

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 8, 2005

8:18 a.m.

**MEMBERS PRESENT**

Representative Lesil McGuire, Chair  
Representative Tom Anderson  
Representative John Coghill  
Representative Pete Kott  
Representative Les Gara  
Representative Max Gruenberg

**MEMBERS ABSENT**

Representative Nancy Dahlstrom

**COMMITTEE CALENDAR**

HOUSE BILL NO. 96

"An Act making findings relating to marijuana use and possession; relating to marijuana and misconduct involving a controlled substance; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 12

"An Act relating to televisions and monitors in motor vehicles."

- BILL HEARING POSTPONED TO 4/11/05

HOUSE BILL NO. 33

"An Act relating to the effect of regulations on small businesses; and providing for an effective date."

- MOVED CSHB 33(JUD) OUT OF COMMITTEE ON 4/7/05

**PREVIOUS COMMITTEE ACTION**

BILL: HB 96

SHORT TITLE: CRIMES INVOLVING MARIJUANA/OTHER DRUGS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/21/05	(H)	READ THE FIRST TIME - REFERRALS
01/21/05	(H)	JUD, FIN
04/08/05	(H)	JUD AT 8:00 AM CAPITOL 120

**WITNESS REGISTER**

DAVID W. MURRAY, M.A., Ph.D., Special Assistant  
to the Director  
White House Office of National Drug Control Policy (ONDCP)  
Washington, D.C.  
POSITION STATEMENT: Provided comments and responded to  
questions during discussion of HB 96.

DEAN J. GUANELI, Chief Assistant Attorney General  
Legal Services Section-Juneau  
Criminal Division  
Department of Law (DOL)  
Juneau, Alaska  
POSITION STATEMENT: Presented HB 96 on behalf of the  
administration and responded to questions.

CRISTY WILLER, Deputy Director  
Central Office  
Division Of Behavioral Health  
Department of Health and Social Services (DHSS)  
Anchorage, Alaska  
POSITION STATEMENT: During discussion of HB 96, provided  
comments and responded to questions.

MAHMOUD A. ELSOHLY, Ph.D., Director  
Marijuana Program  
University of Mississippi  
Oxford, Mississippi  
POSITION STATEMENT: During discussion of HB 96, provided  
comments and responded to questions.

ED HARRINGTON, Captain, Commander  
Alaska Bureau of Alcohol & Drug Enforcement  
N Detachment  
Division of State Troopers  
Department of Public Safety (DPS)  
Anchorage, Alaska  
POSITION STATEMENT: During discussion of HB 96, provided  
comments and responded to questions.

AARON MATTLEY  
Juneau, Alaska  
POSITION STATEMENT: Testified in opposition to HB 96 and SB 74.

**ACTION NARRATIVE**

**CHAIR LESIL McGUIRE** called the House Judiciary Standing Committee meeting to order at 8:18:50 AM. Representatives McGuire and Gara were present at the call to order. Representatives Anderson, Coghill, Kott, and Gruenberg arrived as the meeting was in progress.

HB 96 - CRIMES INVOLVING MARIJUANA/OTHER DRUGS

[Contains mention of opposition to SB 74, companion bill to HB 96, and a comment regarding SB 56.]

CHAIR McGUIRE announced that the only order of business would be HOUSE BILL NO. 96, "An Act making findings relating to marijuana use and possession; relating to marijuana and misconduct involving a controlled substance; and providing for an effective date."

DAVID W. MURRAY, M.A., Ph.D., Special Assistant to the Director, White House Office of National Drug Control Policy (ONDCP), said:

I have previously weighed in with testimony in the past couple of weeks, and was going to be available for questions today. ... I just wanted one opportunity to respond to one set of questions that I think might still be in the air regarding marijuana potency and the potential impact on health, with the recent research literature we've seen over the last, let's say, five years, increasing our sense of the risk to adults as well [as], particularly, to youth from exposure to high potency cannabis consumption and the predispositions towards mental health impact, on top of the regular concerns we've had for some time about the smoking of this substance and the carcinogens, tars, and unhealthy substances exposed there and the behavioral correlates we've already seen with high cannabis consumption linked to a number of pathologies from school delinquency to criminality to "amotivational syndrome" and poor performance.

In addition to that, [there is] ... recent literature on risks for depression, mental illness, schizophrenia, and the rest, that are showing up - particularly where there's high exposure to marijuana and a predisposing susceptibility to mental health episodes - to [a] striking conjunction of events with

additional research showing that marijuana consumption can be an independent risk factor even in those who do not have predisposing or predisposition vulnerabilities for mental health episodes. It is linked in literature, now, to triggering even the onset of these episodes. So there's a lot of warning signs out there.

DR. MURRAY went on to say:

It has been argued, I think on the part of some who've not attended to the most recent data, that there has not been a steep change in the potency of the active ingredient in cannabis, [tetrahydrocannabinol (THC)], the intoxicating ingredient, but I think that our research records from the National Institute of Drug Abuse, based upon analyses of samples since 1979, show that there's been a fairly steep rise, fairly steadily, up through the 1980s, when potency probably averaged around [3.5] to 4 percent after rising from what was a considerably lower potency during the period of time that we sort of associate with the counter culture and the '60s and "Woodstock."

