOWLEDGEMENTS  
Deepest appreciation Dr. Ross Wolf for her patient and guidance during my Capstone class. Without your understanding and help, I would have not been able to complete my class successfully.  
ABSTRACT OF THE THESIS  
WAR ON DRUGS: LEGALIZATION OF MARIJUANA AND THE EFFECT ON SOCIETY THE CRIMINAL JUSTICE SYSTEM  
Despite controversial history, the War on Drugs and the legalization of Marijuana cannot be won, but together can change the way we deal with the criminal aspect. With the turn of the new century, many new advances have been made when it comes to the usage of marijuana for medical purposes. The scientific community, the ethics counsels and the common person all have different opinions when it comes to its legalization. But there is no doubt in the fact that this previously known abusive drug has been proven to provide relief too many seriously ill patients and thus it is

important to consider its advantages if used correctly. When it comes to the two-decades-old, "War on Drugs" more needs to be scrutinized than just the advertisements the government has dumped upon us. In this paper we will discuss how doctors support its use as a treatment for various medical conditions like cancer, multiple sclerosis, and AIDS and what is the government doing in this regard. This paper will highlight some of the reasons behind this debate, how legalizing drugs like marijuana will affect the global economy, our children and the Criminal Justice system.

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Chapter I: Introduction

The legalizations of drugs in the United States raise a lot of questions and concerns. As a teacher and a parent, I cannot help but think how legalization will affect my daughter in a few years. How will the criminal justice system deal with the people who are in prison for using drugs such as marijuana? Will the legalization affect the global economy of drugs? If we think about it, the legalization of drugs like marijuana is as equally concerning as prohibition was for our grandparents in the 1920's. Some may even compare it to the usage of tobacco. In fact, some historians claim its popularity was brought on by the Prohibition. (Gieringer, 1999)

Marijuana usage has been studied for many years and in some cultures, it had been used as medicine for many generations and proven to cure many diseases that the scientific community is still stunted upon. (Torres, 2011)

In the early 15th century, the Spanish brought marijuana to the New World and was later introduced to Jamestown in 1611, where it joined tobacco as a major crop. (Adler et. al., 2012)

It was not until the 1920's when marijuana began to become popular in the United States. Its main users were jazz musicians as well as others in the show business. There were marijuana clubs called tea

pads in every major city. (Bonnie et. al, 1970) At this time, marijuana was not illegal and user were not seen as being nuisance to the community. So how do we get to it being an acceptable recreational drug to it being the most used illicit drug in the United States? Chapter II: Marijuana and the Criminal Justice System

State and federal policies regarding illicit drugs covers many objectives. Our justice system has focused on enforcing the prohibition of drugs. With that come an increase number of inmates, this translates to an increase number of officers and prisons. Our system has in place several resources at both the state and federal level such as fines, imprisonment, and other severe penalties for those who are found selling or manufacturing illicit drugs. Many of these resources have huge economic cost for taxpayers. If we think about it, the cost required for resources at the local, state, and federal level for treatment, drug education, police agencies, and imprisonment must astronomical! According to the U. S Department of Justice (DOJ, 2002a), the cost at the federal level went from about \$1.5 billion in 1981 to more than \$12 billion by 2002. When it came to the arrest made for drug related violations the numbers too were astronomical, went from under 600,000 in 1980 to over 1.5 million today (DOJ, 2002b). Strict drug laws have indisputably caused the inmate population to grow to over two million inmates (DOJ, 2002c). One of the main arguments in support of legalizing drugs like marijuana is the cost saved by doing so. In a study done by an economics professor at Harvard University estimated that the marijuana market exceeds \$ 10 billion a year. The enforcement of the law is estimated at about \$7.7 billion. (Miron, 2005) The argument is clear, all this money can be put to use in other area more important to society. Sounds

like a no brainer when you look at it from a monetary point of view. However, to answer the question of should we legalize it; we need to go back to when it got its title of an illicit drug. Outlawing Cannabis The early 1900s marked a high tide of prohibitionist sentiment in America. During this time legislature was dealing with moral issues as prostitution, gambling, and liquor.

