

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5741 HOUSE JUDICIARY

145

is therefore precious little reason for retribution or accordingly for punishment. If the punishment were to be substantially increased, this would not only violate the principle of a humane and just criminal law. Substantially heavier sentences have scarcely any extra deterrent effect because the threat of the criminal law does not have much impact on the lifestyle of the addict, who often is not allowed to do anything else but pursuing drug use in the margins of society.

**Traffickers** Nowadays the criminal law concentrates on traffickers, imposing heavy sentences as retribution for unscrupulously earning money from the misfortunes of others. We have therefore made punishable an almost never-ending sequence of acts, such as cultivation, production, distribution, delivery, transport, importation and exportation. All of these acts would leave us completely unmoved if the drugs thus obtained were not consumed. The principle underlying this approach is the assumption that drug use cannot continue without supply. But this is true only if the supply of the drug itself or of its basic materials is completely cut off. This is where the criminal law fails miserably, despite extensive penal provisions, intensive law enforcement and severe penalties and becomes counterproductive.

**Criminal Law must fail** And criminal law must fail because of two simple and well-established truths. First, demand creates supply and thus provides the impetus to do what, in the case of illicit drugs, the law prohibits. Second, never in the history of mankind has the criminal law succeeded in completely eliminating proscribed behaviour. Not even when the law was backed by almost universal public understanding and support. We all know that. We have become accustomed to the idea that the criminal law can never prevent more than a given proportion of crime. Theft, rape and murder will always be with us. And yet no one argues that these acts should be decriminalised because the criminal law has failed to eliminate them entirely. We accept the deficient operation and limited success of the criminal law because the position that has been reached is the best one possible in the circumstances. But: things are different in the case of drug use because the deficient operation of the law takes us even further away from our goal.

What happens after all? The trafficker sells drugs in order to make money. If his profits were to dry up or be exceeded by the costs he incurs, he would go out of business and drugs would no longer be supplied.

**Seizure of drugs** In theory, his profits could dry up if it could be ensured that the drugs do not reach the customer. Naturally, the criminal law is not needed for this purpose. Any agency could confiscate illicit drugs. Yet it might be supposed that the law enforcement agencies with all their resources and powers, would have a great success rate in the seizure of drugs. This, however, is not true. A 10% seizure rate is the most optimistic estimate.

**Costs passed on** The other course of action would be to allow the cost to rise so much that the traffickers have to work at a loss. This too cannot be effected through law enforcement. Of course, law enforcement measures push up the costs for the trafficker, but they have little effect because he simply passes the extra costs on to the

consumers, who in turn pass them on to the general public. The latter are forced to finance the drugs market as the victims of theft, embezzlement, burglary, robbery and other drug-related crimes. So the price mechanism simply does not work.

**Enormous Profits** The seizure of drugs and the arrest of traffickers have little effect because both drugs and traffickers are quickly replaced. The enormous profits ensure that there is never any shortage of recruits. Even worse when a young person can make 2,000 a day dealing, this influences the behaviour of his peer group much more strongly than any drug education program can possibly do.

**Seizure of Profits** Seizure of the profits from the drug trade, which is at present the subject of international consultations and draft conventions can succeed only if there is "worldwide solidarity. Unfortunately this is in short supply. I need only say "Switzerland", "The Bahamas" or "Panama" and you will know what I mean.

**Law Enforcement not an Ally** So far we have seen that law enforcement is a weak highly overrated and grossly overpaid ally. That is, as we all know, dangerous enough when you are waging a war relying almost exclusively on that ally. But the situation is worse. When we take a second look, it becomes obvious that law enforcement is not an ally at all. The inevitably deficient operation and limited success of the criminal law transforms the drug trade into an entrepreneurs' paradise, creating and maintaining a black market that guarantees huge tax free profits, and stabilising the supply and price. Law enforcement does not, therefore, deter the trade. Instead it encourages drug trafficking at every possible level and it is indeed crucial to its survival. Law enforcement, therefore, is not an ally. It is a traitor.

#### Side effects

Before this audience, there is, I trust, no need to describe all the counterproductive and negative side-effects of law enforcement in this field in any detail.

**Criminal Justice System in Peril** As a lawyer, however, I should like to draw your attention in particular to the risk that we may lose the criminal law as a means of social control in those cases in which it still does work (albeit not perfectly) and in which it is indispensable for a just and peaceable democratic society.

By attempting to use the criminal law to attain the unattainable, we are burdening the criminal justice system with such problems that it can no longer satisfactorily discharge its role in limiting the other forms of crime. First of all, this is a quantitative problem. Our criminal justice system is being flooded by drugs cases. It is getting blocked up.

**Quantitative Problem** It is estimated that the Dutch police spend half their time on investigating drug trafficking and drug-related crimes. Over 75% of the suspects taken into police custody in Amsterdam are connected in some way with drugs, and 70% of the persons remanded in custody by the examining magistrate are either drug traffickers or involved in drug-related crimes. In our prisons nearly 50 percent of the inmates are drug addicts. Even in the prisons, which are of course the most secure places in the criminal

justice system, it has proved impossible to eradicate the possession and use of drugs. The other prisoners too are under pressure to use drugs and the prison officers are under pressure to help provide them. Hence there is a very real danger that the prison staff will be corrupted. And similar problems are evident outside the Netherlands. Almost everywhere in Europe we see overcrowded prisons.

I recognize that it is normal that some offences are given a higher priority than others in law enforcement. After all, no country has ever been able to provide sufficient money and manpower to enable its law enforcement system to deal with all offences. It has always been necessary to make choices and set priorities. But the devotion of huge resources over such a long period to just one kind of offence inevitably means that other offences are neglected. As a consequence, there is tension and dissatisfaction both among the general public and in the police force itself. Slowly but surely, the police are losing the essential support of the public and even of part of their own organisation and of the politicians. A recent survey showed that 40% of the inhabitants of Amsterdam considered that the protection afforded by the police was insufficient. Not because the police pay too little attention to drug abuse but because they do too little to prevent bicycle theft, burglary, vandalism and hooliganism. These are all offences to which the general public accords a higher priority than drug abuse. And again this not a typically Dutch phenomenon either. In 1985 Harald Körner, a public prosecutor and well known expert on drugs in West Germany, noted a similar development in his country.

Quality  
seriously  
at risk

But in addition to this quantitative problem the quality of the criminal justice system is also seriously at risk. The decision to use the criminal law in the fight against undesirable behaviour is taken not because this is the easiest path but because we wish to conduct the fight in accordance with the rule of law. The value of the criminal law lies primarily not in its function of combating crime but in the requirement that this function should be fulfilled in accordance with the law. Because of the strong pressure to score, in other words to win the war on drugs, there is an increasing tendency to alter the order of priority: success becomes more important than observing the rules of law.

This is exceptionally dangerous for a democratic society. First, because private individuals no longer have any inducement to obey the law if law enforcement officers themselves ignore the law whenever it suits them. This harms rather than benefits crime prevention. Second, law enforcement organisations which decide to operate outside the bounds of the law when need arises are in fact out of control. Since they have lost their integrity, they are susceptible to widespread corruption. In this way they become a greater threat to a democratic society than the very evil they were trying to eradicate.

Fostering  
the Mafia

But this is not all. We are fostering an international mafia whose immense income, highly developed criminal organisation and far-flung interests (including interests in gambling, prostitu-

tion, firearms and the trade in women) are enabling it to extend its sphere of influence into legitimate business, into government circles and even into law enforcement agencies. According to police officials, quoted in *Newsweek* of last March 14, these organisations are superbly organized and can buy off anybody they want, including law enforcement officers. The very roots of our society are threatened by this corruption. If we wait much longer, we will no longer be able to rid ourselves of them.

I have not told you anything new. You know the facts, I know the facts and governments know the facts. And we would all act accordingly if we were prepared to handle the problems in an unemotional and professional way. But most of us, and in particular governments, do not like to make the choices, which are now needed <sup>7</sup>).

If there  
were no Law  
Enforcement

Suppose for a moment that the acts in question were not criminal and that law enforcement was consequently not involved. We would then have a situation in which there would be no black market, no monopoly, no tax-free profits and no reason for "pushing". The international mafia would see its profits from narcotics dry up overnight. Its economic potential and its corrupting influence on governments and in society at large would decline. Drug-related crime would as good as vanish. The number of prisoners would decrease and addiction in the prisons would no longer play such a significant role. Enormous resources would be released to fight drug use by other means and to combat other crimes. And the quality of criminal law as a legal instrument could be restored.

By continuing to apply the criminal law we are placing ourselves on the horns of a dilemma. We know the alarming counter-productive effects. But what we do not know is whether drug use would increase if the criminal law were to withdraw from the scene. On the other hand, the Dutch experience of dealing with marihuana over the last 13 years indicates that the situation might get not worse, but better without law enforcement. This is not as surprising as it may seem at first sight. First, because everyone who wants to use illicit drugs can get them even now, albeit illegally <sup>8</sup>). And second, because it is a severe underestimation of the moral stability of young people in general to believe that they will all use drugs the moment this would no longer be a criminal offence. But it is true: we shall never know this for

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<sup>7</sup> "An absolute worthiness or fault approach has proved remarkably stable in some areas of criminal law (like drug addiction), when there is good reason to believe other approaches would be less costly were it not for the stark clarity of the tragic choices they would necessitate". Guido Calabresi and Philip Bobbitt, *Tragic Choices - The conflicts society confronts in the allocation of tragically scarce resources*. New York, 1978, p.75.

<sup>8</sup> For the availability of illicit drugs in the U.S. see: the National Narcotics Intelligence Consumers Committee Report on the supply of illicit drugs to the United States from foreign and domestic sources in 1985 and 1986.

certain until we try it. No government likes to take this kind of decision. But we will have to. The day cannot now be far away when an increasing number of states will be unable or unwilling to meet the costs of the negative effects of a drug policy dominated by law enforcement. In Holland for instance, members of the "Law Enforcement establishment" like judges and police chiefs advocate a gradual withdrawal of the criminal law from this field. And in some other European countries the possession of small quantities of hard or soft drugs for personal use is no longer a criminal offence.

A  
Black Friday  
for the  
Traffickers!

Mayor Ed Koch of New York City was quoted by Time Magazine some months ago as arguing in favour of massive military interdiction and saying that "the political aim of the drug traffickers is to make addicts of all of us". But even great men make mistakes. It's not a political but a financial aim. Hence, we should not fight them with the army or the police. The use of drugs is too serious to leave it to them. We should utilize those forces in our society, which have always been victorious in the past. I am referring to the forces of our capitalist system. What we need is a black Friday for the traffickers. The U.S. could bring this about by giving up its unhappy alliance with the criminal law. And why should not it? Unless, of course, it has no confidence in the moral strength of the American People and Nation.

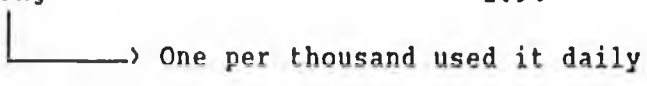
Table 1. The use of cannabis in Holland 1984 (School survey among 25,000 young people 10 - 18 yrs)		
age group:	10 - 18	17 - 18
tried but no longer used	2.3%	5.6%
still using	1.9%	6.5%
		

Table 2. Estimated number of hard drug addicts		
Country	Maximum	% of total population
Holland	20,000	0.14 %
West Germany	109,000	0.19 %
Denmark	10,000	0.20 %
Italy	250,000	0.45 %

Table 3. Proportion of Aidspatients, that are addicts	
Country	%
Holland	3 %
Great Britain	5 %
Western Germany	15 %
City of New York	17 %
Italy	20 %
Switzerland	35 %
Austria	45 %
Spain	50 %

Table 4. The use of cannabis in Holland before and after its decriminalisation		
age group	before (1976)	after (1985)
15 - 16 yrs	3 %	2 %
17 - 18 yrs	10 %	6.5 %

### Drug prevalence in Amsterdam (1987)

Household survey (representative sample of 4202 respondents of 16 years and older)

drug	life time prevalence		last year prevalence		last month prevalence						N
					total (month)		on prescription		without prescr.		
	n	%	n	%	n	%	n	%	n	%	
tobacco	3091	73.6	2147	51.1	1994	47.5	-	-	-	-	4200
alcohol	3733	89.0	3373	80.4	3081	73.5	-	-	-	-	4194
hypnotics	863	20.6	487	11.6	357	8.5	306	7.3	58	1.4	4196
sedatives	965	23.0	467	11.1	319	7.6	246	5.9	77	1.8	4198
cannabis	988	23.6	403	9.6	241	5.7	-	-	-	-	4194
cocaine	245	5.8	68	1.6	27	0.6	-	-	-	-	4195
amfetamines	192	4.6	27	0.6	13	0.3	-	-	-	-	4190
opiates	400	9.6	105	2.5	49	1.2	29	0.7	13	0.3	4187
(heroine)	-	-	14	0.3	11	0.3	0	0.0	7	0.2	4187
lsd	118	2.8	5	0.1	1	0.0	-	-	-	-	4194
other hallucinogens	102	2.4	17	0.4	4	0.1	-	-	-	-	4194
inhalants	43	1.0	10	0.2	6	0.1	-	-	-	-	4191

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The opiates contain a.o. opium, morfin, heroin, codein, palfium, methadone.

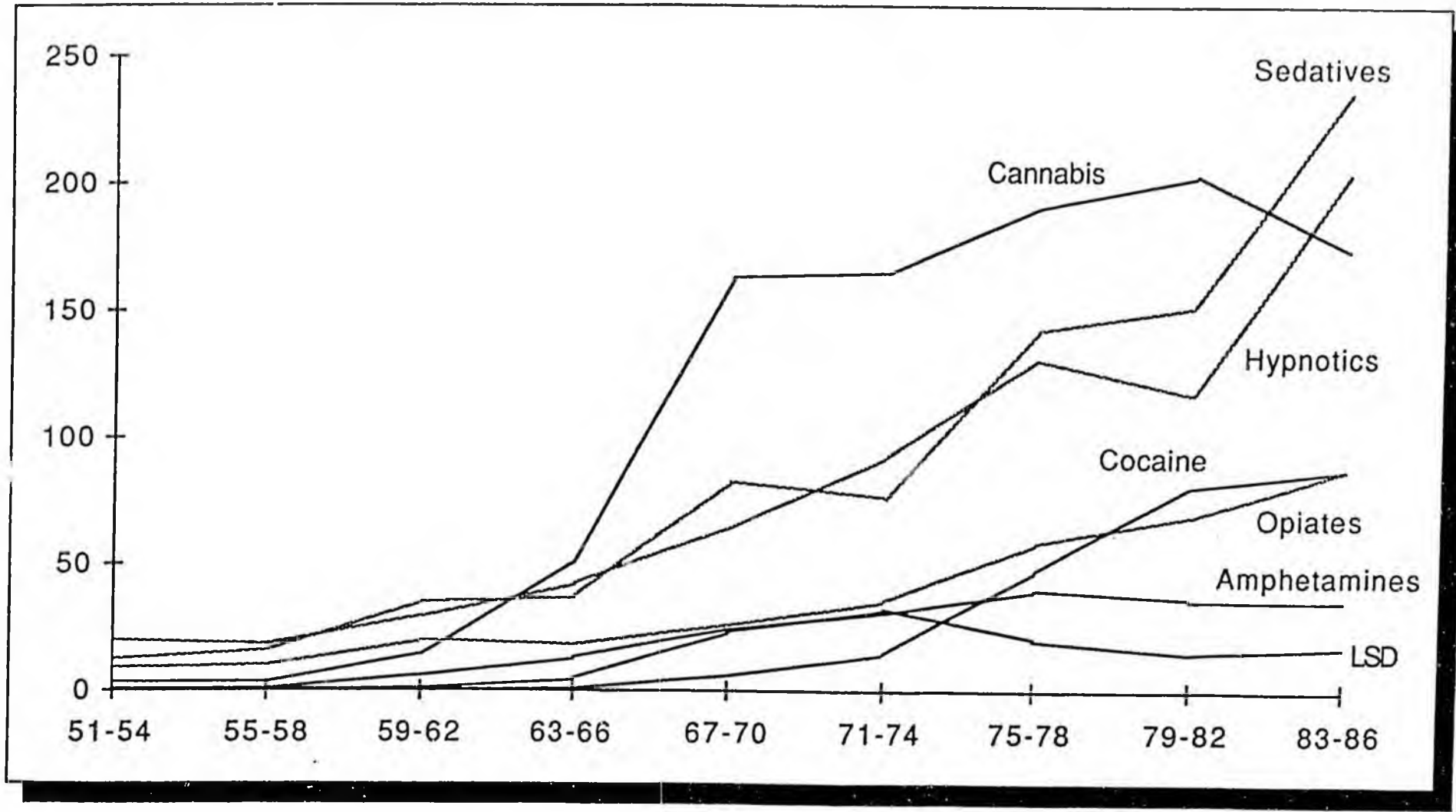
Codein is largely used on prescription, heroin without prescription and methadone both.