So by the mid-'80s, you have a fairly steep rise already in the [3.5] to 4 percent rate, and then I think the important news is to acknowledge, in the last 10 years alone - that's basically since the mid-'90s until now - we have seen another doubling of that potency rate, so that by 2004, we see data saying that the average potency of THC - that is available as analyzed by seized samples of marijuana on U.S. streets - is now exceeding 8 percent potency, ... with some ranges up to 25 to 30 percent [that] have been found in the street scene - it's unusual, but it is there - as well as an increase in the proportion of market share ... [of] high potency THC.

The percentage of [marijuana with a] ... potency above 8 or 9 percent is becoming an increasing share of the available market - that is, what is a young person likely to run into if they're purchasing on the street. Increasingly it is no longer marijuana in the 3-5 percent range; proportionately, it is increasingly likely to be marijuana above the overall mean average of 8 percent - it is likely to be very high [potency] indeed. It has been argued by some, further, that

this should not be regarded as necessarily translating into greater health risk, because it is possible for - and they use the technical term, titration - ... a user to correspondingly cut back on the volume consumed in proportion to the increased exposure to the highly potent intoxicating element of THC, which is, after all, an addictive [substance] that does produce withdrawal syndromes as well as the problem of dependency.

[8:23:35 AM](#)

DR. MURRAY continued:

My impression is that that is not a good case, that titration is in fact able to explain what we are seeing. It is not a definitive argument - no one knows for sure. In certain populations of experienced users, perhaps it is possible that they are in fact curtailing the sheer volume of smoke ingested as a function of how much potency there is, but that is not ... consistent with the general literature we see here. We have seen an increase, over the last decade ... of the rate of admissions for treatment dependency ... based upon cannabis, ... from 45 per 100,000 [to] over 118 per 100,000. ... That suggests that there's some dynamic in here that is leading to greater risk of dependency over the last 10 years. And, as we said, within the last 10 years, we've seen a doubling of potency.

CHAIR McGUIRE asked for details regarding why the increased percentage of tetrahydrocannabinol (THC) in cannabis should be of concern.

DR. MURRAY said that recent literature increasingly illustrates the consequences and pervasiveness in the brain and the immune system, in the human system, of cannabinoid receptors. He went on to explain that THC is just one of a multitude of cannabinoid substances found in typical marijuana smoke, which also contains a number of contaminants such as carcinogens, tars, and other substances. Cannabidiol is one of the substances found in the intoxicating element in marijuana, THC, which was discovered, some years ago, to bind to receptors in the brain, and this binding explains why people experience a "high" when ingesting the smoke of marijuana. However, this raises the question of

why would humans have receptors in the brain for a substance found in the smoke of what is essentially a wild weed.

DR. MURRAY indicated that the supposition is that there must be some endogenous substance inside the body that is already meant for those receptors; thus, when an exogenous source of this substance, such as marijuana smoke, is introduced into the body, it will attach to and block the corresponding receptors. This possibility has engendered research aimed at discovering what those naturally occurring endogenous substances are, and this research has led to the recognition of two different types of receptors found in the brain and in the immune system - "CB1" and "CB2" - that are naturally responsive to the body's own production of a chemical [included in a group] that are now called anandamides, which are substances that should properly be binding to certain receptors, and is chemically, molecularly similar enough to cannabinoid molecules that the aforementioned receptors accept the exogenous substance.

DR. MURRAY said that developmentally, humans have a fairly delicate regulatory system that affects the human brain and immune system and involves pain, mood, and a variety of other brain and neural system functions. So because cannabinoids - marijuana smoke - can affect this regulatory system, caution is in order because the smoking of marijuana may very well be interfering with the natural regulation of a fairly sensitive system, that it may trigger or predispose marijuana users to certain levels of attachment, since natural anandamides do not bind for long - they bind fairly quickly and then move on. Cannabinols, on the other hand, bind to the aforementioned receptors for a considerable period of time, not only producing the "high" but engendering other effects as well. Again, he remarked, this suggests that caution is in order because of the potential long-range impact, in terms of neurophysiology and developmental cycles, that early exposure to cannabinols can have on the brain's own regulatory system.

[8:28:20 AM](#)

DR. MURRAY, in response to a question, offered his understanding that apparently anandamides are involved in a variety of functions. Within the brain and the immune system, there are certain receptors that are "tuned" to cannabidiol, and other receptors that are tuned to THC. He indicated that these receptors influence pain and mood; thus anandamides - as well as their exogenous counterparts - can produce, among other things, euphoric, good-mood feelings, and are involved in appetite

regulation and inflammatory responses. The scientific community, he relayed, is somewhat excited about and is pursuing the prospect that there might be "proper scientific and medical" regulatory investigations that could produce valuable medications without resorting to "raw, smoked, crude weed that [is] contaminated with carcinogens in unknown quantities and ... dosages."

CHAIR McGUIRE asked what is known scientifically about [adults] who used marijuana as children; for example, have such people experienced changes in speech patterns or memory capacity.