Massachusetts 1911 was the first state outlaw the use of marijuana. The trend was followed by Maine, Wyoming and Indiana in 1913; New York City in 1914; Utah and Vermont in 1915; Colorado and Nevada in 1917. (Gieringer, 1999) California followed but claimed it was for regulatory reasons, to discourage the use. Like anything else that is forbidden, people are going to want it despite that status of being an illegal drug. Pioneering the first aggressive anti drug law was California with the Poison Law. (Gieringer, 1999) This put California on the map as an anti-narcotic state. The Spanish, who cultivated it at the missions, initially introduced cannabis to California. (Gieringer, 1999) The main use during this time was for medicinal purposes, but the demand slowly declined when the effects were not satisfying the pharmaceutical companies of the time. The reputation gained by the Mexican " mariguana" did not help either. It was said that the Mexican " mariguana" caused madness amongst those who smoked it. (Gieringer, 1999) Gaining such a bad reputation it was not until the anti-dope campaigns 1920's and 1930's did it become a familiar drug to the public. Declaring War on Drugs by Nixon Even though the California first declared the anti drug war, the actual declaration of this was not until Nixon came into office. The " War on Drugs" in the United States has its roots from the Nixon Administration. Our justice system faced a major shift in ideologies during the 70s as the

public lost faith in rehabilitation and demanded increasingly severe punitive actions against criminal offenders (Haney, 2003). Nixon felt that he had a "national responsibility" to stop the nation from being "destroyed" by drugs; in his administration's view, narcotics threatened the very fabric of U. S. society (Marcy, 2010). The war on drugs started in the middle of a war; the Vietnam War was in its prime and the drug addiction problem inside the U. S. military was massive. In early 1966, military authorities began to investigate the levels of illegal drug use in their ranks; the Department of Defense estimated that between 1967 and 1970, the use of marijuana, heroin, and hard narcotics in the armed forces had double each year (Marcy, 2010). . The problem was not a local problem; it had spread across the United States, from college students to factory workers and the military. This transition resulted in several consequences, most significantly the enormous increase in incarceration numbers throughout the country. President Nixon's administration attempted several strategies to stop the use of drugs in the United States. To address the narcotics epidemic, the Nixon administration proposed the Comprehensive Drug Abuse Prevention and Control Act in 1969 (Marcy, 2010). This plan was designed to consolidate most of the drugs legislation already in place. It was geared towards cutting supply and demand for drugs in the United States by creating rehabilitation and education programs while strengthening law enforcement. The war on drugs was a disaster; between the 1970 and 1975, the number of first-time cocaine users in the United States jumped from 301, 000 to 652, 000 people annually (Marcy, 2010). Instead of the numbers declining, the numbers kept increasing. The Reagan Administration. By the time, Ronald Reagan was

elected president drugs were being sold at an alarming rate. In fact, crack cocaine was so large, that the epidemic was on the consciousness of every American (Marcy, 2010). President Reagan's War on Drugs allowed the military to not only help fight it, but to provide "intelligence, equipment, and training to federal, state, and local law enforcement" (Marcy, 2010). The Reagan War on Drugs put pressure on the Joint Chiefs of Staff to get the military even more involved in the War on Drugs (Marcy, 2010). The Joint Chiefs of Staff were pressured so hard, that the Army gave \$277 million in equipment to help fight the drug trade. In the early 80's, Reagan redoubled efforts at curbing imports, further militarized drug policy, and brought about mandatory minimum sentences for minor drug offenses. In 1980, the FBI's Uniform Crime report listed fewer than a hundred thousand arrests for heroin and cocaine, which were tabulated together. By 1989, that figure had jumped to more than seven hundred thousand arrests (Grim, 2009). The drug enforcement bill President Reagan signed in 1986 was criticized for promoting significant racial disparities in the prison population and critics also charged that the policies did little to reduce the availability of drugs on the street, while resulting in a great financial burden for America. The Reagan administration was criticized for its slow response to the growing HIV epidemic. As thousands became infected with the virus, he did not increase funding to try to discover cures - rather he downplayed the situation. The Anti-Drug Abuse Act required a minimum of 10 years to life for a first drug conviction, 20 years to life for a second and life in prison if the possession could be tied to a death or serious bodily injury. In addition, the Comprehensive Crime Control Act of 1974, was also established to empower



