

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE

April 1, 2005

1:34 p.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Gary Wilken, Vice Chair
Senator Lyda Green
Senator Kim Elton
Senator Donny Olson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 74

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

MOVED SB 74 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 74

SHORT TITLE: CRIMES INVOLVING MARIJUANA/OTHER DRUGS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/21/05	(S)	READ THE FIRST TIME - REFERRALS
01/21/05	(S)	HES, JUD, FIN
03/21/05	(S)	HES AT 1:30 PM BUTROVICH 205
03/21/05	(S)	Heard & Held
03/21/05	(S)	MINUTE(HES)
03/23/05	(S)	HES AT 1:30 PM BUTROVICH 205
03/23/05	(S)	Heard & Held
03/23/05	(S)	MINUTE(HES)
04/01/05	(S)	HES AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

DEAN GUANELI
Chief Assistant Attorney General
Department of Law

PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Introduced SB 74.

JOHN BOBO
United States Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590
POSITION STATEMENT: Supported SB 74.

DR. LESTER GRINSPOON
Associate Professor of Psychiatry
Harvard Medical School
POSITION STATEMENT: Opposed SB 74.

DR. MITCH EARLEYWINE
Associate Professor of Psychology
University of Southern California
POSITION STATEMENT: Opposed SB 74.

DR. KELLY DREW
University of Alaska Fairbanks
P.O. Box 757500
Fairbanks, Alaska 99775
POSITION STATEMENT: Opposed SB 74.

DAVID FINKELSTEIN
Alaskans for Marijuana Regulation and Control
1550 H St
Anchorage, AK 99501
POSITION STATEMENT: Opposed SB 74.

BILL PARKER
Alaskans for Marijuana Regulation and Control
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POSITION STATEMENT: Opposed SB 74.

MICHAEL MACLEOD-BALL
Alaska Civil Liberties Union
P.O. Box 201844
Anchorage, AK 99501
POSITION STATEMENT: Opposed SB 74.

JIM WELCH
Anchorage, AK 99501
POSITION STATEMENT: Opposed SB 74.

JOHN B. CLAYTON, JR.
Anchorage, AK 99501
POSITION STATEMENT: Opposed SB 74.

ACTION NARRATIVE

CHAIR FRED DYSON called the Senate Health, Education and Social Services Standing Committee meeting to order at [1:34:28 PM](#). Present were Senators Lyda Green, Kim Elton, Donny Olson and Chair Fred Dyson.

SB 74-CRIMES INVOLVING MARIJUANA/OTHER DRUGS

CHAIR DYSON announced SB 74 to be up for consideration.

[1:37:24 PM](#)

JOHN BOBO, United States Department of Transportation said:

My name is John Bobo I work at the US Department of Transportation, Office of the Secretary. At the DOT I serve as director of the Office of Drug and Alcohol Policy and Compliance. I serve as an advisor to the Secretary on drug and alcohol policy and as the department's liaison to the Office of National Drug Control Policy, which oversees the world's largest drug and alcohol workplace testing program. Our testing regulations cover people engaged in transportation safety jobs: pilots, ferryboat captains, pipeline workers, truckers, bus drivers, and train engineers. That is roughly some 12.1 million people across the country.

My experience in this area is based on the ten years that I have worked as a prosecutor in the State of Tennessee specializing in DUIs, vehicler homicides, and narcotics enforcement. I have had an opportunity to view these issues from a national standpoint. Before I came to the DOT, I was the director of the National Traffic Law Center at the American Prosecutors Research Institute where I traveled the country providing training technical assistance to prosecutors and law enforcement officials.

MR. BOBO said the magnitude of the psychoactive effect of smoking marijuana is directly proportional its THC content and the average THC content of marijuana has increased dramatically throughout the last two decades from one to five percent THC in the 1970's to 14 to 18 percent in Alaskan marijuana today. Hydroponic and homegrown marijuana is now between 22 to 24 percent THC.

SENATOR OLSON arrived at [1:40:22 PM](#).

MR. BOBO said:

The United States Department of Transportation National Highway Traffic Safety Administration released a drug and human performance fact sheet that concluded that marijuana creates problems with memory and learning, distorted perception, difficulty in thinking and problem solving, loss of coordination, difficulty in sustaining attention, difficulty registering and processing information, impaired retention time and sleepiness. Studies have shown that marijuana particularly impairs monotonous and prolonged driving and mixing alcohol and marijuana may produce effects dramatically greater than those produced when each drug is taken individually.

He said marijuana is becoming increasingly prevalent among younger people who are, significantly, the country's most inexperienced drivers. According to the Insurance Institute of Highway Safety, motor vehicle crash injuries are by far the leading public health problem for people between the ages of 13 and 19 years old. In the year 2000, 40 percent of the deaths of people between the ages of 16 to 19 years old were related to motor vehicle crashes.

CHAIR DYSON said the committee has heard extensive testimony about the health effects and the growing potency of marijuana. He asked Mr. Bobo to confine his testimony to describing the effects that marijuana has on an individual's ability to operate motor vehicles.

[1:44:02 PM](#)

MR. BOBO said twelve states are making it illegal for one to operate a motor vehicle when one has marijuana drug in their system.

SENATOR GARY WILKEN arrived at [1:47:22 PM](#).

SENATOR ELTON asked Mr. Bobo to compare the most recent information regarding the number of alcohol related auto fatalities and the number of marijuana related auto fatalities.

MR. BOBO said he could not answer that question with precision since there has been little research devoted to determining how the hybrid effects of alcohol and marijuana affect driving. He said that there are many fatalities involving both alcohol and marijuana that are attributed to the effects of alcohol alone because of current limitations in research and law enforcement capabilities. He said labs often do not check for THC in victims of fatal automobile accidents once it has been determined that they have had an illegal amount of alcohol in their systems.

[1:50:50 PM](#)

BILL PARKER, former member of the House of Representatives and retired Deputy Commissioner of the Department of Corrections, opposed SB 74. He said:

Senate Bill 74 attempts to recriminalize marijuana for adults in Alaska in violation of our own state constitution. In 1975, in the landmark case known as Ravin, the Alaska Supreme Court ruled that the privacy clause of the Alaska Constitution protects possession of a small amount of marijuana by Alaskans in their homes for their own use. Since 1975, when the Alaska Legislature changed the statute to decriminalize marijuana in Alaska, various attempts have been made in the last thirty years to attack this decriminalization both legally and politically. An initiative in 1990 attempted to recriminalize marijuana in Alaska but initiatives change statutes and not the constitution so the initiative had no effect. All of the legal attempts to test the constitutionality of decriminalization in the courts have been unsuccessful. Last fall the Alaska Supreme Court declined to take the appellate court's latest ruling upholding Ravin.

Senate Bill 74 is another attempt to attack the constitutionality of decriminalization in a legal and political way. If SB 74 passes with these findings, they will be admissible in court and the administration has new arguments that marijuana is

much more potent and dangerous than it was in 1975, so much so that it is almost a different substance. That is why the findings section of this bill is so important.