DR. MURRAY said emerging research shows that changes in the brain have occurred as a result of addiction and dependency, and that cannabis consumption produces these changes as well. Noting that Alaska's rate of "past year marijuana consumption" is the highest in the nation, he relayed that in observing the behavior of high-level, frequent marijuana users, it has been determined that memory and cognitive performances are affected, and that "amotivational syndrome" - [which is characterized by a decrease in] the willingness, the eagerness, and the alacrity with which one engages in tasks and performances - is also present. He went on to say:

As the years are going by, we're discovering more and more ... what has happened in the brain, what has happened in the personality, what has happened in the emotional system that is underpinning these behavioral changes that we're seeing. ... Here is a suggestion that I think is quite disturbing: ... we know that there are populations in the United States that are highly vulnerable to cannabis use, where there are young women - ages 16, 17, 18, 19 - who become pregnant [and] who do not desist in their cannabis use. Now, we've all had [the] tragic experience of learning about fetal alcohol syndrome [FAS] - [caused by] in utero exposure to the mother's drinking - that produces lifetime retardation and problems. We've already learned to warn women not to expose themselves to lead paint or tobacco when pregnant, because this has an in utero impact. We are beginning to see, likewise, in populations of young women who persist in cannabis smoking ..., [that] this is having developmental consequences on the emerging child, that [such children] ... are going to [be] born with vulnerabilities, predispositions, risks, and developmental problems. Increasingly we're starting

to see those triggers in there, and it's a warning sign that we've been running an experiment on the next generation ... by the early- and youth-exposure to increasingly high potency marijuana, that ... [it] is having consequences that we are carefully uncovering, year by year, that are deeper and more pervasive than we realized.

8:34:26 AM

REPRESENTATIVE GARA asked which of all the conditions Dr. Murray has discussed have peer-reviewed evidence substantiating the link between the condition and marijuana use. He also asked whether there have been any comparison studies between women who drink alcohol while pregnant and women who smoke marijuana while pregnant.

DR. MURRAY, referring to the second question, indicated that there is not yet a scientific basis for saying that one type of behavior is worse for the fetus than the other type of behavior, but posited that ongoing research will instead eventually illustrate that both have consequences. With regard to the first question, he assured the committee that each of the conditions he alluded to - behavioral issues, cognitive and memory issues, and mental health issues - and can be backed up with peer-reviewed formal publications and citations. What is still emerging from the ongoing research is the degree and pervasiveness of the problems and risks, but those problems and risks are already well known and well documented. Emerging research, he added, is showing that cannabis consumption is unusually risky for young people in terms of dependency, addiction, withdrawal, and the likelihood of dependency on other substances later in life, and is showing that the increased potency is accelerating the aforementioned risks, particularly for those with a disposition towards mental illnesses - cannabis is a trigger for one out of every nine persons. He indicated that ongoing research is providing troubling new warning signs regarding cannabis consumption.

8:38:00 AM

DR. MURRAY, in response to a question, said that when analyses of potency are performed, market shares of low, medium, and high potency marijuana are averaged to get to a mean, and that number has been increasing steeply, doubling in the last 10 years, up to 8 percent. However, the volume of higher potency marijuana

that can be found on the streets has also been increasing, and this will, over time, result in a higher mean.

CHAIR McGUIRE asked Dr. Murray for backup material regarding the increase in marijuana potency.

DR. MURRAY, in conclusion, offered that in the last 10 years, there has been a nearly 200 percent increase in the number of emergency room admissions/mentions attributable to marijuana, and suggested that this correlates with the rise in potency.

REPRESENTATIVE GARA asked that any statistics offered, such as the aforementioned statistic regarding emergency room admissions, be presented as comparisons between marijuana use and alcohol use.

8:42:00 AM

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), said marijuana is an important topic because of evidence that has come to light in the last several years regarding the increase in marijuana potency. He mentioned that others would be speaking on issues such as marijuana potency, how the Alaska State Troopers are dealing with marijuana, surveys regarding marijuana use, and how marijuana addiction ties in with alcohol addiction. He noted that the legislature hasn't discussed the issue of marijuana - with the exception of the debate on medical marijuana - in over 20 years, when the Ravin v. State decision came out, and assured the committee that HB 96 doesn't do anything to the medical marijuana laws currently in effect.

MR. GUANELI offered his view that although the Ravin decision is much maligned in some circles, it had two important aspects, one being the way in which the law was analyzed by the court - it involved a balancing between a constitutional law and a state interest - and which has since become imbedded in Alaska law, and the other being the application of the aforementioned balancing to the facts that were before the court, facts which were a product of that era, the [early] 1970s, both because of a 1972 case and the scientific research available in 1973. Referring to the last point, he offered his belief that any future supreme court case regarding marijuana will be heard in the context of the new facts arising out of the most recent research.

MR. GUANELI relayed that the court in Ravin said, "Few would believe they have been deprived of something of critical importance if deprived of marijuana" - adding that he agrees with that point - and also said, "The experts who testified below, including petitioner's witnesses, were unanimously opposed to the use of any psychoactive drugs. We agree completely." He noted that at recent Senate committee hearings on the companion bill to HB 96, "experts" testified that [marijuana] is not a completely harmless substance.