the Department of Justice (DOJ) to seize assets derived from drug trafficking (Libby, 2008). Foreign Policy Drug use is often a response to war, poverty, and under-development (Maguet & Majeed, 2010). Supply and demand is the major problem we have with combating drugs. Many Latin American countries are often targeted as objects of its now age old and publicly demonized " War on Drugs." Many of these governments have been singled out as cooperators in the production or trafficking of drugs. When I lived in the border town of El Paso, there was not a day when we did not hear about the drug bust made by the border patrol. These illicit businesses are now the largest and most profitable to be located in the developing world; for example, the drug trade now represents about 7% of world trade according to late 1990s estimates of the United Nations and their vast profits and enormous assets make them powerful actors in their home countries and in their regions (Shelley, 2003). Some argue that the solution to slowing down these numbers is to decriminalizing of drugs. Which would mean, " Fewer lethal impurities and a decline in the glamour associated with prohibition" (Hitchens, 2007). Further claiming we should abandon the " war on drugs." (Hitchens, 2007) Perhaps he might be right, if we legalize the purchase of these drugs, then perhaps we would not have to worry about the smuggling, therefore focusing on other issues.

### Chapter III: Classification of Drugs

Indisputably, the biggest enemies of the War on Drugs are the drugs themselves, but how does one define drugs? Congress enacted The Controlled Substances Act in 1970. Under this act there are five schedules of drugs and chemicals. The government has a classification schedule in which it classifies potential drugs of abuse in five different categories, going from

Schedule I (most dangerous) to Schedule V (least dangerous). Marijuana is classified as a schedule 1 controlled substance that means that it is not allowed to possess, distribute or manufacture marijuana in the United States for any reason, including medical necessities. Drugs in Schedule I also include heroin, LSD, marijuana, and methaqualone. These drugs are considered to have a high potential for abuse, no legitimate medical uses, and are unsafe even under the administration of a doctor (Jeffrey, 2004). Drugs in schedule II include morphine, PCP, cocaine, methadone, and methamphetamine. These drugs also have a high potential for abuse, but they do have currently accepted medical purposes, though abuse may lead to severe psychological or physiological dependence (Jeffrey, 2004). Schedule III is kind of a catch-all category for drugs which have abuse potential, medical uses, and addiction potential, but are less dangerous than drugs in Schedules I and II. Drugs in schedule III include anabolic steroids, codeine and hydrocodone with aspirin or Tylenol, and some barbiturates. Schedule IV is similar to Schedule III, but includes drugs with even less abuse and addiction potential, such as Darvon, Talwin, Equanil, Valium and Xanax. Schedule V seems nearly superfluous, as it is the same as Schedule IV, but includes drugs with even less addiction and abuse potential. The only drugs currently listed in Schedule V are over-the-counter cough medicines with codeine (Jeffrey, 2004). This problem is clearly ever morphing because drugs listed in schedules are constantly changing based on public opinion and the emergence of new drugs and the submergence of old drugs. In addition to the already lengthy existing list and category, the Anti-Drug Abuse Act of 1986 created a new class of substances. These include controlled substance