These findings are flawed and expert witnesses are going to explain the flaws today. They will discuss the complex medical and sociological issues that other government panels have studied at length. A Shaffer Commission Report to President Nixon in 1972 titled "Marijuana A Signal of Misunderstanding", The National Resource Council's 1982 report titled "An Analysis of Marijuana Policy", The Institute of Medicine's 1990 report "Marijuana and Medicine, Assessing the Scientific Base", The 2002 Report of the British Advisory Council on the Misuse of Drugs, "The Classification of Cannabis" and Jamaica's 2001 National Commission of Ganja came to this same conclusion: Marijuana is not so harmful that the penalties for possession need to be increased.

Senate Bill 74 will take our state in the opposite and wrong direction. The testimony for today will show that time schedule for SB 74 is inadequate to evaluate marijuana in Alaska. We have submitted in writing the findings of experts in their fields who have determined marijuana to be relatively harmless compared to alcohol. Each finding must be examined individually and with scientific integrity.

Here is a quick review of the evidence that you will hear today: Experts will point out the differences between scientific research and pseudo science, the confusion between correlation and causation. The administrations assertions about the increased potency of marijuana are inaccurate and misleading. There are serious questions about the potency of the marijuana of today and yesterday, but there is no reliable way to measure potency. There is no proof that marijuana is more addictive or more dangerous than it was previously believed to be. In fact more potent marijuana may result in people using it less because of the effect of auto titration in which marijuana users stop using marijuana when they have received their desired effect.

The administrations treatment of statistics is misleading because most of them are the result of court orders rather than clinical diagnosis of marijuana addictions or even self-referrals. Most had to choose between treatment or incarceration and most chose treatment. The rate of marijuana use among minors in Alaska is not higher today than it was in 1975 in fact, according to the government's own figures, overall use among people ages six to twelve in Alaska's schools is lower now than after 30 years of decriminalization.

[1:55:12 PM](#)

Marijuana use by minors has not been shown to cause psychosis later in life. Marijuana use does not induce violent behavior or rape or child abuse. The emergency room data used to show that marijuana is more dangerous today is not conclusive. The administration has overstated and misinterpreted the evidence that marijuana is linked to lung cancer, juvenile crime, and the possibility of dependence or addiction. The scientific evidence today discredits the old gateway drug theory.

There are laws already in place that prohibit driving while impaired by alcohol or marijuana and these laws will remain in effect. SB 74 will have a bad affect on medical marijuana patients by jeopardizing their access to legal marijuana if adult use of marijuana in the home is criminalized. If the administrations aim is to promote the public health and welfare, recriminalizing personal adult use of marijuana in the home won't do it. Criminalization will only feed the black market and increase the social costs that flow from it. Science shows that marijuana causes fall less harm to the public health or welfare than either alcohol or tobacco and that is as true today as it was in 1975.

[2:00:33 PM](#)

MICHAEL MACLEOD-BALL, Director of the American Civil Liberties Union (ACLU), Alaska, said:

Thank you for the opportunity to present evidence countering the administrations misleading

characterization of marijuana as a substance that has grown more dangerous over the last 30 years. As the administration has acknowledged, both before this committee and in public statements, the purpose of the bill is to provide a framework for overturning the Alaska Supreme Court's decision that our constitutional right to privacy includes the right to possess small amounts of marijuana in the home for purely personal purposes.

The bill also significantly steps up the penalties in a manner to bring the bill directly into conflict with existing case law. The administration hopes that a legislative finding concerning marijuana risks would be sufficient for the court to reverse itself if and when this bill is enacted and then challenged in court. Because this legislation directly impacts a fundamental right, the right to privacy, the ACLU believes that any legislative finding that does not reflect the weight of the evidence available for review will be set aside by the courts.

On the other hand, if this committee takes on the heavy burden of weighing the available science fully and completely and produces findings that are reflective of the weight of evidence, we believe that the court will consider such balanced findings an insufficient basis for justifying a restriction on a constitutional right to privacy.

The ACLU believes that drug policy based on imposing criminal sentences on mere users is counter-productive and this bill tries to do that. But our disagreement with this bill on a policy level won't defeat the legislation that will be accomplished by the very nature of this proposal, an enactment of a restriction on a fundamental constitutional right based on either incomplete hearings or biased or inadequate or unjustifiable findings.

It cannot seriously be doubted that in order for this committee to properly evaluate the risks associated with one's private consumption of marijuana in the privacy of one's own home, it must consider far more evidence than it has been able to take in during the course of three one-and-a-half or two hour sessions. We believe that the weight of the evidence clearly

shows that marijuana is not significantly more dangerous than it was in the 1970's when Alaska Law legalized use and possession in the home.

National and International panels have concluded that marijuana is significantly less dangerous than alcohol and substantial increase in the risks associated with marijuana over the last 30 years have been shown not to exist.

[2:04:16 PM](#)

The findings associated with this bill are clearly one-sided, ignore the weight of the evidence on the subject and in many cases are simply wrong. They are, as the following experts will tell you, misleading assertions based on half-truths and omissions. We believe strongly that findings such as these, if left to stand will be the downfall of this bill in court.

The courts will not blindly accept legislative findings when a law has distinctions based on religion or ethnicity, when a law restricts free speech, especially political speech, restricts freedom of worship, or as in here, restricts an individual's right to privacy. Privacy is a fundamental right in Alaska, stronger than the privacy right inferred to exist under the U.S. constitution. But the constitution doesn't say how far the right to privacy extends, so the courts have been asked to do the job of defining our right of privacy. Shortly after the amendment adding the privacy right, the Ravin case came along.

At its core, Ravin has less to do with marijuana possession than with attempting to define the scope of the privacy right. Ravin stands for the proposition that activities in the home are entitled to a higher degree of privacy protection than other kinds of activities. Also activities that are purely personal and don't pose a significant risk to others are entitled to a higher degree of privacy protection. The court was eloquent in describing its reasoning and I will quote from its decision:

The authority of the state to exert control over the individual extends only to activities of the

individual, which affect others or the public at large as it relates to matters of public health of safety or to provide for the general welfare. We believe this to be a tenant of a free society: the state cannot impose its own notions of morality, propriety, or fashion on individuals when the public has no legitimate interest in the affairs of those individuals.

2:06:05 PM

Having come to these conclusions about the scope of the privacy right, the court had to determine whether marijuana use and possession fell within its protective ambit. In order to do so, the court considered the luminous materials and heard from numerous experts. The Alaska Supreme Court concurred with lower court rulings that marijuana was not without risk, however it said that the health affects were not so severe to warrant a government intrusion on a basic human right.

So the administration's argument in support of this bill will now stand or fall on whether it can demonstrate that marijuana is so much more dangerous than it was in the 1970s when *Ravin* was decided that justification now exists to restrict individual privacy rights where none existed before. It is especially important to be clear on this point. It is not enough to find that marijuana has risks. The court already decided in the 1970s that there was some risk in the use of marijuana, albeit far less than in the use of alcohol. The court heard evidence from some that marijuana was dangerous, offset by others who said that it has some risks but not many. The court decided that the balance of evidence was insufficient to justify a restriction on privacy rights.