Source: Musterd, S., P. Sandwijk & I. Westerterp: "Drug use in Amsterdam" (1988, forthcoming)

Department of Social Geografy, University of Amsterdam

**Graphic: Year of first use of several drugs in Amsterdam**

Household survey (representative sample of 4202 respondents of 16 years and older)

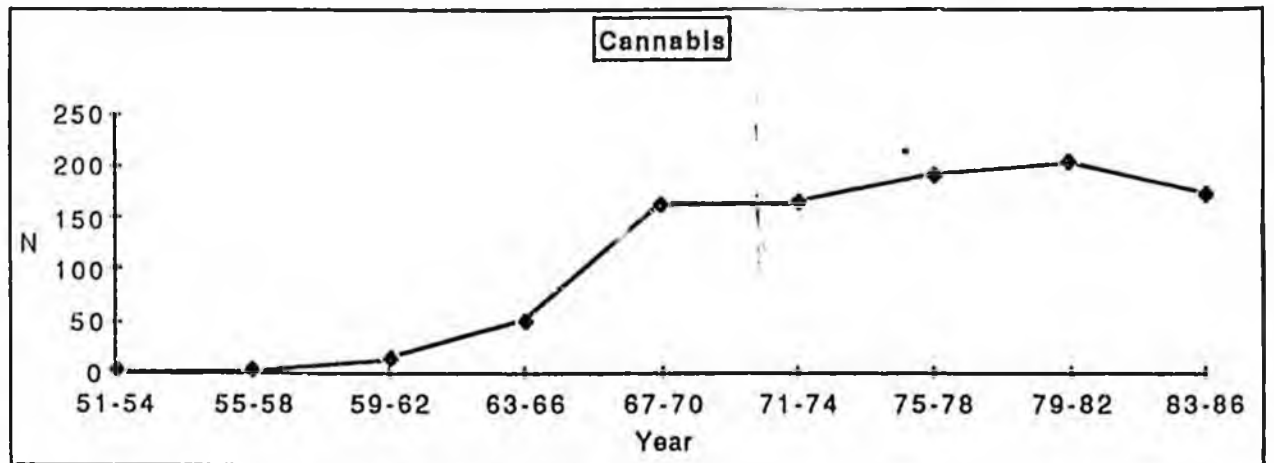


The Pragmatic Dutch Approach to Drug Control: Does it work? 17

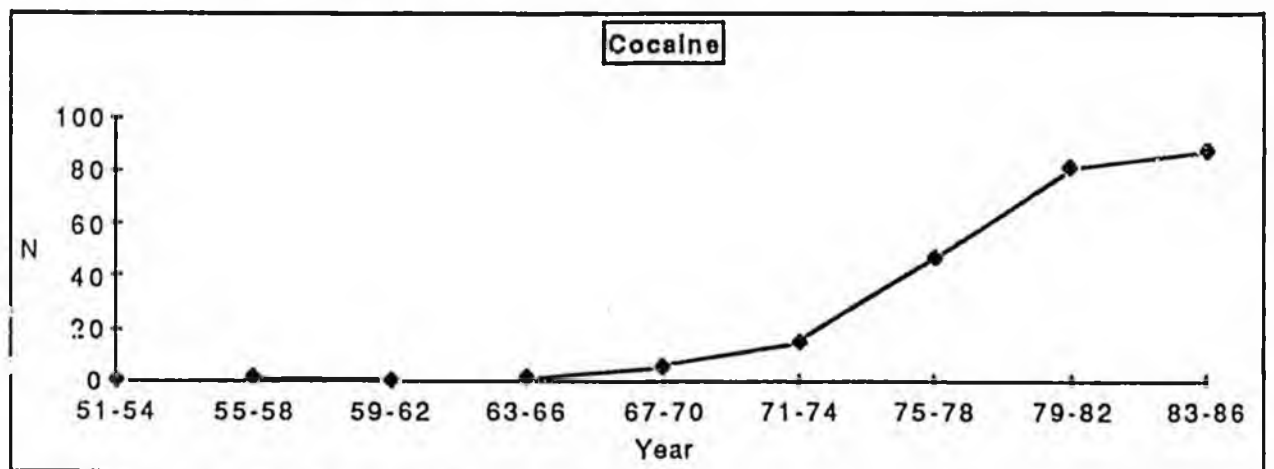
**Graphics: Year of first use of several drugs in Amsterdam**

Household survey (sample of 4202 respondents of 16 years and older)

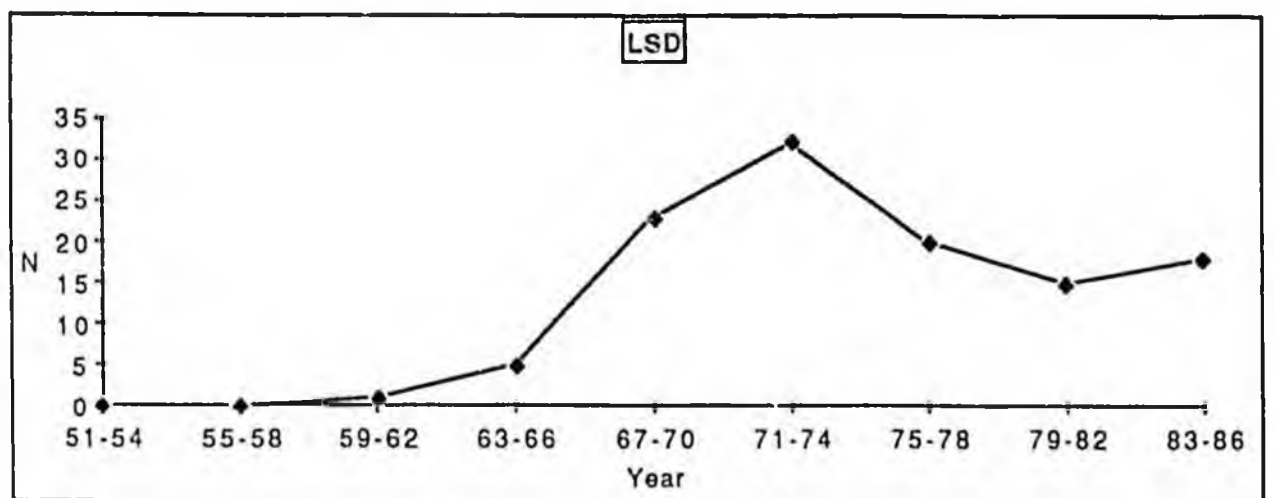
N.B. Heroin: only those respondents who still used heroin in the last year before the interview (1987)



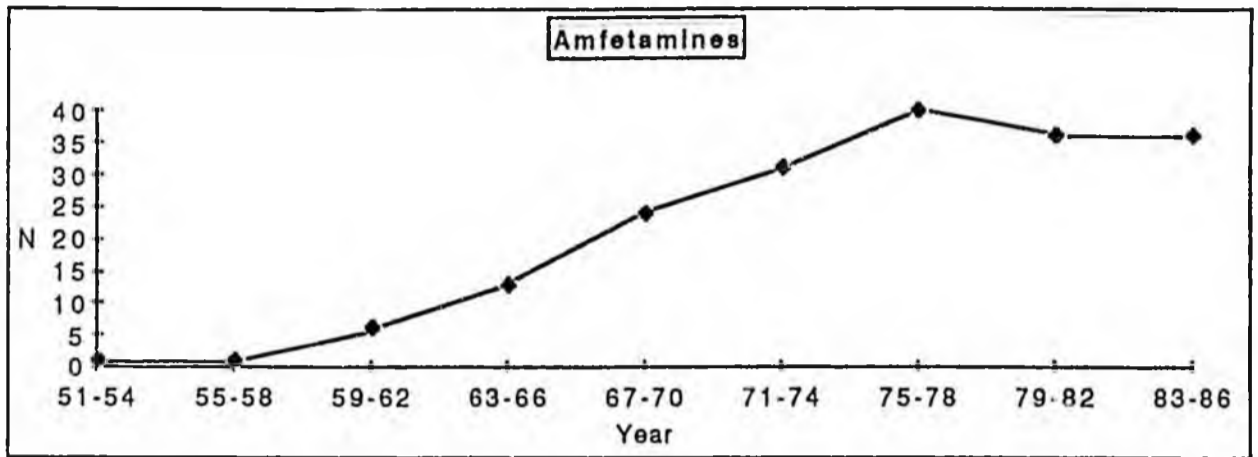
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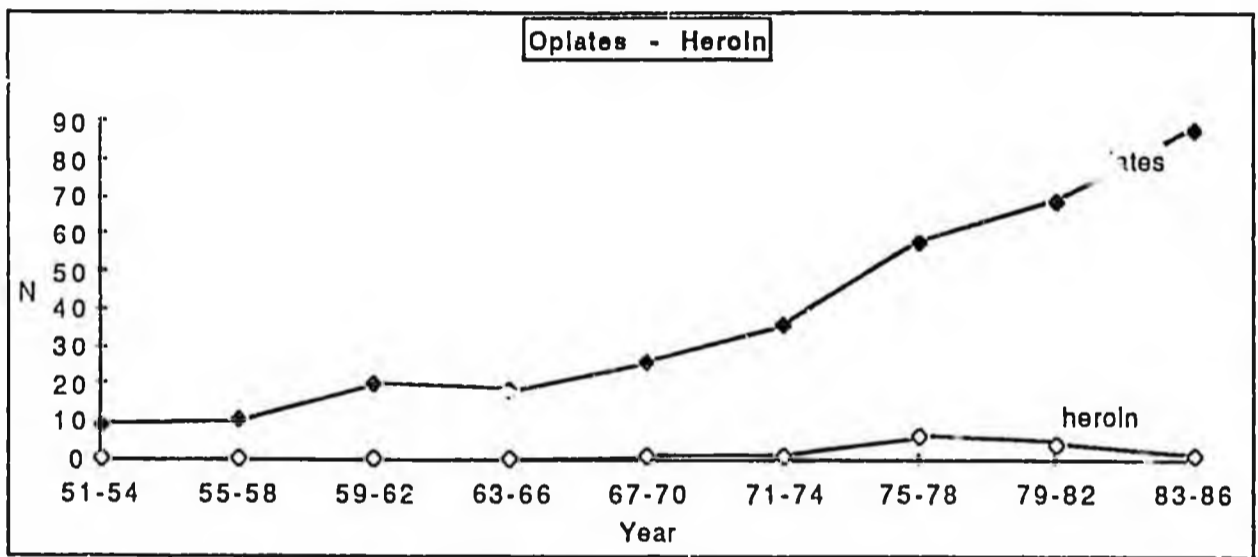
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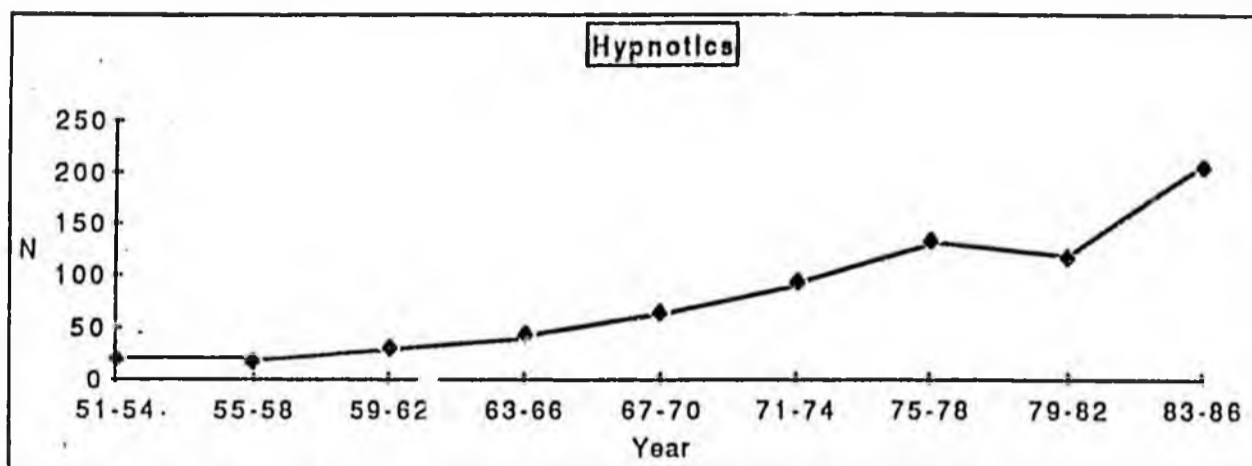
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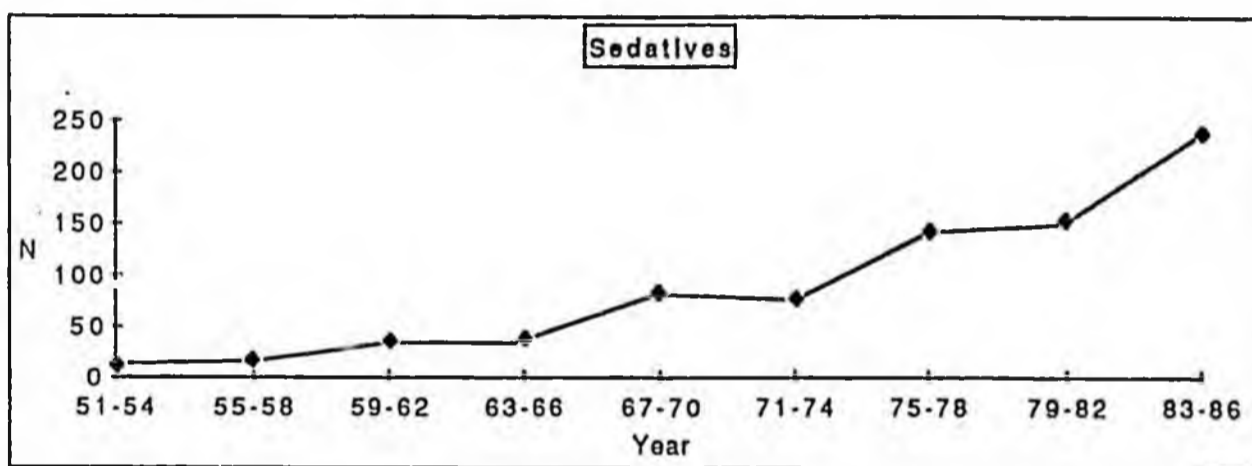
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Source: Musterd, S., P. Sandwijk & I. Westerterp: "Drug use in Amsterdam" (1988, forthcoming) Department of Social Geografy, University of Amsterdam

I am greatly indebted to  
Peter Cohen, Director of Drugs Research, City of Amsterdam  
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Ed. Leuw, researcher, Scientific Research and Documentation  
Centre, Ministry of Justice, The Hague  
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Social Geography, University of Amsterdam  
Henk Jan van Vliet, former researcher, National Federation  
for Alcohol and Drugs  
for information, the use of their published and unpublished  
material and their expert advice.

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Frits Rüter, born 1938, graduated as a lawyer at the University of Amsterdam in 1962. From 1962 to 1966 he studied at the Max Planck Institute for foreign and international criminal law in Freiburg im Breisgau/West Germany.

Ph.D. Amsterdam 1973.

Since 1973 he has been a senior professor of criminal law at the University of Amsterdam and director of its criminal law institute.

He is a deputy judge at Amsterdam Criminal Court, a member of the Benelux Commission for the Unification of the Law, chairman of the Police Complaints Board of the City of Amsterdam and a member of the International Advisory Board for the publication of the Nuremberg Trials. As official representative of Amnesty International/London he has attended several trials and taken part in various investigative missions, mainly in Eastern Europe.

Publications: "The Prosecution and Trial of War Crimes and Crimes against Humanity" (1973); "Justiz und NS-Verbrechen", a complete collection of West German war crimes trials (22 vols); The Tokyo Judgement (2 vols); books on Dutch criminal law and various articles on Dutch criminal procedure, international cooperation in penal matters, drugs and the criminal law etc.