analogues, which are substances that are not controlled substances, but may be found in the illicit traffic. Chapter IV: Legalization of Marijuana It is debated that great things can happen for this country, if the government decides to deem the cultivation, distribution and usage of marijuana legal throughout. I know this has been up for debate for several decades. As a child, I remember going to Venice Beach in California, and my parents being approached by people to sign petition for the legalization of marijuana. The legalization of marijuana is backed up not only by its importance in the medical community, but its prohibition has led increase violence in the United States (Miron, 1999). It is said, that his kind of step can create many jobs for many of the individuals who are unemployed owing to the absence of higher degrees and we cannot even imagine the benefits it would carry for people suffering from ailments that can be cured using this drug correctly and effectively. However, like every other story, these advantages come with a dark side as well, there also many cons that come with the legalization of marijuana. A major concern in the legalization is that the marijuana plant is a gateway drug, and it comes with its own set of harmful long term effects it has on the human body, that ultimately lead to the disintegration of the human society. We have to be careful that if and when the country allows the legalization of this drug, the public must be educated on its usage and made aware of the detrimental effects of its abuse." Cannabis has various commercial and industrial uses, as over 25, 000 stuffs can be made from the crop. The plant used in making marijuana has a ton of alternative uses, including paper, & construction, composites for autos, geotextiles, insect repellent, dynamite, and thermal insulation materials" (Adler, Adler & O'Brien, 2012, 200-201).

Effects on Society

The bill for the legalization of marijuana for recreational use was recently passed in my home state of Colorado. Yet there are legal issues that have to be answered over the execution of the vote as the Federal law states marijuana is still prohibited. This has caused much legal confusion. Despite states' efforts to decriminalize it, as we mentioned before it is still a Schedule I controlled substance under the federal Controlled Substances Act of 1970. Meaning it is still illegal for individuals to possess, import, manufacture, import, or sell it. (Hartman, 2013) Hartman(2013), further discuss how a case brought by a Wal-Mart employee who was fired after testing positive for marijuana. This is not the only case with similar circumstances where the employee was a cancer patient. In this case, under Michigan Medical Marijuana Act the court held that the Michigan law was not intended to modify the state's employment rule, neither was it meant to form the basis of a claim for wrongful discharge in violation of public policy (Hartman, 2013). Cases like these are more than common. Another major concern is the children use and the spillover of marijuana supplies into the youths' population. Marijuana consumption and marijuana legalization amongst children impact both the macro and micro levels of society. Effects on the macro level deal extensively with imprisonment. As we discussed before, the number of people being imprisoned for drug-related crimes has been constantly rising. The U. S has not only defeated its own past imprisonment rates; however, it also has exceeded rates globally. (Defeis, 1995) This can also cause a significant rise in marijuana consumption. It is expected that, the number of users would double or triple. This implies an added 17 to 34 million youths consumers in the USA. Legalization would

imply that marijuana companies could advertise their products and package them in striking ways to improve their market share. (MacCoun, J.; Kahanm, R. J.; Gillespie, J.; et al, 1993) Greater marijuana consumption would mean millions more damaged youngsters. Marijuana use can everlastingly harm brain development. Problem solving, concentration, motivation, and memory are harmfully impacted. Teens who consume marijuana are more probable to involve in delinquent and criminal behavior, and such experience increase the risks of schizophrenia and depression, that included being three times more probable to have suicidal ideas. Marijuana is considered by some teens as being the only accessible alternative for treating complex physical and psychological health problems when other treatments have been unsuccessful or when suitable access to health care has been unsuccessful. Amongst children who consume drugs, just about 60% consume only marijuana and 66% of these new consumers are between the age groups of 12-17. A comprehensive study by Duke University and King's College London proved chronic pot use amongst children caused an average 8-point drop in IQ. In September, Colorado Education Association, the teacher's union, criticized legalization claiming marijuana would be detrimental to students. Marijuana is physically addictive and is a gateway drug to other complex drugs and is related to anxiety, panic attacks and obsession, which might not improve eventually. The harmful effects of marijuana are generally not noticed by parents as a result of how quickly a child becomes addicted. By the time treatment is taken, the children have admittedly been consuming for three or four years. Amongst children getting treatment for substance abuse, many have consumed medical marijuana that was suggested to