In order to make this legislation work, you need to determine that marijuana is far more dangerous than it was in 1975. Unfortunately the evidence won't tell you that marijuana spurs violence; it won't tell you that there has been a significant increase in young users, it won't tell you that there is any significant increase in potency that isn't offset by other factors.

We don't think that the case can be made that there is any increased danger in marijuana use today and if you consider all of the evidence available to you, some of which has been presented to this committee, we are certain that you will have to agree. So, why should you be concerned about the available evidence making sure you have fully evaluated everything and have made accurate findings? Because the legislation will stand or fall whether you do this job fully and thoroughly.

[2:08:14 PM](#)

As noted before, courts will generally defer the fact-finding done by the Legislature, but not if a fundamental right is restricted. In that case, the court will look for a fundamental relationship between the proposed restriction and a compelling state interest and it will be far less likely to defer to the Legislature's finding and it will take a hard look at what the Legislature did in adopting the legislation.

It should be noted that in several cases the courts have looked quite disparagingly on findings that were the result of preordained decisions, insufficient hearings, or hasty deliberations. Even in Alaska the few precedents that are available suggest that the ordinary deference to legislative action disappears when constitutionally protected rights such as the right to privacy are at issue.

Examining all of the precedents, if the court is at all likely to decline to defer to the legislature and in this context, it will only be if the legislature has comprehensively reviewed the available evidence and finding conclusions that accurately reflect that evidence. The courts will not tolerate proceedings that are merely a show to make it seem as though the legislature has taken a comprehensive look at the available evidence. They will not stand for a paper record of several hundred pages if the result is directly contrary to the evidence submitted.

Based on our experience before this committee, it is our view that the attention given to the issues falls far short of what the court will expect. To understand the complexity of the issue involved here

requires a commitment of far more time and expertise. By rights this panel should convene something akin to a blue ribbon commission, as has been done elsewhere - to advise and inform the committee on this issue. But there seems to be no interest in conducting a thorough review of this nature. It's understandable, this committee and this body have many important issues to address and there is a natural urge to push things along and get things done, but when a restriction on a fundamental right is involved, you need to do more.

I will let others speak to the findings regarding scientific issues, but I would like to talk about two of the findings in particular that relate to legal issues. Finding number 19 purports and I will quote: We confirm that it is illegal to possess any amount of marijuana anywhere in state. In fact, by adopting such a finding the legislature wholly discounts the judiciary's role in our three-branch system of government. Pursuant to judicial decision, it, in fact, has not been illegal to possess small amounts of marijuana for personal use. To adopt a finding that reconfirms illegality this body asserts, in effect, that the judiciary has no role in determining the constitutionality of legislative enactments.

Finding number 18 asserts that the ruling in Crocker imposes unnecessary and unreasonable requirements for search warrants to investigate marijuana growing that inhibit law enforcement efforts to reduce the amount of marijuana illegally grown indoors and illegally sold and exported.

This is simply inaccurate, Crocker merely held that a judicial officer should not issue a warrant to search a person's home for evidence of marijuana possession unless the state's warrant application establishes probable cause to believe that the person's possession of marijuana exceeds that scope of the possession that is constitutionally protected under Ravin. Before a search warrant can be lawfully issued, the government must establish probable cause to believe that the evidence being sought is connected to a crime. The same rule governs search warrants for all controlled substances, not just marijuana.

This is neither unnecessary nor unreasonable; it is the law. Probable cause means probable cause to suspect a violation of the law, not probable cause to suspect the occurrence of a constitutionally protected activity. Could you get a warrant to enter a home if you suspected someone was exercising his or her right to freedom of speech? It's a silly point, but you understand what I am trying to say. The finding in point is slanted and there is no need for it.

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We would strongly urge this committee to remove or drastically alter the findings in the bill, each and every one of them. As they stand, they do not reflect the state of the science on the subject or they are factually incorrect. They will serve as the basis for a challenge to this bill. We strongly urge this committee to undertake a far more comprehensive look at the science or work for the creation of a truly independent panel to examine the science. The Alaska Civil Liberties Union stands ready to help in establishing and carrying out such a panel if you should choose. We believe that that is the only way this legislature might successfully adopt for the restrictions that it would seem to desire.

We understand the basic reflex to criminalize marijuana possession and that it is based on a fear that our kids are being harmed, but there are better ways of dealing with this than to make marijuana users criminals. I would ask you to provide me with any questions that you have. I am happy to answer them now or later.

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CHAIR DYSON remarked he was told that marijuana is illegal under federal law and asked Mr. Macleod-Ball to explain how the force of federal law and state law interact on this point of difference.

MR. MACLEOD-BALL responded the state has rights to regulate in its own jurisdiction and federal law addresses interstate activities.

CHAIR DYSON remarked the vast majority of land in Alaska is federal land and asked whether federal law takes precedence over state law within federal lands in Alaska.

MR. MACLEOD-BALL did not know the answer. He said the issue at hand is whether or not the state has the right to regulate possession of small amounts of marijuana in the home and federal law would not apply to most homes in the state.

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SENATOR WILKEN said:

Two points, at the outset of your testimony you talked about marijuana being less dangerous than alcohol. Does that then imply that there is some danger or no danger in using marijuana?

MR. MACLEOD-BALL said:

I am not a scientific expert and I would like to defer that question to the experts that are coming up right after me. As a lawyer, I will say that the Ravin court acknowledged that there are some risks associated with marijuana, but it ruled that they were not sufficient to justify intrusion into the privacy right with respect to personal use and possession of marijuana in the home.

SENATOR WILKEN remarked that Mr. Macleod-Ball described some alternative ways of dealing with marijuana and asked him to describe some of these alternatives.

MR. MACLEOD-BALL replied if the state is concerned about the use of marijuana it should concentrate on prevention and education programs modeled after current programs that address alcohol and tobacco abuse.

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SENATOR ELTON stated there is a zero fiscal note attached to this bill and it seems counterintuitive that this bill could have a zero fiscal note from The Department of Public Safety (DPS) and a zero fiscal note from the court system despite having a positive fiscal note from the Public Defender's Office (PDO). He asked Mr. Macleod-Ball to explain the apparent inconsistency.

MR. MACLEOD-BALL explained:

I believe that you have provided the answer within your question and I would agree with what you just said. I think that there are perhaps two views on the fiscal impact of this legislation. One view would be that it creates a whole additional set of crimes that will need to be enforced and if, in fact, you are going to continue doing what you are doing now, with Department of Public Safety and Public Defender personnel and then also take on all of these new crimes, why you must hire more people and spend more money to get it done.

The other view would be that if you divert resources into dealing with this new set of crimes that you have committed you must necessarily take resources away from some other perhaps more important, perhaps less important, task. We would argue that, if that is the view that you take, chances are that you are going to be taking resources away from things that are perhaps more worthy of the state's resources.