[8:48:19 AM](#)

MR. GUANELI, in response to a question, clarified that in Ravin, the court found that the state had not shown that marijuana - as existed in Alaska in that era - was sufficiently harmful to warrant the prohibition of its usage by adults in their own homes. What is critical, he proffered, is that the court in Ravin said, "Most marijuana available in the United States has a THC content of less than one percent." This is particularly important, he added, when taking into consideration Dr. Murray's testimony regarding the current increase in potency, and the fact that the potency of the marijuana available in Alaska is much higher, on average, than the potency of that which is available in the rest of the United States. He noted that the court, in Ravin, also said:

We recognize that more potent forms of cannabis than marijuana are commonly used in other countries and are available on a limited scale here. However, studies of use patterns here do not indicate any great likelihood of a significant shift in use here to the more potent substances. If such a shift were to occur, then marijuana use could be characterized as a serious health problem.

MR. GUANELI opined that this latter statement is important for a couple of reasons, one being that even in 1975, the court acknowledged that use of the more potent forms of marijuana, as well as long-term use, had significant effects on health. But because the court, at that time, also found that such types of marijuana were not available in Alaska, it determined that the use of marijuana by adults in their own homes did not pose a serious health problem.

[8:50:45 AM](#)

REPRESENTATIVE GARA said he is interested in receiving information which illustrates that marijuana use is more harmful than alcohol use, which has not been banned by the court.

MR. GUANELI pointed out, however, that the court has determined and upheld that the state and municipalities certainly do have the right to ban alcohol. He remarked that although alcohol use in Alaska constitutes a terrible problem, the court is not going to use the same legal standard it applies to alcohol use to measure any other substance before allowing the legislature to regulate it. Notwithstanding this, he offered his belief that alcohol use and marijuana use are linked, that [the state is] not going to be able to get a handle on the alcohol problem in Alaska unless it also gets a handle on the marijuana problem, since marijuana is often the secondary drug of abuse for Alaska's alcoholics, particularly those who are Alaska Native. Thus, having the courts say it is okay to have another type of drug in one's house that one can abuse will only make it more difficult to treat alcoholism.

CHAIR MCGUIRE offered her understanding that those seeking treatment for an addiction are precluded from naltrexone-based treatment programs if they are using marijuana or opiates.

[8:54:51 AM](#)

REPRESENTATIVE GARA suggested that for him the question becomes, if they are not making someone a felon for using alcohol, then why should they make someone a felon for using marijuana.

MR. GUANELI pointed out, however, that HB 96 does not address the issue of marijuana use; rather, it addresses the issues of marijuana possession and marijuana delivery.

CHAIR MCGUIRE surmised, then, that by having the bill focus on possession and delivery issues, the state is trying to get around the [problem arising from the 2003 Alaska Court of Appeals case, Noy v. State of Alaska]. She offered her recollection of a case in which the judge ruled that the admission of evidence showing that there was marijuana in a vehicle involved in an accident would be prejudicial to the driver.

MR. GUANELI, in further response to Representative Gara, said the bill would make marijuana possession a crime, regardless of where it is possessed, but would not make marijuana use a crime. He added, "Whether you possess it in your home or anywhere else,

the voters in Alaska, in 1990, made possession of marijuana anywhere in the state an offense; it is the courts that have put limits on effecting the voters' will." He relayed that in the Ravin decision, the court also said: "The National Commission rejected the notion that marijuana is physically addicting. It also rejected the notion that marijuana as used in the United States today presents a significant risk of causing psychological dependency in the user."

MR. GUANELI said that notwithstanding these statements by the court in 1975, the very fact that there is now a group in the United States called Marijuana Anonymous indicates to him that the facts the court had before it in 1975 are significantly different than the facts that are available today.

[8:58:13 AM](#)

REPRESENTATIVE GARA said he doesn't accept Mr. Guaneli's explanation. He said that although he agrees that dealing and manufacturing drugs and possessing them with the intent to deliver is terrible behavior that should be criminalized, his question is whether the bill criminalizes someone who uses marijuana in his/her own home. What is the difference between possession of marijuana for use in one's own home - if possession of marijuana anywhere is being criminalized - and use of marijuana in one's own home? How is it that the bill purportedly won't criminalize use?

MR. GUANELI said that the term "use" to him means that the marijuana has already been consumed, whereas the term "possess" means that the marijuana is accessible to children, for example. Children in Alaska are using marijuana at a much higher rate than they used to, and many of them say that they can get it at home; thus possessing marijuana in the home, particularly when it is of the potency described by Dr. Murray, is a problem that needs to be addressed, Mr. Guaneli opined.

[9:00:48 AM](#)

CHAIR MCGUIRE - noting that [Section 2] of the bill is the findings section, that [Section 3] addresses the crime of misconduct involving a controlled substance in the third degree by changing "19 years of age" to "21 years of age", that [Section 4] addresses the crime of misconduct involving a controlled substance in the fourth degree by lowering the amount, from "one pound", to "four ounces" - asked what part of the bill addresses issues raised by Noy.