Decoration: "Bundesverdienstkreuz 1. Klasse" of the Federal Republic of Germany

Address: Universiteit van Amsterdam, Kloveniersburgwal 72, Amsterdam/Holland

TANANA CHIEFS CONFERENCE, INC.  
Board of Directors  
Resolution No. 89-1

HB 32

HB 88

SB 66

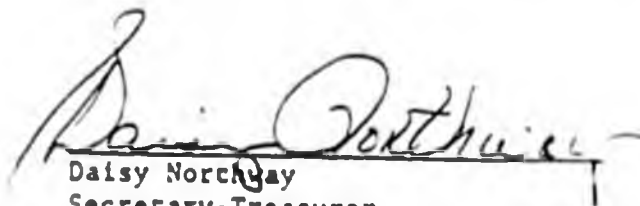
SUPPORTING NATIVE ELDERS IN THEIR FIGHT AGAINST ALCOHOL AND DRUGS

- WHEREAS, there are many problems which threaten our survival as a people, but none have such a devastating impact on our communities and families as does the problem of alcohol and drug abuse;
- WHEREAS, the use of alcohol and drugs offers nothing to our villages but broken spirits, broken families, pain, suffering and death; and
- WHEREAS, the use of alcohol and drugs never has been and never will be of any value to our Native culture and Native people; and
- WHEREAS, since its introduction from other cultures, Native elders have warned their villages that alcohol and drugs are the greatest threat to health, life and cultural values; and
- WHEREAS, as the keepers and teachers of Native culture, the elders today speak stronger than ever against alcohol and drugs and have committed themselves to bring their message against alcohol and drugs to their villages; and
- NOW THEREFORE BE IT RESOLVED that the Tanana Chiefs Conference Board of Directors request that Governor Steve Cowper and every Alaska State legislature and member of Alaska's delegation in Congress support the efforts of the Interior villages in their fight against alcohol and drug abuse; and
- BE IT FURTHER RESOLVED that the Tanana Chiefs Conference Board of Directors direct TCC to pursue state, federal, local, and private sector funding to institute comprehensive region wide alcohol and drug prevention programs utilizing elders, concerned village workers, village councils and youth in each village and that these concerned village teams be afforded training and ongoing support; and
- BE IT FURTHER RESOLVED that the Village Councils and village courts pass ordinances against alcohol and drugs and strictly enforce these ordinances through their village courts; and
- BE IT FURTHER RESOLVED to protect our children and families, Village Councils and courts strongly consider the use of traditional Native justice mechanisms and banish bootleggers and drug pushers from our village; and
- BE IT FURTHER RESOLVED each school in each village includes a comprehensive drug prevention to their curriculum and actively implements preventive education at every grade level; and
- BE IT FURTHER RESOLVED as an example to our children and to each other that alcohol is not to be served at any TCC function from this day forward; and

- BE IT FURTHER RESOLVED any TCC employee determined to have a drug problem be given the option to receive treatment or be immediately terminated from employment; and
- BE IT FURTHER RESOLVED each Native person of strong body and mind lend hand to help their elders and village leaders in this most serious task; and
- BE IT FURTHER RESOLVED for the spiritual well being of our children, families and for the survival and strengthening of our nation from this day forward, let it be known that the elders of the Athabascan Nation have declared war on all those who are associated with alcohol and drug abuse.

C E R T I F I C A T I O N

I hereby certify that this resolution was duly passed by the Tanana Chiefs Conference, Inc. Board of Directors on March 16, 1989 at Fairbanks, Alaska with a quorum was duly established.



Daisy Northway  
Secretary-Treasurer  
Tanana Chiefs Conference, Inc.

Submitted by: Executive Board

September 20, 1989

David L. Baumeister  
Era Aviation, Inc.  
6160 South Airpark Drive  
Anchorage, AK 99502

Dear Mr. Baumeister:

Thank you for your letter in support of the  
recriminalization of marijuana possession for adults.

The House Judiciary Committee is in the process of  
collecting data and studies on substance abuse in Alaska.  
The committee has two studies of its own in progress. One  
looks at the social costs of substance abuse in the state,  
and the other compares the latest scientific data on  
marijuana with the information available to the Supreme  
Court in making the "Ravin decision".

I will make sure that your letter is included in the  
member's files on HB 88 which is the bill currently in our  
committee.

Sincerely,

Peter Goll

*re: written &  
sent*



# Era Aviation, Inc.

September 8, 1989

Mr. Peter Goll  
House of Representatives  
Room 122, Capitol  
P. O. Box V  
Juneau, Alaska 99811


Dear Mr. Goll,

I am writing to encourage you to make "the recriminalization of the possession of marijuana for personal use", your priority as the next session is called to order. Let us face some facts.

1. This country is in dire trouble as a result of drug problems.
2. Some say Alaska is a leader with its marijuana laws. In fact it is 20 years behind the times.
3. We business people who are trying to make our workplace safer are faced with the comment by employees that marijuana is legal in Alaska.
4. Fact is, Alaska stands to loose millions in Federal Funds as a result of our current laws. In these economic times, that is just foolhardy.
5. The majority of the Alaskans who elected you want this law changed.

I look forward to hearing your views on this issue.

Sincerely,



David L. Baumeister  
President

RECEIVED APR 27 1989



# THE WAR ON DRUGS

DRUG  
POLITICS



"I wonder if when this war on drugs is over, if we'll get veteran's benefits?"

-anonymous Kentucky marijuana grower

*Prohibition ended because it created uncontrollable crime, violence and corruption.*

Alaskan Marijuana Coalition, Box 80611, Fairbanks, Alaska, 99708

RECEIVED

The A.M.C. does not advocate the use of any recreational drugs we believe.

① prevent Alaskan marijuana laws are effective

② Alaska cannot afford the cost of prohibition enforcement

③ that both to have and alcohol are more addictive and biologically

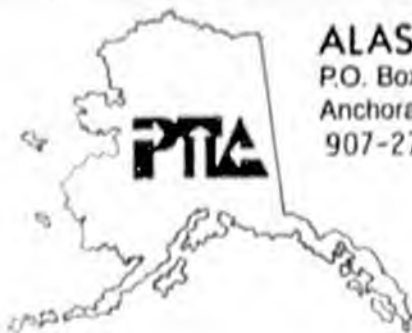
damaging than marijuana Alcohol is associated with most

domestic violence

⑤ re-criminalization sends a dishonest message to kids about the comparative dangers of recreational drugs

John Williams

Chairman, A.M.C.



ALASKA PTA  
P.O. Box 142095  
Anchorage, AK 99514-2095  
907-279-9345

Elrita Magoffin, Chm.  
Health/Safety Comm.  
Box 80322  
Fairbanks, Ak., 99708

RECEIVED APR 27 1989

April 25, 1989

Rep. Peter Goll  
Chairman  
House Judiciary Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Goll:

As a representative of the Alaska PTA, I am contacting you with regard to HB 88, "Making Possession of Marijuana Illegal." Please enter this testimony into the Committee's official record on this legislation.

With a current membership of 18,000, Alaska PTA is the largest educational group concerned with the health, education and juvenile justice of Alaska's youth. We want you to be aware of Alaska PTA's stand on this issue. At our 1987 convention, we unanimously passed a resolution recommending the recriminalization of marijuana. On April 1, at our 1989 convention in Anchorage, we reaffirmed the recriminalization of marijuana as a top legislative priority.

The state of Alaska currently sends a harmful and mixed message to the youth of our state by having a law which allows the use and possession of marijuana in the home. We believe that the passage of HB 88 or a very similar bill is critical to send an anti-drug message to Alaska's youth. Further, we know that federal funds for drug abuse programs have been placed in jeopardy because of this liberal drug law. These funds are essential to Alaska's many drug and alcohol abuse programs.

We urgently request that you, as chairman of this committee, do all possible to bring HB 88 to the floor for debate and to be voted on and passed in this session.

Sincerely,

Elrita J. Magoffin  
Health/Safety Commission, Chm.



# Alaska State Legislature

## House of Representatives

COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

FOUCHV  
JUNEAU, AK 99811  
465-3759

### FINAL HOUSE HESS COMMITTEE REPORT:

#### HEARINGS ON CSSB 32 (HESS) Penalty for the possession of marijuana

The House Health, Education and Social Services Committee completed six hearings, four in full committee and two in subcommittee, on CSSB 32 (HESS), relating to the possession of marijuana. It was the recommendation of a majority of the members of this committee that this bill should not be passed from committee due to serious flaws in the findings section of the bill, which deals with the health effects of marijuana.

#### SUPREME COURT DECISION

To understand the reason for the Committee's decision, background information is essential. In 1975, the Alaska Supreme Court decided in Ravin v. State that marijuana possession by adults, at home, for personal use, was constitutionally protected. Writing for the Court, Chief Justice Rabinowitz stated:

"We conclude that no adequate justification for the state's intrusion into the citizen's right to privacy by its prohibition of possession of marijuana by an adult for personal consumption in the home has been shown."

Rabinowitz continued:

"The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate government interest."

Most importantly, to the legislature, Rabinowitz continued:

"Here, mere scientific doubts will not suffice. The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied." (underline added)

The Court left open the possibility of a reversal of the decision based on the presentation of new proof of the danger posed by marijuana to the public health. Section one of CSSB 32 (HESS) is a series of medical findings which, clearly, is written in response to the Court's offering. Thus, this Committee took as our primary task-at-hand, fully within our purview, and appropriate to our area of specialization, the review of these findings.

## REVIEW OF THE FINDINGS

Most of the findings in CSHB 32 (HESS) are not new. Many were previously taken into consideration by the Court before the 1975 decision through a thorough review of the medical literature on marijuana's effects. For example, in his opinion Rabinowitz noted the relatively undisputed evidence of short-term physiological effects such as: the impairment of psychomotor control, increase in the pulse, and the tendency to produce drowsiness, lethargy, timidity and passivity. Typical psychological effects such as distorted time perception and the impairment of immediate past-memory facilities were also noted. Taken into account were the "occasional" cases of anxiety and depression; "rare" cases of excessive nervousness and panic reaction; and "extremely rare" instances of psychotic reaction. Also considered were studies that have been "extensively criticized by other qualified medical scientists", claiming deleterious effects on the body's immune defenses, chromosomal structures and testosterone levels.

The bill does have some new findings, not considered by the Court, most of which were criticized as medically unsupported by a majority of the experts who testified before our Committee. These findings include: "it is possible for a human being to overdose from the use of marijuana"; "marijuana may cause schizophrenia"; "one marijuana cigarette a day may cause lung cancer in three years", "marijuana use may result in deformed or undersized offspring"; and "physical reactions to marijuana include irreversible changes in the brain".

## MARIJUANA IN PERSPECTIVE

It is undisputed that there are negative health effects due to marijuana use, and that its use should be discouraged. The question is a matter of degree. Just how bad is this substance given society's tolerance of other unhealthy substances such as tobacco and alcohol, and to what lengths does the state have the right to control its use? The Supreme Court originally drew this connection in the Ravin decision stating that:

marijuana is "far more innocuous in terms of physiological and social damage than alcohol and tobacco"; and further by stating, "it appears that the effects of marijuana on the individual are not serious enough to justify widespread concern, at least as compared to the far more dangerous effects of alcohol, barbiturates and amphetamines."

In sum, we found that some of the medical findings were supported by valid medical research, but most of these were already considered in the Ravin decision. The rest were either irrelevant, overstated, misleading or false. Most were inconclusively proven. This bill would have failed miserably

in proving to the Court any new evidence of marijuana's dangers. To send this bill through the legislative process would have been an abrogation of this committee's duty to act responsibly and authoritatively within our given health area of specialization.

#### CONCERN FOR CHILDREN: COMMITTEE ACTION ON ABUSED SUBSTANCES

The significant level of public concern, both pro and con, regarding this legislation was taken gravely by this committee. We were especially impressed with and sympathetic to the widespread concern about drug abuse by young people in this state. But, the illusion that this bill was a panacea appears to have been promoted through misinformation and oversimplification. To pass a seriously flawed bill just to escape political pressures, only to have it overturned by the court, would have been a gross disservice. The court most certainly would have struck down this legislation as unconstitutional. We are supported in this view by opinions from both our Legislative Legal Counsel and from the Counsel to the Senate Judiciary Committee.

The Committee did pass three bills designed to specifically address substance abuse by young Alaskans. Senate Bill 339 raises the legal age for the purchase of cigarettes and prevents the sale of cigarettes from unsupervised vending machines; HB 361 limits the driving privileges of minors convicted of offenses involving drugs and alcohol and; HB 265 provided for community service and substance abuse treatment for minors who violate laws. HB 361, known as the "use it and lose it" bill, was sponsored by our Committee and is now state law. SB 339 is also now state law.

#### COMMITTEES' DELIBERATION

It is unclear to us why CSSB 32 (HESS), after being in the Senate for 13 months, passed with such problems. The sponsor of the bill is the Chairman of the Senate HESS Committee, the committee with primary purview. Yet, after several hearings in the Senate HESS Committee (attended by House HESS members), the findings remained largely unsupported. Research material made available to Senate HESS was specifically requested to show only that evidence which supported the findings; no evidence which could refute them was included. Upon receipt of the bill we requested comprehensive background information from the House Research Agency both supporting and refuting the findings and began our hearings shortly after receiving this information. Before and after the hearings we contacted the sponsor and requested specific documentation for each of the findings in the bill, but none was received.

While the committee spent most of its time on the health aspects of this bill, legal and fiscal issues were also touched upon. Further deliberation on legislation of this kind would need to include discussion of the appropriateness of the penalties, the effectiveness of the deterrence intended by the legislation, the issue of whether or not the new law would be enforced, and the civil liberties issues associated with possible selective enforcement. In addition, the nearly \$1 million annual fiscal impact to the state would need to be weighed. Issues of federal funding and federal enforcement regarding drugs were not relevant to this committee's review of the medical findings, especially given the burden of proof charged to the state by the Supreme Court regarding the constitutional implications of Alaska's marijuana laws.

#### LEGAL QUESTIONS

Alaska's constitution, as originally written in 1955 and accepted by a vote of the people of Alaska, placed greater emphasis on personal individual liberty than does the constitution of any other state. This was reaffirmed and further strengthened by a specific amendment (ART I, Section 22) affirming an Alaskan's right of privacy, passed by vote of the people in 1972. These constitutionally mandated individual rights severely limit the legislature's power, even when the legislature attempts to act within the constitution and for the public interest, as in the local hire and longevity bonus cases. Legislation cavalierly passed in disregard of the warnings of the Legislature's own legal counsel as to its unconstitutional nature, would only be demolished in the courts with great expense to the public. A legislator's oath of office binds him/her to support the Constitution of the State of Alaska and should be taken seriously.

Constitutional questions are properly the purview of the Judiciary Committee. Any legislation that seeks to prohibit an Alaskan's private right to possess marijuana must be carefully examined as to its effect on other personal private rights (home education, possession of literature, firearms, etc.) and on the degree of proof needed to establish that an overwhelming state interest exists in a given case. Further the line between the interest and responsibility of the government of the State of Alaska, functioning under its Constitution, and the powers and functions of the Federal Government and its officers must be clearly delineated. The State of Alaska, although part of our Federal system, is not an arm of the Federal Government, but an instrument beholden to the people of this state and operated in their interest. Unless the Congress of the United States decrees, and the US Supreme Court agrees, that all states must uniformly enforce a specific federally mandated law in regard to marijuana, Alaska must find its own way in this regard. Currently, no uniformity exists: the State of Louisiana does fine an individual \$500 for personal possession of marijuana, but personal

possession in Louisiana is defined as possessing up to 100 pounds (1) rather than being limited to 4 ounces as in Alaska. It is clear that the legal questions may produce more testimony and debate than the questions of the public health impact of marijuana that occupied the time of the House HESS Committee.

#### CONCLUSION

Perhaps the most representative statement regarding the adequacy of this bill was written by Dr. Bernard Segal. Dr. Segal is the Director of the Center for Alcohol and Addiction Studies at the University of Alaska. He has documented high levels of drug and alcohol use by Alaskan adolescents and is a leading Alaskan authority on the prevention of drug abuse. In his statement on CSSB 32 (HESS) he wrote:

"In summary, it is my professional and personal opinion that this legislation, if passed in its present form, cannot be supported in court. The preponderance of research findings points to conclusions that are contrary to most of the allegations in the bill. Moreover, passing the legislation as is would contribute, in my opinion, to an impression that Alaska is operating in a climate similar to that of the 1930's, one which may convey a message to scientists and others that emotions rather than rationality prevail. As such, I urge that the present legislation be deferred. If the Legislature retains its interest in recriminalization of marijuana, then it has to prepare more factual and more rational legislation, which accurately reflects what is known about the adverse effects of marijuana. A more objective approach would then allow the courts to weigh the arguments for or against, rather than dismiss poorly conceived legislation 'out of hand'."