[2:19:52 PM](#)

DR. LESTER GRINSPOON, Associate Professor Emeritus at the Harvard Medical School, said:

After graduating from the Harvard Medical School in 1955 I joined the faculty and combined research and teaching with some clinical practice. In 1967 I was very much concerned about the great danger young people were exposing themselves to as they recklessly ignored the government warning about marijuana's dangers. I decided to study it with the object of producing a scientifically sound paper on the subject, one which I hoped to publish in a journal of periodicals accessible to college-age people. Perhaps some would pay more attention to a professor's review than they were paying to material produced by the United States Government.

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As I delved into the medical, scientific and other literature, I soon discovered, to my great surprise

and consternation, that despite my retraining in medicine and science, I had been brainwashed like most other American citizens about the danger of this drug. I began working on 'Marijuana Reconsidered', which was published by Harvard University Press in 1971.

After documenting that most of what we believe about the dangers of cannabis is mythical, I concluded that marijuana was far less harmful than either alcohol or tobacco and that its greatest harmfulness arose from the way that we as a society were dealing with it. At that time we were arresting about 300,000, mostly young people, on marijuana charges each year. Today the figure is about 750,000.

Let me say at the outset that marijuana is no more harmful today than it was in 1975 when I testified in the Ravin Court. Street marijuana is arguably more portent than it was at that time, but this does mean that it is more dangerous because both medicinal and recreational users quickly learn to titrate a potent dose to achieve the desired affect. A user who smokes or vaporizes marijuana has to inhale less of a more potent sample and conversely more of one that is less potent. It follows that to the extent that inhaling the smoke is considered a risk factor for pulmonary disease, the more potent sample provides a healthier choice.

I should hasten to add that the pulmonary risk associated with smoking marijuana has been greatly exaggerated. There is not a single case of lung cancer or emphysema attributed to the smoking of marijuana to be found in medical literature. I believe that the lungs of marijuana smokers are at greater risk from the air of cities like Los Angeles or Houston or any other city with poor air quality. However for those, particularly in today's anti-smoke camp, who believe that we need to avoid smoke for any reason, there is now available a device called the vaporizer which holds the temperature of the marijuana to be consumed in a temperature window that vaporizes the cannabinoid without igniting the cannabis.

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I wish I had time to address the other 18 findings because so many are erroneous and none are supported by documentation. Let me briefly consider another part, one that states 'Marijuana use by children is associated with an increased risk of attempting suicide.' I believe that the intention here is to suggest that because there is an association, cannabis must be causal in this increment of risk. Psychiatry is becoming increasingly aware that children suffer from depression and some of them commit suicide. Like other depressed people, some of the depressed children use marijuana. Marijuana is an effective antidepressant and some of them may have discovered it as a self-medication. There is no credible evidence that I know of that establishes marijuana is causally related to suicide.

I am struck by the fact that so many of these findings are the same claims about marijuana that have been discredited more than once throughout our history. For example, schizophrenics and patients suffering from other psychosis were thought to comprise a significant number of the patients admitted into the Indian insane asylums in the second half of the 19th Century and the use of ganja was thought to be causative.

It was for this reason that the British organized the Indian Drug Commission Study, which was published in 1894. The Commission examined 800 doctors, superintendents, and so forth. In a 300 page, 7-volume report, the commission concluded that 'There is no evidence of any weight regarding mental and moral injury from the moderate use of these drugs.'

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This report put to rest the belief that ganja caused schizophrenia and other psychosis for a while, but it has reoccurred periodically, most recently during the last year or so. For example, a report from New Zealand with a study group of only 759 subjects claims to have established that those who smoke marijuana three or more times a week by the age of 15 have a 10 percent higher chance of developing schizophrenia later in life.

Similarly other studies in Great Britain and the Netherlands predict a greater number of schizophrenic patients. If these predictions are correct, given the number of young people who are or who have used cannabis, we should expect to see an increment in the incidents of schizophrenia. However, no such increment exists.

In finding number two, the assertion is made that 'Marijuana has addictive properties similar to heroin and other similar illegal controlled substances.' Most of those who are sophisticated about cannabis question whether the word 'addiction' is even appropriate to this drug and all would agree that the withdrawal symptoms seen with 'heroin and other illegal controlled' are not observed upon cessation of marijuana use.

The assertion made in finding number 4 'Marijuana use makes it more likely that the person will go to use more potent illegal controlled substances,' is simply a restatement of what was known as the 'stepping stone hypothesis', a belief which has been thoroughly discredited. As I participate in these hearings, I am reminded of those which preceded The Federal Marijuana Tax Act of 1947, the first of the draconian legislation aimed at marijuana.

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A review of the hearings before the House Ways and Means Committee, which defeated the passage of that legislation, demonstrates quite clearly how little empirical data was found to support the act. Indeed the enactment reflected far more the mass hysteria surrounding the subject than any concrete evidence of the drug's harmfulness. I would urge the members of this committee to acquaint themselves with some of the excellent comprehensive special reports and commission reports which have been developed over the past century. They include The La Guardia Report of 1944, The Shaffer Report of 1972 and The Canadian Senate Special Committee on Illegal Drug Report of 2002.

I think that if this legislative body is as meticulous and comprehensive in collecting and assessing the data as these commissions were, it will have a better

chance of arriving at a sound judgment about whether the harmfulness of marijuana is sufficient to enact such a restrictive bill.

CHAIR DYSON asked the witness to summarize his testimony.

DR. GRINSPOON said:

In conclusion, I must tell you that I have much more to say on this topic, but giving the extremely short time allotted here, there is no way that I can properly respond to the erroneous findings proposed in this bill. It would take days if not weeks to carefully review each of the findings and reports submitted by the government in order to fully explain the fallacies of this bill. In short, this committee cannot possibly hope to seriously consider, in the allotted time, the evidence necessary to reach a conclusion about the harmful effects of marijuana. I would urge the committee to postpone action on this legislation until such time as a full and fair review of all of the evidence is achieved. If this legislature does adopt these findings, I would urge you to fully annotate those findings with specific references to specific evidence in the legislative record, Thank you.

SENATOR OLSON asked if the effect of THC upon the CB1 and CB2 cannabinoid receptors is blunted after the receptors have become saturated with THC.

DR. GRINSPOON responded:

No, there is no evidence that the CB 1 and CB 2 receptors operate differently when they become saturated. They operate just as they would without outside THC.

SENATOR OLSON asked whether the half-life of marijuana is affected by the amount of THC in the drug.

DR. GRINSPOON replied the THC content of marijuana does not affect its half-life.

MITCH EAREYWINE, PhD, Associate Professor, University of Southern California said:

I am an Associated Professor of Psychology at the University of Southern California. I have over 70 publications including the book "Understanding Marijuana" which was published by Oxford in 2002. It's over 300 pages and it took me 15 months to put it together. I want to echo Dr. Grinspoon's ideas that this is not an easy literature to master and that taking as much time as possible on it is really worth your time.