MR. GUANELI referred to page 7, lines 19-21. He reiterated that it is already against the law in Alaska to have any amount of marijuana, regardless of location, and offered his belief that the debate between he and Representative Gara centers on the findings outlined in the bill. If the legislature, via the bill, makes all of those findings, and if the court then upholds all of them, then the court will say that the laws which have been enacted by the legislature are constitutional, can therefore be enforced, and that there is a legitimate state interest in doing so. He posited that the question is really whether the current laws regarding marijuana can be enforced, and suggested that the various court opinions that have come forth over the years have caused confusion.

REPRESENTATIVE GARA said he agrees that people who make drugs available to children should be penalized; however, the language on page 7, lines 19-21, appears to criminalize a person who has marijuana in his/her home for his/her own personal use even if there aren't any children living there.

MR. GUANELI relayed that in the Noy case, a search of the defendant's house during a barbeque party revealed that he had marijuana all over his house; in other words, the friends he'd invited over, as well as their children, did have access to that marijuana. So one can debate whether a person ought to be allowed to have marijuana in his/her home, but the bottom line is that kids are going to get it, and so if the legislature says that it's okay to have marijuana in the home, then kids are going to think that it's okay for them to have it. The voters have already said that it is not okay to have marijuana in one's own home because doing so causes problems; thus he does not think it's right to argue that having marijuana in one's home won't cause problems, he added.

[9:07:09 AM](#)

CRISTY WILLER, Deputy Director, Central Office, Division Of Behavioral Health, Department of Health and Social Services (DHSS), after noting that she used to run the drug and alcohol treatment program for the Bristol Bay Area Health Corporation (BBAHC), said she has firsthand knowledge of the effects marijuana has on rural areas of the state. Referring to earlier testimony regarding the increase in THC levels, she said that what this increase means for those who are treatment providers is that marijuana has become a much more dangerous drug that people are using and abusing, and is no longer the benign drug

of peace and love that was used in the '60s. Instead, the increase in potency is pushing casual users, recreational users, into patterns of abuse and dependency.

MS. WILLER said that although the Journal of the American Medical Association (JAMA) reports that marijuana use, nationally, over the past ten years, has remained about the same, it also reports that the rates of abuse and dependence among marijuana users has increased dramatically. She noted that there are now 29 states and five other countries that have chapters of Marijuana Anonymous. She surmised that a likely reason that marijuana users are becoming problem users is because the drug is now stronger, particularly in Alaska.

[9:10:36 AM](#)

CHAIR McGUIRE asked how "abuse" is defined.

MS. WILLER said that according to the DSM-IV - the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition - a diagnosis of cannabis dependency requires three or more of the following characteristics/behaviors: tolerance to the drug - one must consume more to get the same effects; withdrawal symptoms [when quitting]; significant time spent acquiring and using; interference with family, work, or recreation; and a person's persistence of use despite the presence of obvious physiological, physical, or psychological effects. In contrast, a diagnosis of abuse would require the presence of one or more of the following problems: interference with work or school performance; use while doing something potentially physically hazardous - such as driving; legal problems; and arguments with family members.

[9:13:05 AM](#)

REPRESENTATIVE GARA asked what the lingering effects of marijuana dependency are in those who stop using, and how those effects would be treated.

MS. WILLER said that withdrawal symptoms can include shakes; sleeplessness; irritability; feeling like one must use the drug, or must use more and more of the drug, in order to feel "normal"; and not performing work or schoolwork as well as one might have done in the past while under the influence. The latter symptom is a result of a person's comfort level becoming situated in the hands of the drug, just as happens with an alcoholic, and since the acute symptoms of marijuana

intoxication are no longer present, a person's attention is focused on trying to get high again.

REPRESENTATIVE GARA asked whether marijuana dependence is the same as addiction, or whether it has been established that a certain level of marijuana use will result in addiction.

[9:16:42 AM](#)

MS. WILLER suggested that the term "addiction" is a non-medical term that is sometimes used synonymously with the term "dependence," adding that she doesn't think that the DSM-IV has a category for "marijuana addiction."

REPRESENTATIVE COGHILL asked Ms. Willer how many adults she has admitted to treatment for marijuana use.

MS. WILLER said that 34 percent of those admitted into public, substance-abuse treatment programs are treated for a primary or a secondary cannabis abuse or cannabis dependence diagnosis. She said that a primary dependence diagnosis means that cannabis is presenting the foremost primary problem, whereas a secondary dependence diagnosis means that cannabis is secondary to some other substance, often alcohol. Alcoholism and cannabis addiction are not mutually exclusive; they often go hand in hand with one another.

REPRESENTATIVE COGHILL asked Ms. Willer whether she has ever treated someone just for marijuana dependence.

MS. WILLER said she has, particularly younger clients, though having someone present just a marijuana dependence is rare. She indicated that she would be offering more testimony later in the meeting.