Finally, since a bill similar to SB 32 has been in the Legislature for the past five years it is likely to be reintroduced again, (SB 32 is identical to HB 698 from the Thirteenth Legislature - 1984). To supporters of that possible future legislation we suggest that objective and authoritative information be sought to support assertions of health effects. In this regard, articles from the Readers Digest will not suffice, nor will the testimony of individuals who have developed a reputation of advocacy, and often an income, for either side of this issue. Any future review of the medical effects needs to be depoliticized, unemotional, rational and comprehensive. Pursued in this light, we are confident that all the members of this committee would be willing to devote their efforts.

July, 1988

Rep. Niilo Koponen, Co-Chair, House HESS Committee  
Rep. Johnny Ellis, Co-Chair, House HESS Committee

RECEIVED MAY 4 1989

FAMILIES IN ACTION  
FOR A DRUG FREE COMMUNITY  
P.O. BOX 1188  
PETERSBURG, AK 99833

April 24, 2989

The Honorable Peter Goll  
Alaska State Legislature  
House of Representatives  
P.O. Box V  
Juneau, AK 99811

HB 88

Dear Representative Goll:

I am writing to you on behalf of an organization called Families In Action For a Drug Free Community. Our group consists of 70 members of the community, who are concerned with the progress of SB18 and its companion bill HB22 - Recriminalizing marijuana. We would like to urge you to please support passage of these bills.

By tolerating even a small amount of marijuana in the privacy of ones own home, Alaskans are putting the seal of approval on this dangerous drug for their children. Do we want to give our children the impression that this drug is okay as long as you use it at home? The Nation as a whole is trying to instill "Just Say No" into our children's vocabulary. Should this mean, "Just Say No To Everything Except Marijuana"?

In the late 1950's fewer than one percent of American teenagers had ever tried marijuana or any other illegal drug. As of 1980, more than 60 percent were experimenting with drugs. Today we are seeing an even higher percentage, with the average age of users dropping from 19 years old, to 12.

According to information put out by the Benevolent and Protective Order of Elks, marijuana is viewed as "The Gateway Drug". This means that once a person has used marijuana, it is easier for them to go on to harder drugs. Among pot smokers, a shocking 60% progress to harder drugs. Conversely, if young people do NOT smoke pot, the odds are 98 to 1, that they will NEVER try any other illicit drug. According the Elk's survey, among high school seniors, 27 percent try stimulants, 16 percent sedatives, 16 percent cocaine, 9 percent LSD, and 6 percent PCP. Nearly all of them started with POT.

Two years ago, a survey was conducted of 420 students in Petersburg schools, grades 6 - 12th. 35% of these students were using marijuana regularly, and had been since age 10 or younger. This survey also reported that their "first time" had been at home and provided by a family member...alarming isn't it? Is this really what we are encouraging for our

Rep. Peter Goll

-2-

April 24, 2989

youth? Can Alaskans continue to deny the fact that drugs are becoming an increasing problem among teens? State legislators predict that passing SB18 and HB22 would cost the state approximately \$750,000.00. That may seem like a lot, however, what dollar amount can we place on Alaska's future leaders? And how many of our children's lives will eventually be ruined or lost due to this "legal" drug?

Again, please support these bills. Recriminalizing marijuana is a step towards making a better future for Alaskan children.

Thank you for the opportunity to comment.

Sincerely,

*Beth Rhoden*

Beth Rhoden  
Secretary

cc: Juneau Empire  
Anchorage Daily News  
Chilkat Valley News  
Southeastern Log

Case  
HB 88

*Wagstaff, Pope, Rogers & Clocksin*  
*Lawyers*

*Robert H. Wagstaff*  
*Don Clocksin*  
912 West Sixth Avenue  
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(202) 788-5100

RECEIVED

March 19, 1987

MEETING OFFICE

Steve Cowper  
Office of the Governor  
P.O. Box A  
Juneau, AK 99811

Re: Our File No. 2027.01

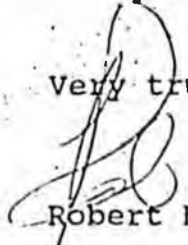
Dear Steve:

As we predicted last fall, the Legislature has introduced several bills calling for the "recriminalization" of marijuana with a number of unfactual alleged findings of fact. Enclosed please find a point by point rebuttal of all the purported "new" facts regarding marijuana.

In summary, nothing has changed as far as marijuana scientific evidence since the Ravin decision in 1975. In fact, the ultimate bottom line is that people all over the world have been using marijuana in various quantities for over 3,000 years and nothing has happened yet.

The issue presented in such legislation transcends marijuana. It deals with the right of privacy, the right of the people to be let alone to do what they want, so long as it doesn't affect anyone else. Please let me know if you would like any additional information or if I can be of any other assistance. We are not releasing the contents of this letter generally at this time.

Very truly yours,

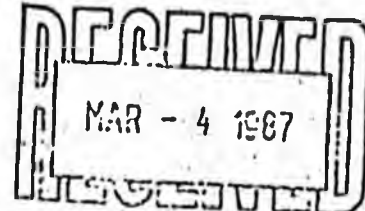
  
Robert H. Wagstaff

RHW:ksg/01

**NORML**

2001 S STREET, NW, SUITE 640, WASHINGTON, DC 20009 • (202) 483-5500  
February 26, 1987

Robert Wagstaff  
912 West 6th St  
Anchorage, AK 99501



Dear Mr. Wagstaff:

I have examined the findings reported in House Bill #55 of the Alaskan Legislature and have found them flawed and inaccurate. Here is a point by point rebuttal of the findings. References to the National Academy of Sciences refer to their publication Marijuana and Health which reports their 1982 study of marijuana related research.

1) "THC, the mind altering ingredient in marijuana, is not soluble in water, but goes into the fatty tissues of the brain, testicles, ovaries, and other internal organs, and takes 30 days to be eliminated from the body;"

Actually, THC is broken down by the body soon after ingestion. Its metabolites stay in the body for up to 30 days, but these metabolites are non-psychoactive. Any toxicologist can confirm this. Urine testing advocates exploit the confusion between THC which is the active ingredient and is metabolized relatively quickly, and its metabolites (chiefly 9-carboxy-THC) which have no psychoactive effect but linger in the body for a month or so.

The following quote is from a recent article by Chemical & Engineering News (6/2/86). "Marijuana is the most commonly abused drug and the kinetics of its metabolism have been studied extensively. It is also an unusual drug in that it can be detected in urine for a long time. Very little of the original drug, Delta-9-tetrahydrocannabinol or THC, goes into the urine. The chemical is absorbed from the blood into body fat tissue where it is eliminated as it is slowly metabolized. . . (metabolites) can be found in urine for longer than a month . . ."

The following quote is from a Center for Disease Control MMWR Report (9/16/83). "Studies involving humans indicate that 80% - 90% of the total dose of Delta-9-THC is excreted within 5 days - approximately 20% in urine and 65% in feces."

Most experts claim that the metabolites disappear 10 to 14 days after ingestion in most cases. Urine tests detect these metabolites, which is why the manufacturers are required to point out that they are tests to indicate recent use, not intoxication or impairment. If THC remained in the system for 30 days, and remained active, the urine tests would be marketed as a way to indicate impairment. They aren't.

2) "the buildup of THC in the body causes the user to smoke more marijuana to achieve the desired high and may result in loss of sleep, appetite, and initiative, as well as moodiness and depression;"

The "buildup of THC" is actually tolerance to the drug, a physiological response humans and animals have to any drug. It occurs not because of the THC buildup, but because of other complex biological factors.

The symptoms mentioned accompany cessation of marijuana use in some individuals, not the buildup in the body. A majority of marijuana smokers experience no side-effects from cessation of use. If these symptoms indicate anything, they indicate the relative lack of serious side-effects from cessation of use, unlike those associated with alcohol and opiate withdrawal.

3) "it is possible for a human being to overdose from the use of marijuana, especially if it is used in conjunction with alcohol, because it increases the effects of alcohol;"

There is no record of anyone ever dying from an overdose of marijuana. It is one of the least toxic drugs known to man.

Raphael Mechoulam, who isolated the main ingredient of marijuana (THC) has edited Cannabinoids as Therapeutic Agents which includes an article by Mark Segal on Marijuana's potential as an analgesic. He reports that marijuana has promise as a pain killer because it is non-addictive and does not depress the respiratory tract (unlike opioids.) Marijuana's promise as a pain-killer is reported by the National Academy of Sciences, and by Roger Roffman in the book Marijuana as Medicine; its promise rests on the fact that finding #3 is essentially false.

Marijuana is a mild intoxicant, and as such should not be used in conjunction with other intoxicants. Whether marijuana increases the effects of alcohol, or complicates them, or just how one would subjectively describe the effects of mixing the two, is beside the point that multiple drug use provides multiple safety concerns. Marijuana, though, has far less severe cross-reaction with alcohol than barbituates or tranquilizers such as valium. Once again, a good toxicologist can provide confirmation of these points.

4) "the THC content of a marijuana cigarette 10 years ago was one percent, but is as high as 10 percent per cigarette today:"

Proponents of jailing people for marijuana use have been using this argument as if to suggest that marijuana is ten times more dangerous than it used to be. The premise that an increase in potency demonstrates an increase in danger is logically unsound. As with alcohol, consumers compensate for higher potency by consuming smaller doses. Anyone who counsels alcoholics will confirm that beer is no less dangerous than whiskey simply because it has a lesser potency.

The government has been trying to sell the increased potency argument for some time. The enclosed press release refers to a New York Times report in 1986 that marijuana had increased to an average potency of 3.5%, and that this was an alarming increase over the seventies. However, in 1980, The Times ran a similar story, only at that time they claimed that marijuana had an average potency of 4%. So, marijuana has actually decreased in potency, if you believe The Times.

5) "Marijuana causes schizophrenia, illusions, and hallucinations, including a dulling of the senses, creating the possibility that the user is unable to respond to body signals, such as pain;"

There is no clinical evidence that marijuana causes schizophrenia. The National Academy of Sciences found that drug abuse was more often than not a symptom rather than a cause of mental problems. Illusions and hallucinations are often subjective phenomena influenced by an individual's mental state and the power of suggestion. Individuals susceptible to lapses in their grasp of reality will compound their mental problems with the use of alcohol, marijuana, or other drugs.

Marijuana users do not hallucinate. They do experience an alteration of their space perception, and an apparent enhancement of colors. These, combined with impairment of motor coordination, are reasons why marijuana should not be used while driving a motor vehicle. However, to call these effects of marijuana "hallucinations" is misleading if not untruthful. Individuals who take LSD hallucinate. Individuals detoxifying from alcohol addiction hallucinate. Hallucinate means the individual sees something that isn't there. Marijuana users do not hallucinate.

The National Institute on Drug Abuse's pamphlet, "Marijuana", is far from being the best source on marijuana's effects. However, it's claims are based far more on actual research than popular myths. It makes no mention of hallucinations, illusions, or schizophrenia resulting from marijuana use.

Marijuana's promise as a pain killer is referenced above. However, the dose required to render an individual oblivious to body signals such as pain far exceeds standard levels of use. A sufficient dose to accomplish this would also put the subject to sleep. It is unlikely that this presents any danger to the individual or to society.

6) "although it may take a heavy cigarette smoker as long as 20 years to develop lung cancer, one marijuana cigarette a day may cause lung cancer in three years;"

Marijuana is used daily by over 6 million Americans, according to the National Institute of Drug Abuse. Marijuana has been a popular recreational drug used by a large percentage of young Americans since 1965. There is no record of case histories to document this finding. If this finding were true, we would have millions of case histories of young individuals with lung cancer from marijuana use. The case histories don't exist because the statement is false.

The National Academy of Sciences decided that marijuana smoking and tobacco smoking can not be compared because the methods of ingestion differ so greatly. Marijuana smokers smoke far less than tobacco smokers (up to 2 cigarettes a day compared to 20-60), but they inhale the smoke far deeper into the lungs. On the other hand, many marijuana smokers use a waterpipe (or "bong") which filters out many, but not all, of the tars that contribute to lung cancer.

Claims that marijuana is more carcinogenic than tobacco are compelled by a logic that dictates that because marijuana is illegal (except in Alaska) it has to be more dangerous than tobacco (or in other cases, than alcohol). The claims are based on the undisputed fact that marijuana contains more tar than tobacco, but ignore the differences in ingestion and dosage that make comparisons inaccurate. Marijuana smoke is bad for the lungs, it does

contribute to the formation of lung cancer, and I am convinced that by the year 2000 we will begin to hear of case studies of individuals who have lung cancer as a result of long term marijuana use.

Nonetheless, it is not true that a marijuana cigarette a day for three years will cause lung cancer. I offer my own lungs and continued health as proof.

7) "THC affects eggs, sperm, sexual hormones, and the development of a fetus, and marijuana use may result in deformed or undersized offspring;"

There are no documented cases of marijuana use causing a genetic deformity. I challenge anyone to provide one.

In April, 1984 Ralph Hingson delivered a paper at a NORML conference on "Effects of Marijuana Use on Pregnant Women". Dr. Hingson's conclusion was that marijuana use during pregnancy may result in a smaller birth weight for the fetus, but in an allowable range (similar to the smaller birth weight for babies from nicotine or alcohol using mothers.) NORML has been publicizing this since 1984. We regularly hear, though, from mothers who used marijuana during pregnancy who delivered babies of normal weight.

Laboratory tests have indicated that under some conditions, large doses of THC affect the eggs, sperm, and sexual hormones of rats and other animals. There is evidence that THC inhibits sperm mobility. However, the effects of marijuana on fertility seem to be negligible - as millions of marijuana smoking parents will attest to.

The National Academy of Sciences report affirmed that marijuana use has no effect on chromosomes or fertility.

8) "other physical reactions to marijuana include irreversible changes in the brain, sinusitis, pharyngitis, bronchitis, emphysema, increased heart rate, and decreased blood circulation;"

Marijuana use does not cause brain damage. NIDA recently announced proof that it does. My office contacted the researcher. His data actually suggested that a dose of 50 marijuana cigarettes a day for 30 years would not cause brain damage. What NIDA based their comments on was his finding that 136 marijuana cigarettes for 30 years would cause slight premature senilia. An individual would have to smoke a marijuana cigarette every 8 minutes for 16 hours a day, for thirty years, to suffer any brain damage - if this study is conclusive. The enclosed NORML press release cited above re: marijuana potency contains more details of this study.

Smoking contributes to lung and sinus problems, and marijuana smoking is no different. Marijuana does increase the heart rate and/or blood pressure in some individuals; NORML cautions against marijuana use by individuals with cardiovascular problems.

9) "other psychological reactions to marijuana include loss of memory; impairment in thinking, reading comprehension, and verbal and arithmetic problem solving; impairment of perception of distance and time; and anxiety, panic, paranoia, psychosis, and psychological dependence."

People use marijuana because they enjoy the mild impairment of the senses marijuana contributes to. This impairment is short term, and wears off two to three hours after ingestion. There is no evidence of prolonged impairment from marijuana use. The effects described above up to but not including anxiety are the short-term effects desired by the marijuana user.

The danger of teenage marijuana use is that many teens are prone to mix relaxation and studying, meaning they think it is okay to study while high on marijuana or while drinking beer. Impairment limits the ability to learn, especially the acquisition of learning skills. This is why it is essential to deter adolescents from marijuana use, and a primary reason why NORML advocates legalizing marijuana for adults (and shutting down the black market that will sell to students.) However 90% of marijuana smokers are adults whose learning skills are unimpaired by their occasional, moderate marijuana use.

Marijuana produces a condition similar to stress on the human body (for example, the increase in heart rate.) Most users find this pleasurable (ironically even the ones who claim they use marijuana to alleviate stress), some first time users do not. This is what accounts to reports of anxiety attacks by new or inexperienced users of marijuana. No everybody who tries marijuana likes it, nor does everyone who uses it does so without ill-effect. People with pre-existing mental problems, as mentioned above, are susceptible to drug abuse. They are the source of reports of panic, paranoia, and psychosis resulting from marijuana use.

The issue of psychological dependence has been hotly debated for twenty years. Obviously, millions and millions of Americans use marijuana regularly. I contend they do so because they enjoy using marijuana. Whether they are psychologically dependent or not is a moot point. Marijuana is not an addictive drug, nor a dangerous one. Psychological reactions to it are cultural, not medical or biological. Once again, to belabor the point, some people with psychological problems abuse marijuana and other drugs. As with anxiety, panic, paranoia and psychosis, psychological dependence is not an observed side-effect in the overwhelmingly majority of marijuana users.