A couple of questions came up during previous testimony that I would like to address and I would like to focus on some of the issues of potency and the behavioral effects of cannabis. With regard to a question about the auto-titration process, some data from Dr. Cohen from the Netherlands suggested that people don't report getting any higher than they did in the 1970s from the cannabis that is reportedly stronger than it was in those days. You also understand that any drug that is inhaled goes immediately to the lungs and then to the brain, so the effect of cannabis is accessible within a mere 15 seconds. It's not as though people can't titrate very quickly and alter their use of the substance even if does contain more THC than it had in the past.

The tacit idea behind the assumption that stronger cannabis is somehow more dangerous is worth testing. In fact, data from Dr. Mathius and Dr. Tashkent at UCLA suggest that people who are smoking cannabis with more THC in it tend to take smaller puffs and tend to inhale them for a briefer period. This actually provides less opportunity for any carcinogens or tars to get attached to their lungs and this, in fact, increases their chances of aborting any pulmonary problems.

The measures of potency from the 1970's versus today have been exaggerated. If cannabis is stronger, it is at most two or three times stronger not 10 to 100 times stronger, as we often hear in the media. The exaggerations arose from a misunderstanding in the 1970's of how THC degrades. You can imagine police officers confiscating cannabis and placing it in a hot evidence locker and then, when they got around to it, sending it down to Mississippi's Potency Monitoring Project to have the potency assessed. Well that time

in the hot evidence locker allowed the THC to degrade to other cannabinoids and so the estimates were, well its .9 percent, its 1 percent THC.

2:35:01 PM

When you give people cannabis that is 1 percent THC in the laboratory, they get a headache they claim that it is a placebo and they find it inactive and they don't want to do it again. Obviously, in the 1970's this couldn't have been the case or people would have never used the drug a second time. In addition the incredible strains of 18 percent or 19 percent THC are relatively rare. The averages from the University of Mississippi Potency Monitoring Project are around six percent THC for present day marijuana.

Another issue that has come up concerns cannabis' involvement in accidents. One Senator had asked about the dangers of alcohol relative to those of cannabis with regard to auto accidents. When you look at probability studies of injury related crashes involving alcohol, you will find that people with alcohol in their systems have been shown to be five to eight times more likely to be involved in a crash. Studies of cannabis metabolites in drivers, and these are directed to people with cannabis and no alcohol in their systems at all, you find that some subjects actually have a lower crash rate than people with no cannabis in their system and the group with the highest probably of being involved in an accident are at most twice as likely to be involved in an accident.

I think that the most compelling data on this topic comes from laboratory studies where people are given THC in the laboratory and then asked to drive a car or a driving simulator. If you look at work by Anthony LaGora here in the United States it shows that THC, even at levels of 8 percent, tends to have no impact on certain measures of driving attention and brake latency. Work by Dr. Rovie in the Netherlands shows that when cannabis is used alone, there is no impact on stopping distance or on handling. People can follow a car for up to an hour without making any mistakes. They are completely capable of making left and right turns and using all driving signals.

2:37:48 PM

The other issue that has come up in other testimony concerns the accuracy of emergency room mentions. We often hear that THC is now mentioned in emergency room data more often than it was in the past. As it turns out, these data come from the Drug Abuse Network studies, which have been highly criticized. What happens is that emergency room doctors are extremely busy and some are more devoted to gathering these data than others. When people have gone back to try to reexamine the cases they find that they were not particularly reliably recorded. The other notion is that people come in after they have done something particularly idiotic, like having cut their thumb while slicing onions and they feel embarrassed so they say something like, 'Oh I was smoking marijuana,' in an effort to appear less accident prone.

Another big issue concerns the tacit assumption that higher THC is what is behind increased rates in adolescent admissions to treatment. As it turns out, there is no THC measurement in any of these studies. It is not as if adolescents that are admitted to treatment bring in their cannabis and have it analyzed to see its THC content. This has in fact been the product of some recent moves by the judicial system to offer people either treatment or incarceration. As you might imagine, most teens prefer treatment to incarceration. Some recent work by Bruce Merken has suggested that many teens who are entering treatment, supposedly cannabis dependent, haven't used any cannabis in the previous month. Obviously they couldn't be particularly dependant if can use it that infrequently.

2:40:31 PM

DR. EARLEYWINE said:

The bottom line is that this is an extremely complex literature and that is why I wrote a 325-page book on it. I certainly appreciate your time, in fact, this substance is not completely harmless, but certainly nowhere as dangerous as the way it's been depicted by some of the physicians that have testified on this bill.

CHAIR DYSON said a considerable amount of the previous testimony asserted that several correlations have been established between marijuana and violence and accidents. He was surprised to hear of studies that conclude marijuana does not impair driving ability. He asked Dr. Earleywine if he, Chair Dyson, had understood the import of these studies correctly.

[2:42:14 PM](#)

DR. EARLEYWINE responded:

It sounds like that is a two part question, one concerning driving and one concerning aggression. With regards to the study on driving, I can describe the study by Rovie where people used cannabis and then drove around with a driving instructor in the car who didn't know if they had smoked cannabis or a placebo. They found that among the marijuana group, there were no deficits in stopping distance or handling or in their ability to follow another car. Obviously that doesn't mean that it is completely safe to drive and also driving under impairment laws should not be changed. But this is not anywhere near the kind of magnitude of deficits in driving that alcohol produces. He added Dr. Taylor at Kent has performed studies that have concluded that people under the influence of marijuana do not exhibit increased aggression when provoked.

CHAIR DYSON asked him whether he has ever been paid for testifying before public hearings or trials.

DR. EARLEYWINE responded he has only testified twice and has never been paid for his testimony.

DR. OLSON asked the name of the person who conducted the aforementioned study on aggression.

DR. EARLEYWINE responded Dr. Taylor conducted the studies and they are referenced in the back of his book "Understanding Marijauna". He added an entire chapter of his book is devoted to the topic of marijuana, reckless driving, aggression and motivation.

DR. OLSON asked when the study was written.

DR. EARLEYWINE said the Taylor study was published in 1980.

2:44:08 PM

DR. KELLY DREW, Associate Professor of Chemistry and Biochemistry at the University of Alaska Fairbanks said:

I have been a resident of Alaska for about 30 years I left to go to graduate school and for my post-doctoral training. I have a PhD in neuro-pharmacology, which is the study of the theory and principles of the actions of drugs on the brain. My early research was focused primarily on drug addiction. One of my significant contributions was to show how learning was involved in addiction. Today learning is recognized as a primary target for the treatment of addiction. Dr. Stan Glick trained me. He is a physician scientist and an established neuro-pharmacologist who studies drug addiction and abuse and pharmacological therapies for drug addiction for more than four decades. After receiving my PhD I went to the Karolinska Institute in Stockholm, Sweden. There I worked in a department of pharmacology and I focused on neuro-pharmacology under Dr. Urban Ungerstedt who pioneered our understanding of Dopamine, which is now known to underlie part of addiction, motivation, and reward. I am currently a tenured associate professor at the Department of Chemistry and Biochemistry at the University of Alaska Fairbanks.

I have been living in Fairbanks since 1990. I have published over 30 peer review papers and five book chapters in neuro-pharmacology. I have been a leader in establishing the neuro-science program here at UAF. It was recently funded by a \$7.5 million grant from the National Institute of Health.