[9:20:00 AM](#)

MAHMOUD A. ELSOHLY, Ph.D., Director, Marijuana Program, University of Mississippi, relayed that the Marijuana Program is funded by the National Institute on Drug Abuse (NIDA), and that the Marijuana Program analyzes marijuana samples seized by the U.S. Drug Enforcement Administration (DEA) and local law enforcement agencies. Over the years, since the late 1960s, the Marijuana Program has monitored the average level of THC found in confiscated marijuana. He mentioned that he'd prepared statistics regarding all the samples received from Alaska since 1976; that he'd provided those statistics to [the DOL]; that

those statistics include a breakdown by the number of samples, the average potency, and the year; and that he [could] provide statistics regarding the average potency nationwide.

DR. ELSOHLY noted, however, that during the years prior to 1985, only a few samples were received each year from Alaska, sometimes just one or two samples a year, but those numbers have increased since then. In looking at the data gathered from the late 1980s on, the average THC content in Alaska has not been less than 6 percent, and has sometimes been as high as 10-12 percent, though in 2003 the average went as high as 14 percent and involved 18 samples. He also mentioned that the Marijuana Project does not yet have all the data for 2004 analyzed, but so far the one sample that has been analyzed had a potency of over 12 percent. In response to questions, he described the different processes/methods one can use to increase the potency of marijuana.

[9:29:43 AM](#)

DR. ELSOHLY in response to further questions, said that the potency of marijuana is dependent on its THC content, and mentioned that one of the dangers in smoking marijuana, particularly high potency marijuana, is that there is a little bit of a delay between smoking the marijuana and feeling its effects, and so one could easily give one's self too high a dose and not realize it until too late. He mentioned that although an experienced marijuana user might be able to titrate a bit better than an inexperienced user, the latter could end up overdosing himself/herself without knowing what to expect. He explained that THC has a biphasic effect, meaning that a high dose has the opposite effect of a small dose; for example, a small dose might result in feelings of euphoria, whereas a high dose could result in feelings of paranoia. So high potency marijuana in the hands of an inexperienced user could result in that user not experiencing the results he/she anticipated.

DR. ELSOHLY, in response to more questions, said that the highest level of the effects a person will feel from smoking marijuana will be felt within 10 minutes, and that theoretically, one could simply use less of higher potency marijuana. The problem, again, however, is that one doesn't necessarily know how potent any given bit of marijuana is, that it takes a bit of time for the effects to be felt, and so once the marijuana is consumed, it is too late to alter the dosage. He offered his belief that at least with alcohol, one can smell

a particular type of alcohol and get a rough idea of how strong a drink will be.

9:36:06 AM

REPRESENTATIVE COGHILL raised the issue of measuring THC levels.

DR. ELSOHLY said that the level of THC in the bloodstream will be proportionate to the THC level in the marijuana itself, though how much THC actually gets into the bloodstream will be dependant on how a person smokes the marijuana and how long he/she holds the smoke in his/her lungs. In response to another question, he offered his opinion that the different methods of and devices for smoking marijuana are all equally bad; the method/device a person uses is just a matter of personal preference.

DR. ELSOHLY, with regard to the issue of potency, offered his guess that the average potency of marijuana nationwide for 2004 will be around 7 percent, but noted that one set of samples used in the data he provided are domestic varieties, whereas the other set of samples is presumed to come from foreign countries. The THC levels in the domestic samples from the rest of the U.S. average 4 percent, but Alaska's domestically produced samples have a THC level that is much higher than the national average. He suggested that the increase in THC levels nationwide is the result of an increase in the amount of marijuana seized that originated in foreign countries.

9:41:22 AM

REPRESENTATIVE ANDERSON asked Dr. ElSohly to state what he feels to be the three worst effects of marijuana.

DR. ELSOHLY said it would be dependency, [deterioration of] health and performance, and increases in the number of emergency room visits by 12-17 year olds. He also spoke of "amotivational syndrome," antisocial behavior, and the negative impact marijuana consumption has regarding the operation of machinery or motor vehicles. In response to a further question regarding statistics specific to Alaska, he reiterated that they are contained in the information he provided, and again offered a brief description of what they entailed.

9:45:01 AM

MS. WILLER, continuing with her testimony, emphasized that trivializing or underestimating the negative consequences of marijuana use affects the attitudes regarding the risks associated with marijuana use, which can in turn affect the attitudes that children have regarding marijuana use. She noted that there are statistics available indicating that the age of first use in children is associated with parental use in the home. The age at which a person first uses marijuana has severe consequences; the younger a person is when he/she starts using marijuana - for example, if one starts using marijuana before the age of 15 - the more likely he/she is to become dependant on marijuana or to use stronger drugs such as heroin and cocaine when he/she is older. Such children are less likely to graduate [from high school], are more likely to be involved in delinquent behaviors, and are more likely to have multiple sexual partners.

MS. WILLER relayed that according to studies, one in eight high school students in Alaska reported using marijuana before the age of 13, and over 10 percent of middle school students reported using marijuana before the age of 11. This illustrates that there is a risk in Alaska that people will use marijuana at a young age, and this risk is even higher for Alaska Natives - Native children use marijuana at a rate of 69.7 percent, whereas non-Native children use marijuana at a rate of 41.2 percent. She said that although she would agree that alcohol and tobacco are more harmful than marijuana, adding marijuana to the list of substances that one abuses simply increases the number of substances that one has to struggle with.