someone else, also known as "diverted medical marijuana." The study performed by the University of Colorado in Aurora noted that almost 74% of the children used marijuana that was suggested to someone else an average of 50 times. With the legalization of marijuana, policy modifications are required to safeguard the children as teen marijuana consumption is at its highest in three decades and children are more probable to consume marijuana than tobacco. Opponents claim that marijuana creates as a gateway drug to other kinds of illegal narcotics, and that legalization of marijuana would improve other types of drug use and make the state an attraction for addicts; nevertheless, there is no proof marijuana is an entry drug (McNulty, 2004; American Journal of Public Health, 2004; National Academies Press, 1999). Opponents of the legislation also state that the costs of enforcement are negligible compared to the costs of drug addiction and treatment, in addition to the fact that legalization at the state level would not affect federal laws and global treaties regarding marijuana. Beyond the potential of Abuse Supporters of the legalization of marijuana do not seem too concerned about the reports of potential abuse from the younger spectrum of our society. Supporters claim that the War on Drugs has been unsuccessful, that resulted in the initiation of organized crime, and that a new more efficient policy is required. It is claimed that legalizing small amounts of marijuana would free police department resources to successfully cope with more critical crimes. Some supporters of legalization also consider marijuana to be less detrimental than other types of illegal narcotics, alcoholic beverages or tobacco consumption. There is no doubt that there are many issues surrounding the legalization of marijuana for

medical use, but proponents argue that the issue is about compassion for the seriously ill; it is about improving the quality of life for many people who are suffering with seriously debilitating and terminal illnesses; it is about survival. Medicinal Marijuana There is no doubt that there are many issues surrounding the legalization of marijuana for medical use, but proponents argue that the issue is about compassion for the seriously ill; it is about improving the quality of life for many people who are suffering with seriously debilitating and terminal illnesses; it is about survival. The debate over marijuana as medicine continues. Marijuana use for medicinal purposes roots back to ancient times in China where it was reported to have used as an anesthetic when carrying out surgeries on patients. Amongst that, it is also known to have been used for various other purposes like clearing blood and cooling temperature, relieving fluxes, undoing rheumatism, and discharging pus for patients. China was not the only country using this plant for the right objectives, collectively it was introduced to the Southeast Asia in the 16th century, where it was used to treat malaria relieve asthma, regulate the function of the heart, calm the nerves, and treats paralysis in Cambodia, Thailand and Vietnam. The current applications of marijuana's medicinal qualities include the:" Alleviation of pain associated with cancer, chemotherapy, HIV, AIDS, glaucoma, as well as multiple sclerosis. In addition to these devastating ailments, experiments have been conducted on the beneficial properties of cannabis with regards to Alzheimer's disease and Tourette's syndrome. Although these experiments have positive results, more research may be required for the use of marijuana to be confirmed". The greatest danger in smoking marijuana is potential lung damage.

Marijuana is said to have higher tar levels than that of cigarettes, about twice as much. This is not of great concern to those suffering from diseases such as terminal cancer and AIDS. The benefits of smoked marijuana can potential far outweigh the risks in such cases. Marijuana has made a stand in the medicinal world it is recognized by professionals, scientists and doctors from around the world. The Institute of Medicine have recently conducted studies on the effectiveness of marijuana for patients who include it in their treatment regimen and have concluded that, on average, two-thirds of the patients benefited from marijuana's healing properties (Medical Marijuana Science and Studies). Critics of medicinal marijuana are now starting to become less opposed and optimistic as more and more research is revealed. In this extensive research on tetrahydrocannabinol (THC) the main active compound in marijuana, " Scientists have been able to create synthetic THC, known as dronabinol, which is now marketed under the name of Marinol". Marijuana has been proven to help patients with cancer, glaucoma, aids, and chronic pain." The Institute of Medicine (IOM) study team received reports of more than 30 different medical uses of marijuana". Marijuana should be studied and tested closely to prove effectiveness. Doctors and scientists do not want to study a drug, which they could not use. One other reason it is not studied more is because the potency of the plant itself varies so much that it is too hard to standardize a safe dose. Any drug that benefits the patients with any illness should be considered a legal drug. This is why federal law has to come to a significant change towards medical marijuana, and should not be classified under " Schedule I" because it is a drug that cures. The technology present today has made it possible for the humans to