To speak to some of the points raised in the bill from the findings, I would like to start with the first finding which indicates that marijuana is one of the most commonly used illegal substances. I want to say that this finding indicates the size of the number of people affected by this legislation. Marijuana users and their families are affected by the legal and health related consequences of marijuana use. As a wife and mother in the Fairbanks community I have to say that I have seen devastating consequences that

marijuana laws have had upon families. In my professional opinion as a neuro-pharmacologist the health and social risks of marijuana use do not justify the severity of some of the consequences that I have seen.

[2:47:16 PM](#)

I believe that the legal risks of this legislation far outweigh the health and social risks of marijuana use. With regards to finding number two which asserts that marijuana is as addictive as heroin: human epidemiological data, the statistical analysis of patterns of use as well as the animal research data rank the addictive properties of marijuana below those of tobacco, alcohol, cocaine and heroin. Evidence suggests that as few as 10 percent of individuals who experiment with marijuana become daily users and dependence among users is highest for tobacco, followed by heroin, cocaine, and then finally cannabis.

The data from animal studies is also consistent with a low addictive potential for cannabis. It has been very difficult to demonstrate the positive reinforcing and dependence producing actions of THC, the active ingredient of marijuana, in laboratory tests on animals. For the most part there are three standard techniques that are used in labs right now to assess addictive potential and all three of these have failed to show a consistent positive reinforcing affect of THC. While some authors argue that these three decades of negative findings are due to optimization techniques when you compare it to other drugs of abuse, the other drugs have not been difficult to optimize for animal studies.

The apparently low addictive potential of cannabis may, in part, be due to the fact that there is seldom abstinence syndrome and this may be due, in part, because THC is stored in fat tissue and then slowly released. The magnitude of the withdrawal effect of many drugs is proportional to how quickly they are eliminated from the body. THC goes to the brain and then it is redistributed to the fatty tissues from which it is slowly eliminated.

Overall, given the epidemiological data, the difficulty in training animals to take THC and the absence of pronounced withdrawal symptoms, the suggestion that marijuana has addictive properties similar to heroin and other illegal substances is not warranted.

[2:49:44 PM](#)

Regarding the use by children, the 'gateway theory' of adolescent drug use was first proposed in 1975 and the theory suggest that adolescents typically use tobacco or alcohol before progressing to illicit substances including marijuana. Cigarette and alcohol progression may continue to marijuana, however the most important finding has been that the cause of this progression is unknown and the simplest explanation that is discussed in the literature regarding this observed progression is that early access to cannabis may reduce perceived barriers to other illegal drugs and provide channels to obtaining far more addictive life threatening drugs such as heroin and cocaine, particularly methamphetamine, which is my greatest concern.

CHAIR DYSON asked Dr. Drew to summarize her testimony.

[2:51:06 PM](#)

DR. DREW said:

As a mother of a 14-year old daughter, I want her to know the difference between risks associated with marijuana and harder drugs that are more addicting and life threatening such as cocaine, methamphetamine, heroin, and even the poorly defined class of inhalants.

I want to say with regard to the concern of one of the findings with regard to the substances in marijuana, you have already heard about the CB 1 and CB 2 receptors and most recently there has been evidence that marijuana actually prevents some of pathology of Alzheimer's disease by activating of CB 1 receptors and that occurs by inhibiting the immune response in the brain.

I do know, in summary and conclusion, the bottom line of the evidence does not support the assertion that marijuana poses a threat to public health that justifies prohibiting its use and possession in the state. Issues regarding access to children, I don't think, warrant further investigation. The bottom line is that given the growing presence of methamphetamine in Alaska and certainly in the Fairbanks community, my professional opinion is that it would be irresponsible to put resources into prosecuting marijuana users when resources are inadequate to responding to the growing threat of methamphetamine. I hope that you as legislators can look beyond a moral judgment of marijuana users and address the more real health risks associated with far more dangerous drugs.

SENATOR OLSON asked Dr. Drew to tell him how much clinical experience she has throughout her academic carrier.

DR. DREW responded:

I am not a clinician. Physicians have trained me, both my PhD and advisor and post-doctoral advisor were MD-PhDs. All of my training and research, until I moved back to Fairbanks, was done at medical colleges, but my expertise is in theory and it relies primarily on animal studies.

SENATOR OLSON asked Dr. Drew whether she had done any studies on the effects of marijuana on pregnant woman and developing fetuses or on the cardiovascular or immune system.

DR. DREW responded:

I haven't done any clinical research and my animal studies have been directed more towards addiction. Right now my focus here in Alaska is on neuro-protection. We study hibernation and neuro-protection so I am familiar particularly with some of the protective aspects and for what I mentioned on the recent findings. This refers to a January paper in the Journal of Medical Science, shows that the cannabinoid THC CB 1 and CB 2 receptors inhibit Alzheimer's pathology in an animal model. That is a really significant finding in terms of potential therapy for Alzheimer's disease.

SENATOR OLSON asked whether she knew anything about the T and B cell lymphocytes and whether they may or may not be impaired by THC.

DR. DREW replied she has seen a few references to that, but she has not had time to review the pertinent literature.

[2:54:55 PM](#)

DAVID FINKELSTEIN, Director of the 2004 Proposition 2 Campaign, said:

Clearly 44 percent of the public favors legalization. The initiative that was on the ballot had no limits and it was pretty much a blanket legalization. That does show significant concerns. People are concerned about a marijuana approach that doesn't have limits, that it obvious. The polls that we and others have done show that the majority also have shown that they do not believe that adults should be incarcerated for possessing small amounts of marijuana.

I think that those two figures, the poll itself and the actual results of the election, show that there is a middle ground. I believe that the majority of Alaskans support establishing limits regulating marijuana. The productive approach that I think that the legislature could use in this involves dealing more with the issues affecting under-age Alaskans, either by increasing the penalties or increasing education.

[2:58:16 PM](#)

The Legislature could apply the penalties to anyone between 18 and 21, which I do not believe that they apply to now. The medical marijuana issue has left many Alaskans in a bad place. Patients have qualified, their doctors have written the recommendation, but they can't necessarily get their hands on marijuana. Some people can grow it effectively, some can't. Those people ought to have some sort of regulated way to obtain marijuana.

The bottom line of this issue is what has been going on in our state in recent years. Marijuana in small amounts in the home has effectively been legal for

many years in Alaska. While there was a statute on the books that had penalties in place, they were not enforced to any significant degree. The changes that have occurred as a result of the court decisions of 2004 are mostly a level of awareness that has changed. There have been a certain number of headlines on the subject and now people are more aware, but the fact of the matter is that we have been in this situation for quite a while; small amounts of marijuana have been allowed in the home under the right to privacy of our constitution. Nobody has presented any evidence that there has been some new emerging problem that didn't exist previously that came out of that. I would encourage the committee to consider a regulation approach to marijuana as a more productive endeavor.

3:00:23 PM

CHAIR DYSON said:

I worked pretty hard on medical marijuana and I remember working with you in those days. I am a little distressed to find out that those who have a medical need are having trouble getting it and irrespective of what happens to this bill I would be glad to have a conversation with you about how we could make what I understood to be our intentions work.