#### Additional Comments

To be to the point, these findings at best constitute horrible distortions and exaggerations of existing research findings. At worst, they are deceptive lies and half-truths designed to mislead the legislature of Alaska.

The National and International Drug Law Enforcement Strategy of the National Drug Enforcement Policy Board (NDEPB) (Jan. 1987) states that "because the decriminalization of marijuana possession undermines the standard of the unacceptability of drug use, the 11 states (which includes Alaska) that have decriminalized marijuana possession should recriminalize this offense." This document also indicates that the Attorney General is now in charge of all anti-drug efforts, including drug-education plans.

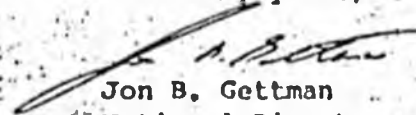
Many of the claims represented in the above findings replicate claims in the NDEPB's Analysis of the Domestic Cannabis Problem and the Federal Response, (8/86). The source cited was a Drug Enforcement Administration

report "The Health Implications of Marijuana Use." It is rife with phrases such as "research suggests," "have been observed," "marijuana may," and other cautious terminology which avoids making a direct conclusion. It is my opinion after studying these claims that they represent law enforcement's best attempt to justify the laws which they are obligated to enforce.

Social bias often interferes with sound scientific reasoning. The notion that marijuana is illegal so it must be dangerous is the driving rationale behind the ludicrous comments about marijuana above. The strategy of the NDEPB is to justify their increasing budget requests by turning drug education programs into law enforcement propaganda.

Please let me know how I can be of service in bringing the truth about marijuana to the people of Alaska.

Sincerely yours,



Jon B. Gettman  
National Director

cc: Chris Hamre  
enclosures

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
 Title: Making possession of marijuana BRU: Alaska State Troopers  
illegal  
 Sponsor: House State Affairs Component: Detachments, B.D.E. and  
 Requestor: House Judiciary V.P.S.O.

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill makes possession of small amounts of marijuana (less than four ounces) a "violation", punishable by a fine. The "bail amount" (fine) will be set by the state supreme court by court rule.

It is anticipated that the majority of new criminal cases under this bill would arise from situations where a State Trooper contacts a person on another matter, and the use or possession of marijuana is discovered during the contact. For this reason, we believe the fiscal impact of these additional cases can be absorbed within existing resources.

Prepared by: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 12/19/89

Approved by Commissioner: Arthur English Date: 1-8-90  
 Agency: Department of Public Safety Page 1 of 1

*Handwritten:* 12/22/89

## RESOLUTION 89-6 OF THE GREATER JUNEAU CHAMBER OF COMMERCE

A RESOLUTION IN SUPPORT OF INITIATIVE NO. 88MARI REGARDING THE RECRIMINALIZATION OF MARIJUANA BEING PLACED BEFORE THE VOTERS AT THE NEXT STATE-WIDE ELECTION.

WHEREAS, marijuana has been found to be physically and mentally addictive and significantly impairs learning for individuals under the influence; and

WHEREAS, Alaska is the only state in the union with a permissive statute for personal possession of marijuana; and

WHEREAS, the supreme courts of other states and the United States Supreme Court uphold state statutes prohibiting the use and possession of marijuana; and

WHEREAS, current Alaska state statutes are not in conformity with federal drug enforcement laws and International Treaties; and

WHEREAS, conflicts between federal and state laws pertaining to marijuana create barriers for law enforcement officials in providing protection to the public; and

WHEREAS, marijuana use affects business through high absenteeism, tardiness, high injury and accident rates, thefts of equipment, money and merchandise, poor workmanship, low productivity, high workers' compensation rates, low morale of workers and increased errors and mistakes; and

WHEREAS, current Alaska law indicates to Alaska youth that the use of marijuana is an acceptable adult behavior contrary to federal laws making possession of marijuana a crime; and

WHEREAS, representatives of 60 Alaskan high schools at the Alaska Association of School Governments' Annual Conference in 1986, unanimously passed a resolution to repeal the current marijuana law and make the drug in all its forms illegal in Alaska; and

WHEREAS, Alaska currently receives federal monies in fiscal year 1989 for: drug enforcement; drug-free school programs; juvenile justice; alcohol, drug abuse, and mental health administration to the total of \$5,175,000; and

WHEREAS, continued receipt of these funds is jeopardized by Alaska's failure to conform its marijuana laws to national standards; and

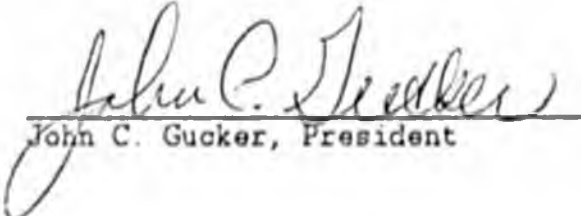
WHEREAS, one of the major purposes and objectives of the Greater Juneau Chamber of Commerce is to "improve the business climate and to make this community a more desirable place to live and work";

NOW, THEREFORE, BE IT RESOLVED BY THE GREATER JUNEAU CHAMBER OF COMMERCE:

That the Greater Juneau Chamber of Commerce 1. urges the Alaska State Legislature to revise the statutes relating to marijuana to conform to the national standards, and 2. supports Initiative No. 88MARI being placed on the next state-wide ballot to give the residents of Alaska the choice of whether or not to recriminalize marijuana, and 3. urges Alaskans to vote to recriminalize marijuana during the next state-wide ballot on Initiative 88MARI.

Effective date. This resolution shall be effective immediately upon adoption.

Adopted this 22nd day of September, 1989

  
\_\_\_\_\_  
John C. Gucker, President

Attest:

\_\_\_\_\_  
Judy Gilmore, Office Manager

Len Karpinski  
810 E. 42nd Pl. #16  
Anchorage, Alaska 99503-6110  
(907) 562-7985 (home)  
(907) 265-6833 (work)  
5 November 1989

Rep. Peter Goll  
Pouch V  
Juneau, Alaska 99811

RECEIVED

2 1989

Dear Rep. Goll:

You are to be commended for your stand so far in support of the Constitution regarding the marijuana issue. I believe that children are already prohibited from having marijuana as with alcohol and tobacco. The entire thrust of those who favor recriminalization (often called "reform" in an interesting use of Newspeak) is to protect children, when their intent is to impose their personal preferences on adults regarding a substance that is less harmful than alcohol or tobacco.

I and other like-minded registered voters will always remember your stand for our Constitutional rights.

Sincerely,



Len Karpinski

Wylie Allen  
P.O. Box 8362  
Ketchikan, Ak. 99901

Representative Cheri Davis, Ketchikan.  
Representative Walt Furnace, Anchorage.

These are your representatives who do not consider marijuana enough of a menace to your children to pass a bill out of their committee to recriminalize it.

Ask them why. Ask them why they don't actively support this urgently needed reform. Ask them why they don't publicly state their support for recriminalization, or the reason why they do not want it recriminalized.

Please let them know how you feel about their decision. The Legislative Information Office will relay your comments to your legislator.

ROBERT H. SHIPLEY  
Anchorage

# Marijuana

EDITOR, Daily News:  
I hope the voters of Alaska remember the following names.  
Representative Johnny Ellis, Anchorage.  
Representative Mark Boyer, Fairbanks.  
Representative [redacted]  
Representative Max Gruenberg, Anchorage.  
Representative George Jacko, Kodiak.

## Letters

The Ketchikan Daily News  
letters to the editor

November 8, 1989

Dear Legislator,

The above letter to the Ketchikan Daily News was published recently, and I welcome the opportunity to be able to identify and thank you for being a voice of reason and moderation in the current anti-drug hysteria that is being generated by a vocal MINORITY of our citizens. Not only do I find this type of legislation repugnant from a civil liberties point of view, I really resent being grouped with other people's children as needing to be supervised by law enforcement in my own home. Children are not supposed to smoke marijuana, nor tobacco, nor consume alcohol, nor engage in certain sexual activities before a certain statutory age, plus a myriad of other activities that are reserved for adults who accept the responsibilities of their actions (hopefully). The laws are already on the books to protect children from harmful activities, and since I long ago ceased being a legal 'child', and pay my bills and take care of my responsibilities, I don't need Mr. Shipley or any others of his ilk deciding how I need to live my life.

This state is supposedly the 'last frontier', a place where an individual can hopefully feel freer from the constraints of government and society's dictates and perhaps be allowed to live the old adage: Live and let live. This push for re-criminalization of smoking pot in one's own home is just another step in Big Brother government intrusion into individual private lives, and it is very ominous.

Thank you again for recognizing the dangers behind this legislation.  
sincerely,

g treated, as imended, for her opiates. watched his row disinte- "delirium be- aimed that he ischl-Marxow drew his sup- for morphine ely renounced

y, cocaine was aspect. A thor- nmittee of the ociety in 1896 es for hay fever a major cause ie danger of ad- efficacy attrib- mended that only to physi- nesthetic. Scat- —"ANOTHER THE BANEFUL Annie Meyers' (1902), word of lies' Home Jour- nular magazines ie debilitating ef- s cocaine habit arn a place in an ing the name of ve.

g of upper-class e came to be con- : American dem- le-class victims of Commit- f Drug Habits" in Pharmacy (1903) were "bohemians, -class prostitutes, burglars, racke- il laborers." That c's growing suspi- Cola company re- th a milder, more ie—the first, one ormula" Cokes. nes report on "The Use of Cocaine"— : was declining— used at lower-class

"sniff parties," destroying "its victims more swiftly and surely than opium." In the *Century Magazine*, Charles B. Towns, a national anti-drug activist, issued a grave warning: "The most harmful of all habit forming drugs is cocaine. Nothing so quickly deteriorates [sic] its victim or provides so short a cut to the insane asylum."

As early as 1887, the states had begun enacting their own (largely ineffective) laws against cocaine and other drugs. In 1913, New York passed the toughest statute to date, completely outlawing cocaine, except for certain medical uses. By the beginning of World War I, all 48 states had anti-cocaine laws on the books. Fourteen states also inaugurated "drug education" programs in the public schools.

And what role did the federal govern-

ment play? A small one, at first. According to the Constitutional doctrines of the day, Washington had virtually no power to police the drug trade directly. The federal Pure Food and Drug Act of 1906 merely required labelling of any cocaine content in over-the-counter remedies. But official Washington was jolted by the effects of the cocaine "epidemic" in its own backyard, much as it has become alarmed today by hundreds of crack cocaine-related killings in the Federal District. For years, the District of Columbia's chief of police, Major Sylvester, had been warning Congress (which then governed the city directly) of cocaine's horrifying effects. "The cocaine habit is by far the greatest menace to society, because the victims are generally vicious. The use of this drug superinduces

### A NEW COCAINE UNDERCLASS?

*After the anti-cocaine reaction of the early 20th century, only a few Americans continued to use the drug. Today, as journalist Michael Massing recently warned in the New York Review of Books (March 30, 1989), a different "two-tier" system may be emerging, with a large, pennant "underclass" of crack cocaine users.*

Contrary to the popular notion that narcotics are used throughout American society, drug use seems to be developing along well-defined class lines. On the one hand, the consumption of cocaine by the middle class has been steadily falling. Once considered glamorous and safe, cocaine is now widely viewed as a menace. The newsweeklies, movies, TV commercials, [and] books . . . all send the same message: Cocaine can kill. Educated Americans are responding. Recently, for instance, the Gordon B. Black Corporation of Rochester, New York, in a survey of 1,461 college students, found only 6 percent acknowledged "occasional" use of cocaine in 1988—down from 11 percent in 1987. Those who said they had friends who used cocaine socially dropped from 36 percent to 31 percent. Citing such surveys, the *Washington Post* concluded that "use of cocaine and marijuana among many segments of the population, particularly middle-class professionals and college students, has declined sharply."

In the inner cities, the story is very different. There the use of drugs—especially crack—is soaring. Three years ago, crack was sold only in large cities like Los Angeles and New York; today, it's available in places like Kansas City, Denver, and Dallas—everywhere, in fact, with a large minority population. Cocaine, once popular in Hollywood and on Wall Street, is fast becoming the narcotic of the ghetto. Mark Gold, founder of the nation's first cocaine "Hotline" six years ago, told the *Washington Post* that, when the service was introduced, most callers were whites with college degrees and high salaries; now, more than half are unemployed and only 16 percent college educated . . . . As drug use comes to be associated more and more with minorities, public support for treatment could dry up, giving way to renewed demands for more police, more jails, and harsher sentences—none of which . . . has much promise of reducing the demand for drugs.



# An Open Letter To Bill Bennett

Dear Bill:

In Oliver Cromwell's eloquent words, "I beseech you, in the bowels of Christ, think it possible you may be mistaken" about the course you and President Bush urge us to adopt to fight drugs. The path you propose of more police, more jails, use of the military in foreign countries, harsh penalties for drug users, and a whole panoply of repressive measures can only make a bad situation worse. The drug war cannot be won by those tactics without undermining the human liberty and individual freedom that you and I cherish.

You are not mistaken in believing that drugs are a scourge that is devastating our society. You are not mistaken in believing that drugs are tearing asunder our social fabric, ruining the lives of many young people, and imposing heavy costs on some of the most disadvantaged among us. You are not mistaken in believing that the majority of the public share your concerns. In short, you are not mistaken in the end you seek to achieve.

Your mistake is failing to recognize that the very measures you favor are a major source of the evils you deplore. Of course the problem is demand, but it is not only demand, it is demand that must operate through repressed and illegal channels. Illegality creates obscene profits that finance the murderous tactics of the drug lords; illegality leads to the corruption of law enforcement officials; illegality monopolizes the efforts of honest law forces so that they are starved for resources to fight the simpler crimes of robbery, theft and assault.

Drugs are a tragedy for addicts. But criminalizing their use converts that tragedy into a disaster for society, for users and non-users alike. Our experience with the prohibition of drugs is a replay of our experience with the prohibition of alcoholic beverages.

I append excerpts from a column that I wrote in 1972 on "Prohibition and Drugs."

The major problem then was heroin from Marseilles; today, it is cocaine from Latin America. Today, also, the problem is far more serious than it was 17 years ago: more addicts, more innocent victims; more drug pushers, more law enforcement officials; more money spent to enforce prohibition, more money spent to circumvent prohibition.

Had drugs been decriminalized 17 years

ago, "crack" would never have been invented (it was invented because the high cost of illegal drugs made it profitable to provide a cheaper version) and there would today be far fewer addicts. The lives of thousands, perhaps hundreds of thousands of innocent victims would have been saved, and not only in the U.S. The ghettos of our major cities would not be drug-and-crime-infested no-man's lands. Fewer peo-

ple would be in jails, and fewer jails would have been built.

Colombia, Bolivia and Peru would not be suffering from narco-terror, and we would not be distorting our foreign policy because of narco-terror. Hell would not, in the words with which Billy Sunday welcomed Prohibition, "be forever for rent," but it would be a lot emptier.

Decriminalizing drugs is even more urgent now than in 1972, but we must recognize that the harm done in the interim cannot be wiped out, certainly not immediately. Postponing decriminalization will only make matters worse, and make the problem appear even more intractable.

Alcohol and tobacco cause many more deaths in users than do drugs. Decriminalization would not prevent us from treating drugs as we now treat alcohol and tobacco: prohibiting sales of drugs to minors, outlawing the advertising of drugs and similar measures. Such measures could be enforced, while outright prohibition cannot be. Moreover, if even a small fraction of the money we now spend on trying to enforce drug prohibition were devoted to treatment and rehabilitation, in an atmosphere of compassion not punishment, the reduction in drug usage and in the harm done to the users could be dramatic.

This plea comes from the bottom of my heart. Every friend of freedom, and I know you are one, must be as revolted as I am by the prospect of turning the United States into an armed camp, by the vision of jails filled with casual drug users and of an army of enforcers empowered to invade the liberty of citizens on slight evidence. A country in which shooting down unidentified planes "on suspicion" can be seriously considered as a drug-war tactic is not the kind of United States that either you or I want to hand on to future generations.

Milton Friedman  
Senior Research Fellow,  
Hoover Institution  
Stanford University.

## Flashback

*This is a truncated version of a column by Mr. Friedman in Newsweek's May 1, 1972, issue, as President Nixon was undertaking an earlier "drug war":*

"The reign of tears is over. The slums will soon be only a memory. We will turn our prisons into factories and our jails into storehouses and corncribs. Men will walk upright now, women will smile, and the children will laugh. Hell will be forever for rent."

That is how Billy Sunday, the noted evangelist and leading crusader against Demon Rum, greeted the onset of Prohibition in early 1920.