use this drug and earn the benefits without having to deal with the harmful effects of the plant. A recent practice known as vaporization has allowed patients to experience the effects of marijuana without the by-products of smoke. When the cool vapor is inhaled, there is heat damage to the respiratory tract. It is noted that this method allows for a stronger, more effective dose considering that the beneficial cannabinoids are not lost or destroyed during the combustion associated with smoking. Vaporization also significantly reduces the amount of tar that is inhaled, leaving little to none. Therefore, patients would be at no risk of developing other illnesses when receiving vaporized cannabis in their treatment. Another significant practice has been the eating of marijuana in the form of pastries such as cookies or brownies, lollipops, and etc. Another argument against the use of marijuana in medicine is the possibility that there are simply better alternatives to marijuana. Research on marijuana has remained indefinite for quite awhile without any major discoveries or definite beneficial reason to continue its use in medicinal therapy. It is suggested that the medications already in use are the better choice in determining how to manage and control the effects of a disease. The FDA has been reluctant to pass marijuana as a valid tool in medicine because of a lack of solid scientific studies. It is believed that as of 2006, " there is no medical value linked to marijuana use", as stated by the FDA. It is criticisms like this that support the claim that marijuana is not suited for the medical field. But scientists keep making medical discoveries after studying the properties of marijuana. In 2007, the California Pacific Medical Center Research Institute discovered that a compound in cannabis called cannabidiol (CBD) that works by blocking the activity of a gene called

Id-1; this allows the multiplying of the cells of cancer, away from the original tumor site, metastasis. These anti-cancer properties of marijuana prove to be effective against various forms of cancer, such as brain cancer and breast cancer.

CHAPTER V: Clash between the State and Feds

State Law: There are ten states in the United States that have legislated statues authorizing the use of medical marijuana, under certain restrictions. According to the new state laws, if a person is suffering from certain conditions and his doctor advises him (after explaining all possible consequences) to use marijuana as a part of treatment, that person is legally allowed to consume and possess marijuana up to an amount mentioned. The statues mentioned were legislated due to an obvious change in the public opinion on this matter in those ten states. Every state has its own set of restrictions to be implemented upon.

Federal Law: The clash between the state and federal law in this matter is obvious and disturbing. An ill person in California who uses Marijuana under his doctors' advice could be free of charge under California state laws but could still be prosecuted for drug offences in a U. S. federal court. Realistically speaking, the state is powerless to defend its people against federal prosecution, making the state law invalid. After pointing the problematic controversy between the state and federal law the question here is should there be an amendment to Controlled Substances Act?

United States vs. Oakland Cannabis Buyers' No. 00-151

Supreme Court of the United States

This case deals with the violation of a federal law, the Controlled Substances Act, by a not-for-profit organization called "Oakland Cannabis Buyers". This organization was created to distribute marijuana in accordance with the California state statutory exception. The California

statutory exception allows a patient (or his caregiver) to possess or to cultivate marijuana for the patient's medical purposes upon the recommendation or the approval of a physician. The main issue discussed in this case is whether there is a "medical-necessity" exception to the federal Act's prohibitions. The "Oakland Cannabis Buyers" case demonstrates how this clash comes to effect in reality. This case also discusses the relevance of the public's opinion to the federal act

Chapter VI: Conclusion