JIM WELCH, Anchorage, said:

For almost twenty years now I have had multiple sclerosis (MS). MS is a disease that short-circuits nerve pathways, so it can effect anything that involves my nerve messages getting through, whether it be the functioning of a limb or an organ or a sensation. There is no cure for it so as things deteriorate, doctors try to treat symptoms. One of the problems with this, however, is that many of the drugs have side-affects at least as primary as the affects.

Over the years I have had to try many prescription drugs for many of these symptoms for many different reasons, usually with very limited success and often with very unpleasant side-affects. In 1998, I was active in the campaign to pass the initiative to legalize medical marijuana. I found that for two or

three years, marijuana was the only thing that allowed me to get through most nights without racking muscle spasms or headaches that would not allow me to sleep.

I applaud what the Legislature has tried to do with crystal methamphetamine. That is a drug that I think everyone can agree has no redeeming qualities, but further demonizing marijuana is engaging in the wrong battle. Comparing marijuana to heroin is like comparing aspirin to morphine. Saying that marijuana is stronger than it was in the 70s and therefore dangerous is like saying Aleve is more dangerous than Tylenol since you only have to take one pill instead of two. To me that seems like a good thing because it means that you have to put less smoke in your lungs.

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I have never smoked tobacco and if I never had to put more smoke in my lungs or take another drug in my life that would be fine with me. This is not the 40s era of 'Reefer Madness' or even the Nancy Regan 80s of 'Just Say No' It is the 21st century and in the last election 44 percent of Alaskans voted to legalize marijuana. You have the power of the majority to make criminal penalties more severe, but it would be a slap in the face of a very large portion of the Alaskan populace who believe that marijuana is okay and who just a few years before, voted by a substantial majority to legalize the use of medical marijuana.

I don't know why the Governor has chosen to make marijuana the bad boy of his drug campaign. It doesn't make any sense to me. I know that it is not addictive. I smoked marijuana several times a week for three years and when it was no longer effective, I stopped. I experienced no withdrawal, no craving, no side-effects, no problems. Unlike tobacco or alcohol no one has ever died from marijuana. I would argue that at worst it is innocuous and at best it is has some significant medical benefits.

As far as the purported connection to violence, anyone who has ever used marijuana knows that its effects last only a few hours whereas it can be detected for as long as thirty days after it has been used. That is like issuing a DWI to somebody who drank a beer a

month before. In the last world cup soccer matches in Portugal, security checked all persons and all bags being brought into the stadium. Any alcohol was immediately seized but all the marijuana found was not even confiscated. That tells you what kind of behavior the people in charge of security felt would result from people using marijuana. They worried about notoriously rowdy soccer fans using alcohol, but not the ones using marijuana.

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I have no illusion or intention to make you proponents of legalizing marijuana. That is not even an issue before you. I do ask you however, to recognize the folly of harsher criminalization penalties. It means putting more non-violent offenders in jail, putting more time and the other limited resources of our police into what amounts to a low priority use of their efforts. I ask how to put your drug enforcement resources towards addressing something like crystal methamphetamine. Fighting marijuana is the wrong battle in any war on drugs. You have bigger issues to deal with.

SENATOR OLSON asked Mr. Welsh whether medical marijuana is becoming more difficult to obtain.

MR. WELSH agreed it is becoming more difficult to obtain medical marijuana. He said while he discontinued using medical marijuana when his symptoms became so severe that it no longer had an affect, he has heard several people tell him that it is becoming increasingly difficult to obtain medical marijuana prescriptions as well as the drug itself.

SENATOR OLSON asked Mr. Welsh what drugs he is using at the present time.

MR. WELSH said he has tried a series of drugs over the last two years to accommodate his leg spasms and general pain: Hydrocodons, Telcmaxite (now). He has tried several drugs that don't work. He tried resterols that allowed him to sleep through the night and then made him a zombie for the rest of the day.

3:09:23 PM

BEN CLAYTON JR., said:

I come to address you today out of concern for recent actions taken which propose to restrict, rather than expand, personal freedoms. I denounce this intrusion for what it plainly is an end-run attempt to neuter the robust freedom of liberty that accrues to me as an Alaskan citizen by the constitution of the United States and is amplified by the constitution of the State of Alaska. While I am not an attorney, my rudimentary understanding of Ravin is that I, as an Alaskan citizen, am guaranteed not just the same rights to privacy as any other citizen of the country, but a greater freedom from governmental intrusion.

I am deeply concerned with my country's direction and feel compelled to say so publicly. As I have said in the past, it is important to stand up for what is right even if you find yourself standing alone. This may be an appropriate time to remind everyone that Proposition 2 last fall was supported by over 125 thousand Alaskan voters, which by any count, represents a substantial constituency.

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When asked by friends and associates why I supported proposition 2 to decriminalize personal possession of marijuana by adults, I respond in this manner: Observation number one: our present system is broken, it is easier for a kid in high-school to buy drugs than a six pack of beer.

Observation two: prohibition has never worked. The 23rd Amendment prohibiting alcohol was, in retrospect, a noble experiment. Well-meaning people attempted a thing which many believed in their hearts be to be best for the common good. What it actually amounted to was a war on individual freedom. Fourteen years later people grew weary of the rise of organized crime; citizens were dismayed over the rise of urban violence. Gangs were machine-gunning one another and the occasional innocent bystander with such frequency that everyone decided that change was imperative.

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Then, as now, the federal, state and local police were swamped, pretending to enforce a law, which simply did not enjoy popular support. People were being killed, tax money was squandered, courts were packed with cases that shouldn't have been there in the first place, prisons grew over-crowded, more were built and they soon became inadequate to house the guilty. Today in America a greater population is in jail than in any other nation in the world. The parallels between these two policies are broadly demonstrable and undeniable. Where is the pragmatic voice of reason to lead us?

Observation number three: no one can vote on my civil rights. The proposition that the majority can dictate freedoms guaranteed by the courts to a minority is on one hand laughable and absurd, on the other it is alarming and frightening. The division of powers obligates the court to, if I may paraphrase Thomas Jefferson, "Protect the minority from the tyranny of the majority". Using the logic of this train of thought would imply that after the war between the states, if the majority of voters in a state voted to allow slavery, it would be allowed, as if the 13th Amendment held no sway. This concept flies in the face of the phrase "A nation of laws."

Observation four: repeating an action over and over and expecting a different outcome is a sign of mental illness. I know an 18-year-old man who had his future irreparably harmed by this neo-Puritanism, which has gripped our nation. He was an Eagle Scout, a member of the ROTC, an honor student at a local high school. He was caught with will less than a half gram of marijuana. This man, rather than pursuing a college degree and becoming a contributor to society, had lost his scholarship and a potentially promising military carrier and found himself seeking life, liberty, and the pursuit happiness in a sub-minimum wage job in the fast food industry.