MS. WILLER relayed that many of those seeking treatment for alcohol abuse were of the opinion that marijuana use is benign, that it is a "free" way to get high without encountering the consequences associated with alcohol use. Thus many who attempted to stop drinking would do so by getting stoned, but this would then lead back to alcohol use. In summary, she remarked: "Marijuana today is stronger than it ever was, leading to more dependence and abuse. Kids are trying it at younger ages, particularly because it's accessible in their homes and because we tend to think of it as not a risky drug. And these issues are hitting our most vulnerable populations hardest."

MS. WILLER, in response to questions, said that a national study conducted in 2003 regarding marijuana use by children indicated that 48 percent of those who used marijuana reported getting the marijuana from their own homes.

CHAIR McGUIRE asked Ms. Willer to consider including such a question in any forthcoming study conducted in Alaska.

MS. WILLER characterized that as a good idea.

CHAIR McGUIRE surmised that such information would help determine where a legitimate government interest fits in.

[9:50:53 AM](#)

ED HARRINGTON, Captain, Commander, Alaska Bureau of Alcohol & Drug Enforcement, N Detachment, Division of State Troopers, Department of Public Safety (DPS), after detailing the positions he's held over the years and his current duties, offered examples of cases wherein children had been taught to smoke marijuana by those living in their homes. With regard to marijuana grows, he said that although there are small grow sites out there, they are rarely found by his unit; more typically what is found by his unit are large commercial grows. He went on to detail the methods of growing and the equipment used at those sites.

CAPTAIN HARRINGTON referred to the misperception that people have been sent to jail for growing small amounts of marijuana, and pointed out that is very difficult to even get much jail time for those convicted of growing large amounts of marijuana. For example, a case involving a grow of 86 plants was dismissed simply because of the caseload level. Additionally, those that are convicted for commercial grows are [sometimes] awarded a Suspended Imposition of Sentence (SIS) or only minimal jail time; once released, such individuals can often be found growing marijuana again at the same locations their original grows were discovered.

CHAIR McGUIRE asked whether the lack of prosecution is a reflection of the societal attitude in Alaska.

CAPTAIN HARRINGTON opined that it is. He pointed out that if the marijuana grow reaches the federal threshold, more severe penalties become available. In response to a further question, he offered his belief that those involved in commercial grows are sophisticated enough to keep their enterprises below certain sizes. He then went on to detail his unit's experience regarding what various quantities of marijuana can be bought for on the street in different areas of the state, concluding that selling marijuana is a lucrative business.

[9:58:59 AM](#)

REPRESENTATIVE GARA, observing that there aren't enough resources currently to prosecute various crimes - for example, sexual assault crimes - asked how the adoption HB 96 will result in something other than more unprosecuted cases.

CAPTAIN HARRINGTON acknowledged that part of the solution to Alaska's marijuana problem will be to enhance prosecution efforts and make penalties more severe for those that are growing and selling marijuana on a commercial basis.

REPRESENTATIVE GARA said it seems that the issue of growing marijuana commercially is much more serious than mere possession, and suggested that perhaps they should just focus on the "grower" issue.

CAPTAIN HARRINGTON noted that a commercial grow can consist of anywhere from 5 to 2,000 plants, and even small commercial grows need to be addressed. Part of the problem in addressing commercial growers, however, comes as a result of the 2004 Alaska Court of Appeals case, Crocker v. State of Alaska, which referenced the Noy decision and which requires law enforcement officers to specify that they know that there is more than four ounces of marijuana being grown in a particular location. He posited that this higher standard has resulted in lower numbers of marijuana plants being eradicated in recent years; for example, in 1999, 14,600 marijuana plants were eradicated, but in 2003, only 5,200 marijuana plants were eradicated.

REPRESENTATIVE ANDERSON posited that the idea is to be consistent regarding all drug use.

CAPTAIN HARRINGTON concurred.

[10:04:05 AM](#)

AARON MATTLEY offered the following comments:

I'm a registered voter, and I'm a marijuana user - [I've] used it for eight years. During this time I've excelled in a lot of aspects in life [including] college sports - varsity cross-country and varsity soccer. I'm not saying [marijuana] ... is a performance enhancer, but I am saying [it's] simply managed, in one's life, according to one's goals. My fastest time in cross-country was five miles in 28

minutes and 30 seconds. I've climbed 14,000-foot peaks - I know [Mount] Denali guides that partake in cannabis.

I'm a former president of [a] college music organization that was featured at my [university president's] dinner. I have a design patent in process. I'm a woodcrafter. I'm an outdoorsman. I have three music CDs I've released and one independent film that can be ordered at [www.groovyfilms.biz](http://www.groovyfilms.biz). I have a steady lady friend of two years who does not smoke pot. ... I have my bachelors degree in professional accounting; I currently work for the State of Alaska as a junior auditor in [the Legislative Audit Division, Alaska State Legislature], but ... I am here representing myself. ...