We know now how tragically his hopes were doomed.

Prohibition is an attempted cure that makes matters worse—for both the addict and the rest of us.

Consider first the addict. Legalizing drugs might increase the number of addicts, but it is not clear that it would. Forbidden fruit is attractive, particularly to the young. More important, many drug addicts are deliberately made by pushers, who give likely prospects that first few doses free. It pays the pusher to do so because, once hooked, the addict is a captive customer. If drugs were legally available, any possible profit from such inhumane activity would disappear, since the

addict could buy from the cheapest source.

Whatever happens to the number of addicts, the individual addict would clearly be far better off if drugs were legal. Addicts are driven to associate with criminals to get the drugs, become criminals themselves to finance the habit, and risk constant danger of death and disease.

Consider next the rest of us. The harm to us from the addiction of others arises almost wholly from the fact that drugs are illegal. It is estimated that addicts commit one third to one half of all street crime in the U.S.

Legalize drugs, and street crime would drop dramatically.

Moreover, addicts and pushers are not the only ones corrupted. Immense sums are at stake. It is inevitable that some relatively low-paid police and other government officials—and some high-paid ones as well—will succumb to the temptation to pick up easy money.

Legalizing drugs would simultaneously reduce the amount of crime and raise the quality of law enforcement. Can you conceive of any other measure that would accomplish so much to promote law and order?

In drugs, as in other areas, persuasion and example are likely to be far more effective than the use of force to shape others in our image.

# Former Cabinet official calls for legalized drugs

By TERENCE HUNT

THE ASSOCIATED PRESS

WASHINGTON - Former Secretary of State George Shultz is being lampooned by the White House for suggesting that cocaine and other drugs should be legalized.

"Whoa, he's been out on the West Coast too long, hasn't he?" White House Press Secretary Marlin Fitzwater said Monday. "The guy slips into retirement and right away he starts saying things that are strange."

More seriously, Fitzwater said, "Clearly, we do not believe drugs should be legalized. President Bush feels very strongly that that is the wrong direction at the wrong time; that it is not a moral position for the United States to take; and that it makes no sense whatsoever."

Shultz said legalizing drugs is

something that "everyone is scared to talk about. No politician wants to say (it) ..."

His views were published in The Wall Street Journal Oct. 27 in an adaptation of remarks he made to an alumni gathering at the Stanford Business School in Palo Alto, Calif., on Oct. 7.

He said that attacking drugs with a criminal justice approach "is not likely to work."

Shultz said, "It seems to me; we're not really going to get anywhere until we can take the criminality out of the drug business and the incentives for criminality out of it."

"When you do that you wipe out the criminal incentives, including ... the incentive that the drug pushers have to go around and get kids addicted, so that they create a market for themselves."

11/7/89 Empire

# Tolerance, not prison, will engender social responsibility

By David Morris

**H**olland. Every conservative's nightmare come true. Legal prostitution. Coffee houses that sell marijuana to teen-agers. Free abortions on request. Free needles for heroin addicts. Special rooms for prisoners to conduct liaisons with outside partners, even of the same sex. Euthanasia in hospitals.

To Americans, such policies represent a moral breakdown. They are a prescription for social anarchy: promiscuity, drug addiction, family breakdown, AIDS. To Amsterdam Judge Frits Ruter, such policies are "above all, pragmatic and undogmatic." You cannot solve social problems "by making them taboo," he insists.

The Dutch don't drive their human weaknesses underground. Amsterdam's Utopia coffeehouse, where you can choose among 10 kinds of hashish and grass for about \$6 a gram, is five doors from the neighborhood police station. The Royal Symphony Hall backs into a red-light district that houses not only prostitutes in well-lit windows, but also sex shops that would make Hugh Hefner blush.

The minister of justice of Holland's conservative government explains: The aim is to "prevent as much as possible a situation in which more harm is caused by criminal proceedings than by the (activity) itself." Legalization allows the government much more flexibility than criminal-

ization. Prostitutes must undergo regular health examinations. One result is an astonishingly low rate of AIDS infection: less than 1 percent, compared to 30-40 percent among America's illegal but probably equally plentiful hooker population. Clean needles for intravenous drug users slows AIDS transmission among a group that now accounts for half the AIDS population in New York. Allowing prisoners sex with loved ones reduces prison tension and curbs in-prison aggressive homosexuality.

about \$10. Yet Dutch girls are no more sexually active than American girls. And 90 percent of those teen-agers who are active use contraceptives. Holland's teenage pregnancy rate is one-seventh that of America's. American teen-agers have 12 to 14 times more abortions than Dutch teen-agers.

The Dutch treat prostitutes, drug addicts, teen-age pot smokers and the terminally ill with respect. Not surprisingly, respect breeds responsibility, not license.

Where does this sense of mutual re-

world's most comprehensive social support programs. Medical care is free; child care plentiful. Unemployment insurance is nearly forever. Amsterdam suffers a housing problem incomprehensible to American city planners. Sufficient housing exists for those of modest means, but there's not enough for the rich.

Such generosity of spirit and purse has not undermined Dutch prosperity. They live longer than Americans. Their economy is robust; their businesses fiercely competitive.

This prosperous country of 14 million has much to teach us, for tolerance has never been an American trait. We have a long history of demanding moral purity of our neighbors and eagerly locking them up if they transgress. We rely on force to solve our social problems, not wisdom. Why we do so is up to the historians and sociologists to ponder. That we do so seems not to be in question. Today America imprisons a larger proportion of its citizens than any country except South Africa, and President Bush now vows to double the number of federal prisoners.

The Dutch watch our descent into social anarchy in amazement. They cannot understand why a nation would willfully destroy itself to control its citizens' personal behavior. After seeing how well tolerance and mutual respect work, neither can I.

David Morris writes for the St. Paul Pioneer Press Dispatch.

## The Dutch treat prostitutes, drug addicts, teen-age pot smokers and the terminally ill with respect.

As for drugs, allowing the sale of marijuana gives the government much more credibility when it warns the young about the dangers of hard drugs. Indeed, says the Dutch secretary of drug policy, "Cannabis used to be the symbol of the youth culture — it was attractive because it was forbidden. Our aim was to turn it into an unsensational item." It worked. The proportion of Dutch teen-agers using marijuana has dropped substantially. It is a fraction of U.S. use.

All Dutch schools teach sex education. A year's worth of birth control pills costs

respect and collective responsibility come from? Historian Simon Schama looks to Dutch history in "The Embarrassment of Riches." In the 1600s, tiny Holland was the most prosperous nation on Earth. Riches bred a "collective conscience" that demanded generosity for the needy and tolerance for those with different religions and different habits. Obligations to community, to society came first.

Today the Dutch continue that 300-year tradition. They know the most fertile breeding ground for irresponsible behavior is the slum. Thus they offer the



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# Shultz support may help moves to legalize drugs

The Associated Press

WASHINGTON — The conversion of former Secretary of State George Shultz has experts predicting that others from across the political spectrum will join ranks with those who see decriminalization as a workable solution to the drug problem.

National drug control policy director William Bennett acknowledges that Shultz may draw others with him, but argues that legalization is a "dopey idea" and a "moral disaster" that won't wash with anyone who has been "within five miles of a crack house."

Nevertheless, legalization proponents are trumpeting an October speech by Shultz that appeared in adapted form in The Wall Street Journal as a major step toward moving the once-radical viewpoint into the mainstream.

The political mix of legalization advocates is already broad. On the conservative side are Shultz, who headed President Reagan's State Department and President Nixon's Treasury Department, economist Milton Friedman and political commentator William F. Buckley.

The liberal side includes Democratic Mayor Kurt Schmoke of Baltimore, a former prosecutor; Hodding Carter III, journalist and chief State Department spokesman in the Carter administration; and former Attorney General Ramsey Clark.

"The liberal-conservative definitions keep crumbling," Princeton University's Ethan Nadelmann said. "Each is split into libertarian and social control groups."

Some legalization advocates say the issue simply needs to be addressed, while others call for controlled legalization with drugs such as marijuana governed by regulations similar to those for alcohol, and more restrictive rules for more dangerous drugs.

Most say President Bush's anti-drug strategy, developed by Bennett, is more of the same law enforcement programs that have

not worked in the past.

In an open letter to Bennett published in The Wall Street Journal on Sept. 7 — two days after Bush presented the strategy in a prime-time television address — Friedman wrote:

"The path you propose of more police, more jails, use of the military in foreign countries, harsh penalties for drug users, and a whole panoply of repressive measures can only make a bad situation worse. The drug war cannot be won by those tactics without undermining the human liberty and individual freedom that you and I cherish."

The column by Shultz — like Friedman, a denizen of the Hoover Institution at Stanford University — was less vitriolic but made similar arguments.

"It seems to me we're not really going to get anywhere until we can take the criminality out of the drug business and the incentives for criminality out of it," Shultz wrote.

"Frankly, the only way I can think of to accomplish this is to make it possible for addicts to buy drugs at some regulated place at a price that approximates their cost. . . . We need at least to consider and examine forms of controlled legalization of drugs."

White House spokesman Martin Fitzwater, on hearing about Shultz's column, quipped, "Whoa, he's been out on the West Coast too long, hasn't he? The guy slips into retirement and right away he starts saying things that are strange."

Fitzwater then reiterated Bush's opposition to legalization, "that it is not a moral position for the United States to take; and that it makes no sense whatsoever."

Bennett said in an interview that he understands the legalizers' arguments and has concluded: "It's a dopey idea."

He acknowledged, however, that the legal movement is "going somewhere. It's going around intellectual salons and the academy, libertarians. . . ."

Despite the criticisms, Nadelmann said, "There is a political movement growing."

"I predict with some confidence that within the next nine to 12 months, you're going to see a lot more George Shultz-type people coming out," Nadelmann said at a recent conference on legalization arranged by the Drug Policy Foundation.



The Associated Press  
fall from the Washington Monument to the Lincoln Memorial.

rowd-  
tarian  
cation  
dawn

The protesters carried plastic imitation candles that are illuminated by chemicals.

"Here at dawn, we kindle a thousand points of light — our own thousand points of light — to say that we will never again accept the darkness of back-alley despair, never return to the dark ages of pain and abuse," said Kate Michelman, executive director of the National Abortion Rights Action League.

The church service was followed by a march to Bush's home in neighboring Kennebunkport. Bush was not at the family's estate.

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Anderson said.

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to its bow, but  
juries reported on  
hip, he said.  
an killed was iden-  
Sean Michael  
Santa Rosa, Calif.

a navigator on the ship.  
Echoing other recent Navy  
comments, Anderson said the  
string of shipboard accidents in  
the past two weeks were just bad  
luck. "It's really an inherited  
danger in working on a warship,  
but we don't feel it's a training  
problem and these accidents are  
totally unrelated to each other,  
and it's just unfortunate," he said.

FISCAL NOTE

REQUEST:

Revision Date: April 3, 1989  
Title: "AN ACT AMENDING... OFFENSES... involving a controlled substance..."  
Sponsor: House State Affairs  
Requestor: House State Affairs

Agency Affected: Department of Law  
BRU: Prosecution

Components: Third District, Fourth District, Crim. Appeals & Spl. Prosc., Criminal Justice Litigation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		133.6	137.6	141.7	146.0	150.4
TRAVEL		3.6	3.7	3.8	3.9	4.0
CONTRACTUAL		72.7	74.9	44.3	45.6	47.0
SUPPLIES		10.8	7.4	7.6	7.8	8.0
EQUIPMENT		12.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	233.2	233.6	197.4	203.3	209.4

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	233.2	233.6	197.4	203.3	209.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	2	2	2	2	2
PART-TIME	-0-	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Please see the attached analysis.

*Richard L. Pegues*

Prepared by: Richard L. Pegues, Director Phone: 465-3672  
Division: Administrative Services Date: April 3, 1989  
*Richard L. Pegues / For*  
Approved by Commissioner: Douglas B. Bailly Attorney General Date: April 3, 1989  
Agency: Department of Law

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

# CONTINUATION OF FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

The committee substitute for HB 88 recriminalizes the possession and use of small amounts of marijuana. The bill would make possession of one ounce or more but less than four ounces of marijuana a class B misdemeanor, and the bill would make possession of less than one ounce of marijuana a violation. The maximum penalty for such a violation would be raised from \$100 to \$300. The legislature is also considering a joint resolution proposing a constitutional amendment at the next general election in November of 1990, which would provide that an individual's right to privacy does not extend to the possession or use of controlled substances. The bill would be effective 90 days after it becomes law, or sometime during the summer of 1989, if it is approved.

The passage of CSHB 88 will have a fiscal impact on the Department of law in three general areas: (1) the cost of processing additional new criminal cases; (2) the cost of educating the public about the new law; (3) approval of the proposed constitutional amendment will have the effect of repealing the Alaska Supreme Court's decision in Ravin. However, because the bill would be effective about 18 months before the constitutional amendment would become effective, it is anticipated that the bill will come under a vigorous constitutional challenge.

## 1. New Criminal Cases

Much of the behavior that the bill would classify as either a class B misdemeanor or a violation is not now an offense of any kind. In the past, some law enforcement officers who work primarily in the drug enforcement area indicated that recriminalizing marijuana could potentially result in "thousands" of new criminal cases a year. The police now doubt this but, nonetheless, a large number of the new cases would arise from situations where law enforcement officers now commonly discover small amounts of marijuana (as when an officer responds to a domestic disturbance call and sees some marijuana plants in a person's home, or when a person is arrested for a minor offense and a routine search for weapons reveals some marijuana cigarettes in the person's pocket, for example). Incidents of this sort occur frequently now, but do not generally result in any criminal prosecution for the marijuana possession. Many of these cases are likely to be referred for criminal prosecution if CSHB 88 becomes law because police officers will not ignore evidence of wrongdoing that is in plain view. Many of these defendants are middle-class people who can be expected to vigorously resist having a criminal record. Class B misdemeanors entitle a defendant to a jury trial and court-appointed counsel. Although the bill provides that possession of less than one ounce of marijuana will be handled as a violation, some unknown yet substantial number of these lesser offenses can be expected to be disputed, requiring attorney time to prosecute.

# CONTINUATION of FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Prosecutors generally predict a substantially lesser number of new potential criminal cases under CSHB 88 than the 'thousands' that were once predicted. Once the public becomes aware of the new law, some people are likely to become more careful about not allowing marijuana or smoking paraphernalia to be exposed in plain view in their homes, for example. Judging from the number of minor marijuana offenses prosecuted prior to the Ravin decision in 1975, prosecutors still expect at least a "few hundred" new criminal cases a year. Possession of small amounts of marijuana for personal use has been legal since the Ravin decision in 1975. Consequently, there is no accurate way to predict the number of new offenses that will occur when this current behavior is outlawed. Nor is there any accurate means to determine, in advance, the number of new offenses that will constitute class B misdemeanors, as opposed to violations. All of the department's prosecution offices are working at maximum capacity. Past budget cuts have left little time available to handle minor offenses, and the department has had to focus its remaining resources on major offenses, particularly crimes of violence. Prosecution of a whole new block of crime, although relatively minor, simply cannot be undertaken without some additional resources. The department's current estimate of a "few hundred" offenses is very conservative. The actual number of new cases may be significantly higher. It certainly will not be less.

Class B misdemeanor cases and disputed violations which are accepted for prosecution will require attorney time both at trial and in preparation for trial (i.e., preparation of search warrants, response to defense motions, evaluation of results of laboratory analysis, pretrial witness preparation, etc.). To handle screening of the expected case referrals, and to prosecute the additional misdemeanors and disputed violations, the criminal division will require the addition of at least one Attorney III position and one Legal Secretary I position in Anchorage. It is anticipated that a half-time attorney will also be needed in the Fairbanks District Attorney's office.

## 2. Public Education

In order to inform the public of the changes in the law, the Department of Law will develop and disseminate public notices explaining the new law. These notices will include newspaper ads and brochures, and will be modeled upon the public education notices which were distributed statewide in connection with the new drug law in 1982 and the new DWI and drinking age laws in 1983. Based upon experience with these earlier notices, approximately \$25,000 will be needed to cover the costs of writing, layout, typesetting, publication, and distribution.

In addition to the costs explained above, it is anticipated that the passage of this bill will result in increased costs to other components of the criminal justice system, including law enforcement, the courts, the public defender agency, the Office of Public Advocacy, and corrections.

# CONTINUATION of FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

### 3. Defending the New Law

In 1975 the Alaska Supreme Court in the case of Ravin v. State, 537 P.2d 497 (Alaska 1975), ruled that under Art. I, Sec. 22 of the Alaska Constitution the state could not prohibit possession of marijuana by adults in their own homes for personal use. The court held that the state had not demonstrated the existence of a legitimate state interest which was strong enough to justify the regulation of this conduct.