Everyone has his or her own favorite constitutional right. My favorite is the 9th Amendment conserving the rights not given the government to the people. I love this community, my state and country and the philosophies upon which they are founded. As proud as I am to live in the home of the brave, the only thing

that makes it worthwhile is our tireless effort to see that it remains the land of the free.

[3:16:35 PM](#)

MR. MCLOUD-BALL advised Dr. Less Iverson, Professor of Pharmacology at the University at Oxford, England was unable to testify but has given a written statement:

I feel that the statements in SB 74 give an inaccurate picture of the scientific data about marijuana and I conclude that the medical risk associated with marijuana use do not equate to those of harder drugs such as those of heroin and cocaine or amphetamines. In my view marijuana is a relatively safe drug and its use does less medical and social harm than alcohol or tobacco.

Doctor John Morgan, author of the book "Marijuana Myths, Marijuana Facts," was going to testify today but was unable to do so.

MR. MACLEOD-BALL summarized:

Most studies that you see will agree that there is no significant accumulation of evidence that marijuana is any more harmful today than it was in the 1970's. We think that the evidence that has been submitted does not support the findings that are presented as the preamble to this bill and we ask you to make appropriate adjustments.

MR. PARKER said:

The findings that pass out of this committee will go before the Supreme Court eventually and will be the legislature's scientific statement on marijuana in Alaskan today. I urge you to consider very carefully whether those 18 or 19 findings are each backed up by the testimony that you have heard and if they are not, do not advance them because they will wind up before the courts.

[3:20:10 PM](#)

MR. GUANELI, Chief Assistant Attorney General with the Criminal Division of the Department of Law (DOL), said:

This morning I was in a meeting in the Governor's Office with representatives from the City of Kotzebue, Chief of Staff of the Commissioner of Corrections, the Governor, himself, and Senator Olson. Al Adams was there representing the Kotzebue area and the Governor asked him, we were talking about law enforcement in Kotzebue, about whether the communities were wet or dry or damp and how things were going in terms of alcohol addiction and Al Adams said. You know, the real problem now in our area is marijuana.

What Al Adams said was completely unprompted, I haven't talked to Al Adams in a couple of years, really rang true to me because it matches up with the studies that which Christy Willard from the Division of Behavioral Health talked about, the study from the North West Arctic Borough of middle school students in which 10 percent had started using marijuana before the age of 11. Corresponding studies in other areas in the state show a much higher rate of marijuana use among young people, among Alaska Natives, by young Alaska Natives and in listening to all of the testimony today, I come away with the idea that the whole notion of use by our youth and use by Alaskan Natives is really getting short-shrift. I didn't hear anybody talk about use by Alaska Natives today but the evidence is that it is much higher than use by non-natives.

I really wonder if they are missing the point of the Governor's bill, which is to focus on the emerging problems. David Finkelstein said 'I haven't seen any emerging problems with marijuana since the 70s, that was his testimony just a few minutes ago and yet, we have a situation where kids are using at a younger and younger age. Alaska Natives are using at a higher rate.

Lieutenant Story said that because of problems with the court decision, the Crocker Decision that makes it more difficult to stop marijuana growing, there is more of a supply on the market in Alaska and that means that there is more marijuana going out to rural communities. So those who say that there is no emerging problem with marijuana that it really is no

more harmful than it was in the 70s, I think are missing the boat.

MR. MURRAY from the Drug Czar's office said that in the last few years we have come to know a lot more about the adolescent brain and its effects. The Office of National Intelligence Center came out with a little brochure that Mr. Hogan, from the Division of Behavioral Health gave me last week and it's all about marijuana! It says that 40 percent of high-school students have tried it and it lists other drugs compared to lesser percentages. Six percent use steroids, 3 percent use heroin. It goes on to say that the evidence now shows that a very low percentage of the people who first use marijuana over the age of 18 become dependant on the drug. However 13 percent of people who first use marijuana when they are below the age of 14 become dependant on the drug. There was only one mention of this study in my own hometown newspaper and it did not concern marijuana, it was in the sports page and it was titled "High-school Steroid Use on the Rise", this says 6 percent of high school students use steroids and that is what gets reported. I think that part of it is the media doesn't want to acknowledge that there is this problem, but I think that the evidence has shown that there really is a problem.

Dr. Grinspoon recommended that if the committee adopts the finding, it ought to annotate those findings with specific evidence in the record that the state has provided. We, in fact, have done that and we have given you another half inch of materials. The first portion of that goes through the findings one by one and annotates which particular study supports all of the studies findings. Frankly, I am comfortable with all of them. I think that we could probably write the one about comparing it to heroin addiction slightly differently, but I am certainly comfortable with all of them.

In reading the Ravin decision by the Alaska Supreme Court, the court members presiding over the Ravin decision made it very clear that they view their job not to weight the competing scientific evidence the way the legislature does. If you read the opinion, they say that they cite other court opinions that say

that. But in Ravin they had no choice because there was no legislative record.

CHAIR DYSON said it is his intention to review all of the information provided to the committee in consideration of the significance of authenticating the findings.

[3:26:17 PM](#)

SENATOR WILKEN moved to report SB 74 from committee with individual recommendations and attached fiscal notes.

SENATOR ELTON objected and said:

There are some things that I have struggled with as we have worked with this bill and I think that Mr. Guaneli has attempted to make a very good argument for the bill and I find myself at times, wanting to believe even though I question some of the data. He has focused a lot on use and I am trying to correlate use with possible impacts on public health and public safety. That is where a lot of the data has been coming from and quite frankly, in the battle of dueling experts, I am finding that those that are pro this approach are using much more anecdotal evidence than scientific evidence.

The findings sections bother me a lot and maybe they bother me for the wrong reason, but, if I go through most of the 19 points in the findings section, I find that if I substitute the word 'alcohol' for 'marijuana' I make a more compelling case to criminalize alcohol than I do marijuana, given the studies that we know about alcohol. Now I am not going to argue for criminalizing alcohol. We tried prohibition and it didn't work, but I don't think that a lot of those findings convince me that we should recriminalize marijuana.

Finally, the thing that really bothers me is that given the evidence that we have gotten from the scientific community, the law enforcement, from prosecutors, from people from the department of transportation, the thing that bothers me are the fiscal notes. We have a fiscal note from public defenders saying that there is going to be a substantial cost if this bill is passed. Now, I don't

know if that is true or not, but I suspect that there will be an additional cost on the public defenders side. I find it unbelievable that there will be no cost on the law enforcement or the prosecution side.

[3:30:02 PM](#)

If we are to believe them, the only thing that I can assume is that, without additional financial resources, we are going to diverting additional resources from other law enforcement issues. For those reasons I object to the movement of this bill. I also want to wrap up by saying that, given the nature and the volume of the studies that we have gotten, it probably would take an awful lot longer for us as members of the HESS panel to sort through things and find out which evidence is most compelling.

CHAIR DYSON asked for a roll call vote. Senator Wilken, Senator Green, Senator Olson and Chair Dyson voted yea. Senator Elton voted nay and SB 74 passed from committee.

There being no further business to come before the committee, Chair Dyson at adjourned the meeting [3:31:39 PM](#).