It is costing me money to be here right now, and I think that democracy is weakened when people have to decide between participating in a democratic process or paying for rent and putting food on the table. I'm fortunate enough that I can make the sacrifice. My expertise credentials root from my direct involvement with the cannabis culture in the Lower 48 and the great [state of Alaska] - a culture that has been demonized by government propaganda. I, like everyone here at the table, am for regulation of marijuana in order to keep children under the age of 18 from using it and adults under [the age of] 21 from using it. Let's regulate it.

MR. MATTLEY went on to say:

However, I am strongly opposed to HB 96 and SB 74. These bills are not about keeping marijuana away from children or increasing the wellness of society. They only create disharmony and are part of an ongoing effort to oppress a natural resource that undermines "Big Money" and special interests - i.e. fossil fuels, timber, petrochemicals using nylon, and oil-based products such as plastic, [and] pesticide consumption by genetically engineered food companies with 10,000 seed patents. There is more money being made in pretending that we're stopping marijuana use than there is selling it; quick example: myself and two friends were fined over \$3,500 for a \$35-bag of weed.

Plus, there are privatized prisons knocking on Alaska's door for the per prisoner revenue amount, while Senate Bill 56 gives judges the ability to increase felony sentencing - i.e. nonviolent marijuana activists. [Again], There is more money being made in pretending that you're stopping it than there is selling. Shame on the political fuel of these bills. All the information and research needed to support the legalization of marijuana has already been presented countless times before despite independent, un-marginalized research being barred from universities as federal governments produce propaganda from White House experts - ... yeah, they contract universities to produce research but, again, it's contracted, it's very marginalized. ...

There is so ... much research out there that already supports the legalization of marijuana, and regulation of it, that the burden of proof actually lies on the proponents of these desecrated bills. The facts stand why marijuana should be legalized, and let's start with a patriotic one: 'Benjamin Franklin started one of America's first paper mills with cannabis. This allowed America to have a free colonial press without having to beg or justify paper and books from England.' You can find all this in a book I'm quoting - it's called, The Emperor Wears No Clothes, it's by a Jack Herer. Some people will consider it just ... cultural propaganda; however, [it] is an authoritative document.

MR. MATTLEY added:

Further, uses of marijuana are as follows: cannabis used to make over 25,000 products before it was outlawed in 1937; 125 years ago, [70] to 90 percent of all rope, twine, cordage, ship sails, canvas, fiber, cloth, et cetera, was made out of hemp fiber - in 1937 it was replaced by DuPont's newly discovered fiber known as nylon; cannabis was the number one annually renewable natural resource for 80 percent of all paper, fiber, textiles, and fuel, from 6,000 years ago until 125 years ago; cannabis was used for 5 to 50 percent of food, light, land and soil reclamation, and even 20 percent or more of all medicine.

Prior to the 1800s, hempseed oil was the number one source for all lighting oil throughout the world. Until 1937-38, even paints and varnishes were 80 percent hempseed oil. Hempseed oil is nontoxic and has been used to make high-grade diesel fuel, oil, [and] aircraft and precision oil. The pulp from hemp is the most efficient sustainable source of plant pulp for biomass fuel to make charcoal, gas, methanol, gasoline, and electricity in a natural way. Nutritionally, hempseed is the most [perfectly balanced and highest source of omega-3 and omega-6 fatty acids.

CHAIR McGUIRE interjected to note the committee's time constraints.

[10:11:25 AM](#)

MR. MATTLEY, acknowledging that point, asked why the amount of four ounces of marijuana was chosen as the threshold for a felony charge. He offered his belief that it was an arbitrary decision. He added:

The challenge to the world and this committee is to try to prove the facts wrong. [Those facts being]: "If all fossil fuels and their derivatives, as well as the deforestation of trees for paper and agriculture, are banned from ... use in order to save the planet and reverse the greenhouse effect, then there is only one known renewable natural resource able to provide the overall majority of our paper, textiles, and food, meet all the world's transportation, home, and industrial energy needs, reduce pollution, rebuild the soil, and clean the atmosphere all at the same time. Our old standby that did it all before: cannabis ... hemp.

MR. MATTLEY referred to Captain Harrington's testimony regarding the price of marijuana in different areas of the state, and opined that no one he knew would pay the amounts that Captain Harrington claims are being paid.

CHAIR McGUIRE surmised that the higher figures Captain Harrington mentioned were the amounts being paid for marijuana in Bush Alaska.

MR. MATTLEY went on to say that 43 percent of [Alaskan] voters voted to regulate marijuana, characterized HB 96 and SB 74 as an extremely harsh swing [in the direction of criminalizing marijuana], and opined that public testimony by the people - rather than by the experts - should be given more credence. Nothing is completely harmless, he noted, and suggested that taking away a person's freedom to inhale/exhale a particular substance is also an attack on free speech, since breathing is required in order to speak. He concluded by saying that the bill does not address the issue of health and wellness, that there is no need to make more criminals [out of marijuana users], and reiterated his belief that marijuana should be regulated in order to keep it away from children under the age of 18 and adults under the age of 21. On a macro level, he remarked, HB 96 is protecting "Big Money."

CHAIR McGUIRE said she agreed with Mr. Mattley, and indicated that public testimony will remain open for further meetings on HB 96, which would be held over.

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 10:15 a.m.