Since passage of CSHB 88 would make it a crime for an adult to possess any amount of marijuana anywhere, including in his or her own home, the constitutionality of the new law is certain to be challenged. An appellate court will have to decide whether the state has proved that there is a "compelling state interest" in the prohibition of the use of marijuana which is sufficient to outweigh an individual's right to privacy under the state constitution. It is extremely important, therefore, that the legislature's consideration of this bill include extensive public hearings, debate on the social policy merits of the proposal, and the collection of the results of the most recent scientific, medical, and pharmacological studies regarding the physical, emotional, and social effects of marijuana usage.

In addition to the necessary legislative hearings, evidentiary hearings at the trial court level can be expected when a challenge to the new law is filed. Challenges to the new law will most likely arise in the context of a defendant's pretrial motion to dismiss a criminal prosecution. When responding to such a defense motion, the prosecutor would, in essence, have to convince a court to reverse the ruling in the Ravin case. In order to demonstrate that the result in Ravin is no longer correct, the prosecutor would have to present convincing, scientifically accurate, evidence that the effects of marijuana usage are so injurious to a person's mental and physical health as to justify the legislative decision to totally prohibit use of marijuana by anyone at any time (as opposed to use by minors or use by a person who is operating a motor vehicle--both of which are already prohibited under current law).

The presentation of this convincing evidence will require the prosecution to present expert testimony from authorities who have conducted recent research in this area. Out-of-state witnesses in medical and scientific fields charge a fee for their services. These fees will vary from individual to individual, but are expected to average at least \$150 per hour. This would include services for consultation, witness preparation and actual testimony. Costs will be incurred for expert witness transportation, food and lodging, and other incidental expenses. Additionally, there will be some costs for preparation of exhibits and written reports. To the extent possible, the Department of Law would attempt to present written testimony in situations where it is not feasible to fly a person to Alaska to testify

# CONTINUATION of FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

in person. We estimate that a minimum of six expert witnesses will be required to attempt to successfully defend the new law at the trial court level.

Hearings at the trial court level can reasonably be expected to take several days. A substantial commitment of attorney time will be required for scientific and legal research in preparation for the hearings, actual court time, legal briefing, and the preparation of proposed findings of fact. Since prosecutions under the new law will occur statewide, defense challenges may be raised at the same time in different parts of the state. The extensive hearings described above may have to be held in more than one judicial district in the state.

Regardless of which side prevails at the trial court level, the lower court ruling would almost certainly be followed by an appeal. At a minimum, such an appeal (or appeals) would require additional legal research, a thorough review of the record, the drafting of briefs, and oral argument before the appellate court and the Supreme Court.

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

1. New Criminal Cases

Third Judicial District - Anchorage

<u>Total</u>	<u>Atty III</u> <u>(PFT)</u>	<u>Legal Sec I</u> <u>(PFT)</u>	<u>Total</u>
Personal Services	63.8	32.9	96.7
Travel - Witness travel subsistence, atty. travel	1.8	-0-	1.8
Contractual Services			
office commo. equip. repai	2.4	1.2	3.6
copy - postage	1.2	1.2	2.4
Office Space rent/lease	4.0	2.2	<u>6.2</u>
			12.2
Commodities - Ongoing			
office consumables	1.8	1.2	3.0
Law library	1.2	-0-	1.2
Commodities - one time			
New position materials	1.2	1.2	<u>2.4</u>
			6.6
Equipment - one time			
New position equipment	2.0	8.5	10.5
	<u>79.4</u>	<u>48.4</u>	<u>71.1</u>

Costs beyond FY 90 include a 3% inflation factor, less one-time items.

# CONTINUATION of FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
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For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

Fourth Judicial District - Fairbanks

	Atty. III <u>(PPT)</u>	<u>Total</u>
Personal Services	36.9	36.9
Travel - Witness travel subsistence, Atty. travel	1.8	1.8
Contractual Services		
office commo., equip. repair	2.4	2.4
copy - postage	1.2	<u>1.2</u>
		3.6
Commodities - Ongoing		
office consumables	1.8	1.8
Law library	1.2	1.2
Commodities - one time		
New position materials	1.2	<u>1.2</u>
		4.2
Equipment - one time		
New position equipment	2.0	2.0
		<hr style="width: 10%; margin: 0 auto;"/> 48.5

CONTINUATION of FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Fiscal Analysis - (cont'd)

2. Public Education

Criminal Justice Litigation Component/Prosc. BRU

<u>Object</u>	<u>Total</u>
Contractual Services - one time writing, layout, typesetting, publication and distribution of public notices and information brochures describing the changes in the law.	25.0
	-----
	25.0

3. Defending the New Law

Criminal Appeals & Special Prosecution Component/Prosc. - BRU

<u>Object</u>	<u>Total</u>
Contractual Services - Professional fees scientific experts 120 hrs. X \$150 =	\$18,000
Experts' staff support, preparation of exhibits, written testimony 50 hrs. X \$60 =	3,000
Experts' travel to attend hearings and offer testimony 6 trips X 4 days X \$80 = \$1,920 subsistence 6 trips X \$1,500 = \$9,000 travel	1,920 9,000
	-----
	\$31,920

This amount will be required for both FY 90 and FY 91, to cover both trials and appeals.

# CONTINUATION of FISCAL NOTE ANALYSIS

No. 1  
CSHB 88 (SA)  
HOUSE 4/6/89

For Bill/Resolution No. CSHB 88

Summary of Expenses (All Components)

	<u>Defending the new Law</u>	<u>New Criminal Cases</u>	<u>Public Education</u>	<u>Total</u>
Personal Services		133.6		133.6
Travel		3.6		3.6
Contractual	31.9	15.8	25.0	72.7
Commodities		10.8		10.8
Equipment		12.5		12.5
	<u>31.9</u>	<u>176.3</u>	<u>25.0</u>	<u>233.2</u>

Position Title <b>Attorney III</b>		No. of Positions <b>1</b>	Range/Step <b>22A</b>	Barg. Unit <b>PX</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>EBA - Anchorage</b>		Election District <b>8</b>
Type of Expenditures		Amount		
<b>1</b>	<b>2</b>	<b>3</b>		
Salary	49,140			
Benefits	14,657			
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>63,797</b>		
Travel		1,800		
Contractual		7,600		
Commodities		4,200		
Equipment		2,000		
Other				
<b>Total Cost</b>		<b>79,397</b>		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	79,397		
I.A. Receipts	1006			
CIP Receipts	1061			
Other				

**Justification**

This full-time attorney position is required at Anchorage to handle the influx of new cases that will result when marijuana possession or use is recriminalized. Prosecutors expect that at least a few hundred such offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Third Judicial District and handling appellate briefs and appeals hearings. Because these new cases will be classed as misdemeanor offenses and violations, allocation of the position to the Attorney III level is appropriate.

**Request For  
New Position**

Agency Department of Law  
 DRU Prosecution  
 Component Third Judicial District.

Revised Date

**FY 90**

Position Title <b>Legal Secretary I</b>		No. of Positions <b>1</b>	Range/Step <b>10B</b>	Marg. Unit <b>GGU</b>	
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>8</b>	
Type of Expenditure		Justification			
		<p>This Legal Secretary I position will be needed to handle the paperwork and scheduling requirements for the influx of new trials that will occur when the possession or use of small amounts of marijuana is outlawed. At the least a "few hundred" new offenses are expected. This estimate is very conservative, and the actual number of new cases may be somewhat higher. It certainly will not be any less. The support staff in the Anchorage District Attorney's Office was cut severely in FY 87, and any additional caseload will require an increase in support staff. Allocation to the Legal Secretary I level is appropriate because of the legal and trial documentation necessary to try these cases.</p>			
<b>1</b>	<b>2</b>				<b>3</b>
Salary	22,716				
Benefits	10,220				
Premium Pay					
Other					
<b>Total Personal Services</b>					<b>32,936</b>
Travel					-0-
Contractual					4,600
Commodities					2,400
Equipment		8,500			
Other					
<b>Total Cost</b>		<b>48,436</b>			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	48,436			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Third Judicial District

Revised Date

**FY 90**

Position Title <b>Attorney III</b>		No. of Positions 1	Range/Step <b>22A</b>	Barg. Unit <b>PX</b>	
Time Status <b>PPT</b>	Staff Months <b>12</b>	Location <b>JBA - Fairbanks</b>		Election District <b>16</b>	
Type of Expenditure		Justification			
		<p>This permanent part-time position at Fairbanks is required to handle the influx of new cases that will result when the use or possession of small amounts of marijuana is recriminalized. Prosecutors expect that at least a few hundred offenses will occur each year as a result of the enactment of this bill. This position will be responsible for prosecuting those new cases that are brought in the Fourth Judicial District. Because these new cases will be classed as misdemeanor and violation offenses, allocation of the position to the Attorney III level is appropriate.</p>			
Amount					
1	2				3
Salary	28,122				
Benefits	8,826				
Premium Pay					
Other					
Total Personal Services					36,948
Travel					1,800
Contractual					3,600
Commodities					4,200
Equipment					2,000
Other					
Total Cost		48,548			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	48,548			
I-A Receipts	1006				
CIIP Receipts	1061				
Other					

**Request For  
New Position**

Agency Department of Law  
 BRU Prosecution  
 Component Fourth Judicial District

Revised Date \_\_\_\_\_

**FY 90**

NATION

# Shultz support may help moves to legalize drugs

The Associated Press

WASHINGTON — The conversion of former Secretary of State George Shultz has experts predicting that others from across the political spectrum will join ranks with those who see decriminalization as a workable solution to the drug problem.

National drug control policy director William Bennett acknowledges that Shultz may draw others with him, but argues that legalization is a "dopey idea" and a "moral disaster" that won't wash with anyone who has been "within five miles of a crack house."

Nevertheless, legalization proponents are trumpeting an October speech by Shultz that appeared in adapted form in The Wall Street Journal as a major step toward moving the once-radical viewpoint into the mainstream.

The political mix of legalization advocates is already broad. On the conservative side are Shultz, who headed President Reagan's State Department and President Nixon's Treasury Department, economist Milton Friedman and political commentator William F. Buckley.

The liberal side includes Democratic Mayor Kurt Schmoke of Baltimore, a former prosecutor; Hodding Carter III, journalist and chief State Department spokesman in the Carter administration; and former Attorney General Ramsey Clark.

"The liberal-conservative definitions keep crumbling," Princeton University's Ethan Nadelmann said. "Each is split into libertarian and social control groups."

Some legalization advocates say the issue simply needs to be addressed, while others call for controlled legalization with drugs such as marijuana governed by regulations similar to those for alcohol, and more restrictive rules for more dangerous drugs.

Most say President Bush's antidrug strategy, developed by Bennett, is more of the same law enforcement programs that have

not worked in the past.

In an open letter to Bennett published in The Wall Street Journal on Sept. 7 — two days after Bush presented the strategy in a prime-time television address — Friedman wrote:

"The path you propose of more police, more jails, use of the military in foreign countries, harsh penalties for drug users, and a whole panoply of repressive measures can only make a bad situation worse. The drug war cannot be won by those tactics without undermining the human liberty and individual freedom that you and I cherish."

The column by Shultz — like Friedman, a denizen of the Hoover Institution at Stanford University — was less vitriolic but made similar arguments.

"It seems to me we're not really going to get anywhere until we can take the criminality out of the drug business and the incentives for criminality out of it," Shultz wrote.

"Frankly, the only way I can think of to accomplish this is to make it possible for addicts to buy drugs at some regulated place at a price that approximates their cost. . . . We need at least to consider and examine forms of controlled legalization of drugs."

White House spokesman Marlin Fitzwater, on hearing about Shultz's column, quipped, "Whoa, he's been out on the West Coast too long, hasn't he? The guy slips into retirement and right away he starts saying things that are strange."

Fitzwater then reiterated Bush's opposition to legalization, "that it is not a moral position for the United States to take; and that it makes no sense whatsoever."

Bennett said in an interview that he understands the legalizers' arguments and has concluded: "It's a dopey idea."

He acknowledged, however, that the legal movement is "going somewhere. It's going around intellectual salons and the academy, libertarians. . . ."

Despite the criticisms, Nadelmann said, "There is a political movement growing."

"I predict with some confidence that within the next nine to 12 months, you're going to see a lot more George Shultz-type people coming out," Nadelmann said at a recent conference on legalization arranged by the Drug Policy Foundation.



The Associated Press

March from the Washington Monument to the Lincoln Memorial.

rowd-tarian candles that are illuminated by chemicals.

"Here at dawn, we kindle a thousand points of light — our own thousand points of light — to say that we will never again accept the darkness of back-alley despair, never return to the dark ages of pain and abuse," said Kate Michelman, executive director of the National Abortion Rights Action League.

The church service was followed by a march to Bush's home in neighboring Kennebunkport. Bush was not at the family's estate.

## re tanker collide

vn collision tore a hole above the waterline on the right side of the 563-foot ship, Anderson said.

Petani sustained damage to its bow, but no injuries reported on the ship, he said.

an killed was identified as Sean Michael Santa Rosa, Calif.

a navigator on the ship.

Echoing other recent Navy comments, Anderson said the string of shipboard accidents in the past two weeks were just bad luck. "It's really an inherited danger in working on a warship, but we don't feel it's a training problem and these accidents are totally unrelated to each other, and it's just unfortunate," he said.



Associated Press  
Shultz

# THURSDAY FORUM

## Tolerance, not prison, will engender social responsibility

By David Morris

**H**olland. Every conservative's nightmare come true. Legal prostitution. Coffee houses that sell marijuana to teen-agers. Free abortions on request. Free needles for heroin addicts. Special rooms for prisoners to conduct liaisons with outside partners, even of the same sex. Euthanasia in hospitals.

To Americans, such policies represent a moral breakdown. They are a prescription for social anarchy: promiscuity, drug addiction, family breakdown, AIDS. To Amsterdam Judge Frits Ruter, such policies are "above all, pragmatic and undogmatic." You cannot solve social problems "by making them taboo," he insists.

The Dutch don't drive their human weaknesses underground. Amsterdam's Utopia coffeehouse, where you can choose among 10 kinds of hashish and grass for about \$6 a gram, is five doors from the neighborhood police station. The Royal Symphony Hall backs into a red-light district that houses not only prostitutes in well-lit windows, but also sex shops that would make Hugh Hefner blush.

The minister of justice of Holland's conservative government explains: The aim is to "prevent as much as possible a situation in which more harm is caused by criminal proceedings than by the (activity) itself." Legalization allows the government much more flexibility than criminal-

ization. Prostitutes must undergo regular health examinations. One result is an astonishingly low rate of AIDS infection: less than 1 percent, compared to 30-40 percent among America's illegal but probably equally plentiful hooker population. Clean needles for intravenous drug users slows AIDS transmission among a group that now accounts for half the AIDS population in New York. Allowing prisoners sex with loved ones reduces prison tension and curbs in-prison aggressive homosexuality.

about \$10. Yet Dutch girls are no more sexually active than American girls. And 90 percent of those teen-agers who are active use contraceptives. Holland's teenage pregnancy rate is one-seventh that of America's. American teen-agers have 12 to 14 times more abortions than Dutch teen-agers.

The Dutch treat prostitutes, drug addicts, teen-age pot smokers and the terminally ill with respect. Not surprisingly, respect breeds responsibility, not license.

Where does this sense of mutual re-

### The Dutch treat prostitutes, drug addicts, teen-age pot smokers and the terminally ill with respect.

As for drugs, allowing the sale of marijuana gives the government much more credibility when it warns the young about the dangers of hard drugs. Indeed, says the Dutch secretary of drug policy, "Cannabis used to be the symbol of the youth culture — it was attractive because it was forbidden. Our aim was to turn it into an unsensational item." It worked. The proportion of Dutch teen-agers using marijuana has dropped substantially. It is a fraction of U.S. use.

All Dutch schools teach sex education. A year's worth of birth control pills costs

spect and collective responsibility come from? Historian Simon Schama looks to Dutch history in "The Embarrassment of Riches." In the 1600s, tiny Holland was the most prosperous nation on Earth. Riches bred a "collective conscience" that demanded generosity for the needy and tolerance for those with different religions and different habits. Obligations to community, to society came first.

Today the Dutch continue that 300-year tradition. They know the most fertile breeding ground for irresponsible behavior is the slum. Thus they offer the

world's most comprehensive social support programs. Medical care is free; child care plentiful. Unemployment insurance is nearly forever. Amsterdam suffers a housing problem incomprehensible to American city planners. Sufficient housing exists for those of modest means, but there's not enough for the rich.

Such generosity of spirit and purse has not undermined Dutch prosperity. They live longer than Americans. Their economy is robust; their businesses fiercely competitive.

This prosperous country of 14 million has much to teach us, for tolerance has never been an American trait. We have a long history of demanding moral purity of our neighbors and eagerly locking them up if they transgress. We rely on force to solve our social problems, not wisdom. Why we do so is up to the historians and sociologists to ponder. That we do so seems not to be in question. Today America imprisons a larger proportion of its citizens than any country except South Africa, and President Bush now vows to double the number of federal prisoners.

The Dutch watch our descent into social anarchy in amazement. They cannot understand why a nation would willfully destroy itself to control its citizens' personal behavior. After seeing how well tolerance and mutual respect work, neither can I.

David Morris writes for the St. Paul Pioneer Press Dispatch.



Paul K.

# House Judiciary Committee

April 6, 1989

Julie Tenison called from Anchorage  
She opposes HB 88 and would like the  
opportunity to testify via teleconfer-  
ence should the bill be scheduled  
She will also be sending written  
testimony for inclusion in the commit-  
tee packets.

Her address

Julie Tenison  
7830 Kiana Circle  
Anchorage, AK 99507  
522-8573

Phone:

KB

HB

91

**Sec. 44.21.234. Access to long term care facilities, older Alaskans, and records.** (a) A person may not deny access to a long term care facility or to an older Alaskan by the ombudsman or an employee, volunteer, or other representative of the office.

(b) Notwithstanding the provisions of AS 44.21.232(c)(1), the ombudsman may obtain medical or other records of an older Alaskan who resides in a long term care facility in the state only with the consent of the older Alaskan or the older Alaskan's legal guardian or, if the older Alaskan is unable or incompetent to consent and does not have a legal guardian, only with a court order. (§ 2 ch 108 SLA 1988)

**Sec. 44.21.235. Confidentiality.** (a) Records obtained or maintained by the ombudsman are confidential, are not subject to inspection or copying under AS 09.25.110 — 09.25.120 and, except as provided in (b) of this section, may be disclosed only at the discretion of the ombudsman.

(b) The identity of a complainant or an older Alaskan on whose behalf a complaint is made may not be disclosed without the consent of the identified person or the person's legal guardian, unless required by court order. (§ 2 ch 108 SLA 1988)

**Sec. 44.21.236. Immunity from liability.** (a) A person who, in good faith, makes a complaint described in AS 44.21.232 is immune from civil or criminal liability that might otherwise exist for making the complaint.

(b) The ombudsman, or an employee, volunteer, or other representative of the office, is immune from civil or criminal liability for the good faith performance of official duties. (§ 2 ch 108 SLA 1988)

**Sec. 44.21.237. Interference with the long term care ombudsman and retaliation prohibited.** (a) A person may not intentionally interfere with the ombudsman, or an employee, volunteer, or representative of the office, in the performance of official duties under AS 44.21.232.

(b) If a person makes a good faith complaint described in AS 44.21.232, an employer or supervisor of the person, or a public or private agency or entity that provides benefits, services, or housing to the person, may not discharge, demote, transfer, reduce the pay or benefits or work privileges of, prepare a negative work performance evaluation of, deny or withhold benefits or services, evict, or take other detrimental action against the person because of the complaint. The person making the complaint may bring a civil action for compensatory and punitive damages against an employer, supervisor, agency, or entity that violates this subsection. In the civil action there is a rebuttable presumption that the detrimental action was retaliatory if it was taken within 90 days after the complaint was made.

(c) A person who violates this section is guilty of a class B misdemeanor. (§ 2 ch 108 SLA 1988)

**Sec. 44.21.238. Legal counsel for the long term care ombudsman.** The attorney general shall provide legal advice and representation in connection with any matter relating to the powers, duties, and operation of the office, and in any legal action brought against the ombudsman or an employee, volunteer, or other representative of the office. If the attorney general cannot provide legal advice or representation because of a conflict of interest, the ombudsman may employ private legal counsel. (§ 2 ch 108 SLA 1988)

**Sec. 44.21.239. Cooperative agreements.** The commission shall enter into cooperative agreements concerning the operations of the office, including protocols for investigations, with state and local agencies that have jurisdiction over long term care facilities or over the abuse and neglect of older Alaskans. (§ 2 ch 108 SLA 1988)

**Sec. 44.21.240. Definitions.** In AS 44.21.200 — 44.21.240,

(1) "commission" means the Older Alaskans Commission;

(2) "long term care facility" means a foster home or other residential facility for dependent adults that is required to be licensed under AS 47.35 and a nursing home as defined in AS 08.70.180;

(3) "office" means the office of the long term care ombudsman;

(4) "older Alaskan" means a resident who is 60 years of age or older;

(5) "ombudsman" means the long term care ombudsman hired under AS 44.21.231;

(6) "senior citizen housing" has the meaning given in AS 44.47.620(e). (§ 2 ch 79 SLA 1981; am § 3 ch 108 SLA 1988)

**Effect of amendments.** — The 1988 44.21.240, 'commission' means the Older amendment rewrote and restructured this Alaskans Commission." section, which read "In AS 44.21.200 —

## Article 5. Alaska Council on Science and Technology.

*Secs. 44.21.241 — 44.21.255. [Repealed, § 63 ch 21 SLA 1985.]*

## Article 6. Alaska Public Broadcasting Commission.

### Section

266. Duties of the commission

268. Powers of the commission

consent of the employee or  
A 1973; am § 5 ch 276 SLA

NS

or special inspection. (a)  
employees who believes that a  
persons that threaten physical  
may request an inspection  
notice to the department. The  
reasonable particularity the  
employee or the represen-  
the notice, the department  
wants to believe that a viola-  
make a special inspection  
determines there are no  
violation exists, the department  
representative of the em-

inspection, or an inspection  
notice shall be provided the  
inspection. Unless expressly  
ce, the person's name and  
notice shall be kept confiden-  
ed the employer or in any

notifying person a written  
after a special inspection.  
establish a review proce-  
special inspection and shall  
a written statement of the  
1973; am § 6 ch 276 SLA

NS

**Sec. 18.60.089. Prohibition against retribution.** (a) A person may not discharge or discriminate against an employee because the employee has filed a complaint or instituted or caused to be instituted a proceeding related to the enforcement of occupational safety and health standards, or has testified or is expected to testify in a proceeding relating to occupational safety and health or because an employee has exercised personally or on behalf of others a right afforded under AS 18.60.010 — 18.60.105.

(b) An employee who has been discharged or discriminated against by a person in violation of this section may, within 30 days after the violation occurs, file a complaint with the commissioner alleging the discrimination. Upon receipt of the complaint, the commissioner shall investigate the matter as the commissioner considers appropriate. If, upon investigation, the commissioner determines that this section has been violated, the commissioner shall request the attorney general to bring an action in the superior court against the violator. The superior court has jurisdiction to restrain violations of (a) of this section and to order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay.

(c) Within 90 days of the receipt of a complaint filed under this section, the commissioner shall notify the complainant of the determination under (b) of this section. (§ 7 ch 72 SLA 1973)

*Sec. 18.60.090. Penalty for violations. [Repealed, § 9 ch 72 SLA 1973.]*

**Sec. 18.60.091. Citations.** (a) If, upon inspection or investigation, the department believes that an employer has violated a provision of AS 18.60.010 — 18.60.105 that is applicable to the employer, the department shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and must describe with particularity the nature of the violation, including reference to the provisions of the chapter or any order or regulation alleged to have been violated, and must fix a reasonable time for abatement of the violation. The department may prescribe procedures for the issuance of a notice instead of a citation with respect to minor violations that have no direct or immediate relationship to safety or health, or violations that are not serious and that the employer agrees to correct within a reasonable time. If an employer does not, within a reasonable time set out in the notice, correct a violation that is not serious, the department shall issue a citation to the employer.

(b) Upon receipt by the employer, each citation issued under this section, or a copy of the citation, shall be immediately and prominently posted, at or near each place the violation referred to in the citation occurred.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
Title: An Act relating to protection BRU: Personnel  
for public employees  
Sponsor: House Labor and Commerce Committee Components: Centralized Administrative Services  
Requestor: House Labor and Commerce Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would not require an additional appropriation.

Prepared By: David K. F. Otto *DKFO* Phone: 465-4430  
Division: Personnel Date: 1-31-89

Approved by Commissioner: John M. Andrews *[Signature]* Date: 1-31-89  
Agency: Department of Administration

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: CSHB 91 (SA)

#1

Page 1, line 19:

Strike "is requested by a public body to"  
Strike "participate"; insert "participates"

Comment:

The same protections should apply whether or not the employee technically "is required to participate" in the hearings or participate voluntarily.

2

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: CSHB 91 (SA)

#2

Page 1, line 21:

Strike "that"; insert "a"

Comment:

An employee should be protected against retaliation by his employer even if he testified before another public body.

#3

AMENDMENT

OFFERED IN THE JUDICIARY COMMITTEE

TO: CSHB 91(SA)

Page 3, line 18:

Replace paragraph (4) with the following:

"(4) "public body" includes an officer or agency of

(A) the federal government;

(B) the state;

(C) a political subdivision of the state

including

(i) a municipality,

(ii) a school district, or

(iii) a rural educational attendance area; or

(D) a public or quasi-public corporation or

authority established by state law including

(i) the Alaska Railroad Corporation or

(ii) the University of Alaska."

4

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 91(State Affairs)

Page 1, line 6:

Delete "public"

OUT

Page 1, line 7, after "report":

Insert "or participate in an inquiry *of* regarding"

Permanent

Page 1, after line 9:

Insert a new bill section to read:

"\* Section 1. This Act may be known as the Whistleblower Act."

Page 1, line 10:

Delete "Section 1"

Insert "Sec. 2"

Page 1, line 12:

Delete "A public"

Insert "An"

OUT

Page 1, after line 21:

Insert a new subsection to read:

"(b) An employer may not disqualify an employee or other person

~~MS~~  
who is entitled to protection under (a) of this section from eligibility to

- (1) bid on contracts with the employer; or
- (2) receive another right, privilege, or benefit from an employer or a public body."

~~MS~~ OUT

Reletter the following subsections accordingly.

Page 1, lines 23 - 25:

~~MS~~  
Delete "who reports a matter of public concern, or a public employee on whose behalf a matter of public concern is reported, because the employee or person reported the matter,"

Insert "who is entitled to protection under (a) of this section"

Page 1, line 27:

Delete all material.

Page 1, line 28:

Delete "(2)"

Page 1, line 29:

Delete "; or"

Insert "."

OUT

Page 2, line 1:

Delete all material.

*Separate  
amend*

Page 2, line 24, after "relief.":

Insert "In the civil action there is a rebuttable presumption that the detrimental action was retaliatory if it is taken within 90 days after the complaint was made public or after the public body's decision was made, whichever is later."

Page 3, line 4:

Delete "or "public employee""

Page 3, line 6:

Delete "a public"

Insert "an"

Page 3, after line 6:

Insert a new paragraph to read:

"(2) "employer" includes a public employer and a private employer;"

Renumber the following paragraphs accordingly.

Page 3, line 7:

Delete ""employer" or"

Page 3, line 16, after "gross":

Insert "public"

Page 3, line 16, after "waste of":

Insert "public"

Page 3, line 17, after "abuse of":

Insert "public"

Page 3, after line 17:

Insert new material to read:

"(D) a matter that comes within the jurisdiction of  
the office of the ombudsman under AS 24.55.100 or 24.55.320;

(5) "other person" includes all members of the public;

(6) "private employer" means an employer other than a  
public employer who employs at least one other person in the state;"

Renumber the following paragraphs accordingly.

Page 3, line 23:

Delete "."

Insert ";

Page 3, after line 23:

Insert a new paragraph to read:

"(8) "public employee" means an employee of a public em-  
ployer."

A M E N D M E N T

TO CS HB 91 (State Affairs)

BY GRUENBERG

Page 2, line 24, after "relief" insert "including punitive damages".

*adopted*

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: CSHB 91 (SA)

#2

Page 1, line 21:

Strike "that"; insert "a"

Comment:

An employee should be protected against retaliation by his employer even if he testified before another public body.

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Rep. Peter Goll

To: \_\_\_\_\_ HOUSE BILL No. CSHB91 (JUD)

SENATE BILL No. \_\_\_\_\_

PAGE: 2

LINE: 20

Sec. 39.90.110 (a)(1) is amended to read:

"(1) [HAS REASONABLE CAUSE TO BELIEVE] reasonably believes that the information reported is or is about to become a matter of public concern; and"

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

BY DONLEY

TO: CSHB 91(Judiciary)

Page 2, line 17, following "PROTECTIONS.":

Insert "(a)"

Page 2, following line 22:

Insert a new subsection to read:

"(b) As part of its written personnel policy, a public employer may require that, before an employee initiates a report on a matter of public concern under AS 39.90.100, the employee shall submit a written report concerning the matter to the employer. However, the <sup>employee</sup> ~~employee~~ <sup>is</sup> ~~may~~ not require ~~the employee~~ to submit a report if the employee

- (1) reasonably believes that reports to the employer will not result in prompt action to remedy the matter of public concern;
- (2) <sup>believes with reasonable</sup> ~~knows with reasonable~~ certainty that the activity, policy, or practice is already known to one or more supervisors;
- (3) reasonably believes that an emergency is involved; or
- (4) reasonably fears reprisal or discrimination as a result of disclosure."

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

2

BY GRUENBERG

TO: CSHB 91(Judiciary)

Page 1, lines 20-22:

Delete section "(2)" and insert "(2) the employee participates in a court action, an investigation, a hearing, or an inquiry by a public body on a matter of public concern."

COMMENT: This cleans up and simplifies the language.

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

TO: CSHB 91 (Judiciary)

3

BY GRUENBERG  
"B" Version

Page 2, line 27:

Delete "39.90.140" and insert "39.90.110"

COMMENT: AS 39.90.100 and .110 are the only statutes in the chapter capable of being violated. Technical amendment.

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

BY GRUENBERG

TO: CSHB 91(Judiciary)

Page 1, lines 20-22:

Delete section "(2)" and insert "(2) the employee participates in a court action, an investigation, a hearing, or an inquiry by a public body on a matter of public concern."

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A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

BY GRUENBERG :|| 3

TO: CSHB 91(Judiciary)

Page 2, line 21:

Delete "and"

Page 2, after line 21:

Insert "(2) has made a reasonable attempt to ascertain the accuracy of the information before reporting; and"

Page 2, line 22:

Delete "(2)"

Insert "(3)"

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

BY GRUENBERG  
"B" Version

TO: CSHB 91 (Judiciary)

Page 1, line 24:

After "AS 39.90.100", insert "or AS 39.90.110"

Page 2, line 25:

After "relief", insert ", including punitive damages"

COMMENT: Eliminates a possible ambiguity by specifying that punitive damages may be awarded in an appropriate case.

(4)

A M E N D M E N T

OFFERED IN THE HOUSE

BY DONLEY

TO: CSHB 91 (Judiciary)

Page 2, line 25, after "relief.":

Insert "In the civil action there is a rebuttable presumption that the detrimental action was retaliatory if it is taken within 90 days after the complaint was made public."

A M E N D M E - N T

OFFERED IN THE JUDICIARY COMMITTEE

BY DONLEY

TO: CSHB 91(Judiciary)

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Page 2, following line 22:

Insert a new subsection to read:

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(1) reasonably believes that reports to the employer will not result in prompt action to remedy the matter of public concern;

(2) knows with reasonable certainty that the activity, policy, or practice is already known to one or more supervisors;

(3) reasonably believes that an emergency is involved; or

(4) reasonably fears reprisal or discrimination as a result of disclosure."

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

BY GRUENBERG 3

TO: CSHB 91(Judiciary)

Page 2, line 21:

Delete "and"

Page 2, after line 21:

Insert "(2) has made a reasonable attempt to ascertain the accuracy of the information before reporting; and"

Page 2, line 22:

Delete "(2)"

Insert "(3)"

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

BY GRUENBERG

TO: CSHB 91(Judiciary)

Page 1, lines 20-22:

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COMMENT: This cleans up and simplifies the language.

A M E N D M E N T

OFFERED IN THE JUDICIARY COMMITTEE

BY GRUENBERG  
"B" Version

TO: CSHB 91 (Judiciary)

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OFFERED IN THE JUDICIARY COMMITTEE

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TO: CSHB 91 (Judiciary)

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