

THE  
CANNABIS  
*CHRONICLES*  
CHAPTER I



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**The Cannabis Chronicles**  
Chapter 1  
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## Executive Summary

- Cannabis has been used for thousands of years by humans across the world
- From premodern to contemporary times, cannabis has been a medicine, a recreational substance, and a part of religious rituals
- Throughout history, cannabis use has been maligned and used as a tool to oppress populations
- Oppression like the War on Drugs demonstrates the need for legalization to be restorative to impacted groups

This report is the first in a series of reports about cannabis and race in New York, the United States, and throughout the diaspora by The Black Institute, a racial justice “action tank”, or think tank that takes action. The first installment presents a comprehensive overview of the history of cannabis, tracing its origins, cultural significance, and the societal attitudes that have shaped its trajectory over time. It delves into the plant's diverse uses, ranging from medicinal to recreational, and highlights its complex relationship with various civilizations and cultures.

The report begins by providing an introduction to cannabis, offering insights into its botanical characteristics, modes of consumption, and the physiological effects it produces. This foundation sets the stage for a deeper exploration of its historical significance. Tracing the history of cannabis, the report starts with its earliest recorded use in the mountains of Central Asia and its appearance in ancient medical texts. It discusses the plant's migration to India, where it played a prominent role in religious and cultural practices, and its subsequent introduction to the Classical Mediterranean civilizations.

In the context of Islamic societies, the report examines the plant's relationship with religion and how it led to one of the oldest cannabis myths. The influence of European colonialism and the emergence of a global cannabis prohibition movement are also explored, shedding light on the efforts to ban and demonize the plant worldwide. A pivotal section of the report focuses on the history of cannabis prohibition in the United States. It highlights the longstanding association between cannabis and race, emphasizing the racialized narratives that fueled its demonization. The devastating consequences of the racially biased War on Drugs, particularly on communities of color, are analyzed, revealing the profound social and economic impacts.

As the report moves into the contemporary era, it reflects on the evolving attitudes toward cannabis and the growing momentum for its legalization. After generally reviewing the history and uses of cannabis, TBI calls for further changes to the legal, social, and economic status of cannabis in relation to communities of color. Besides demanding the immediate legalization, decriminalization, and rescheduling of cannabis at the federal level, TBI demands that federal legalization contains extensive restorative justice measures to compensate people of color for the decades of destruction caused by the War on Drugs. Such measures include a model such as New York's, using revenue generated from cannabis sales to invest and build up communities of color which have been devastated because of the long prohibition on cannabis.

## Introduction

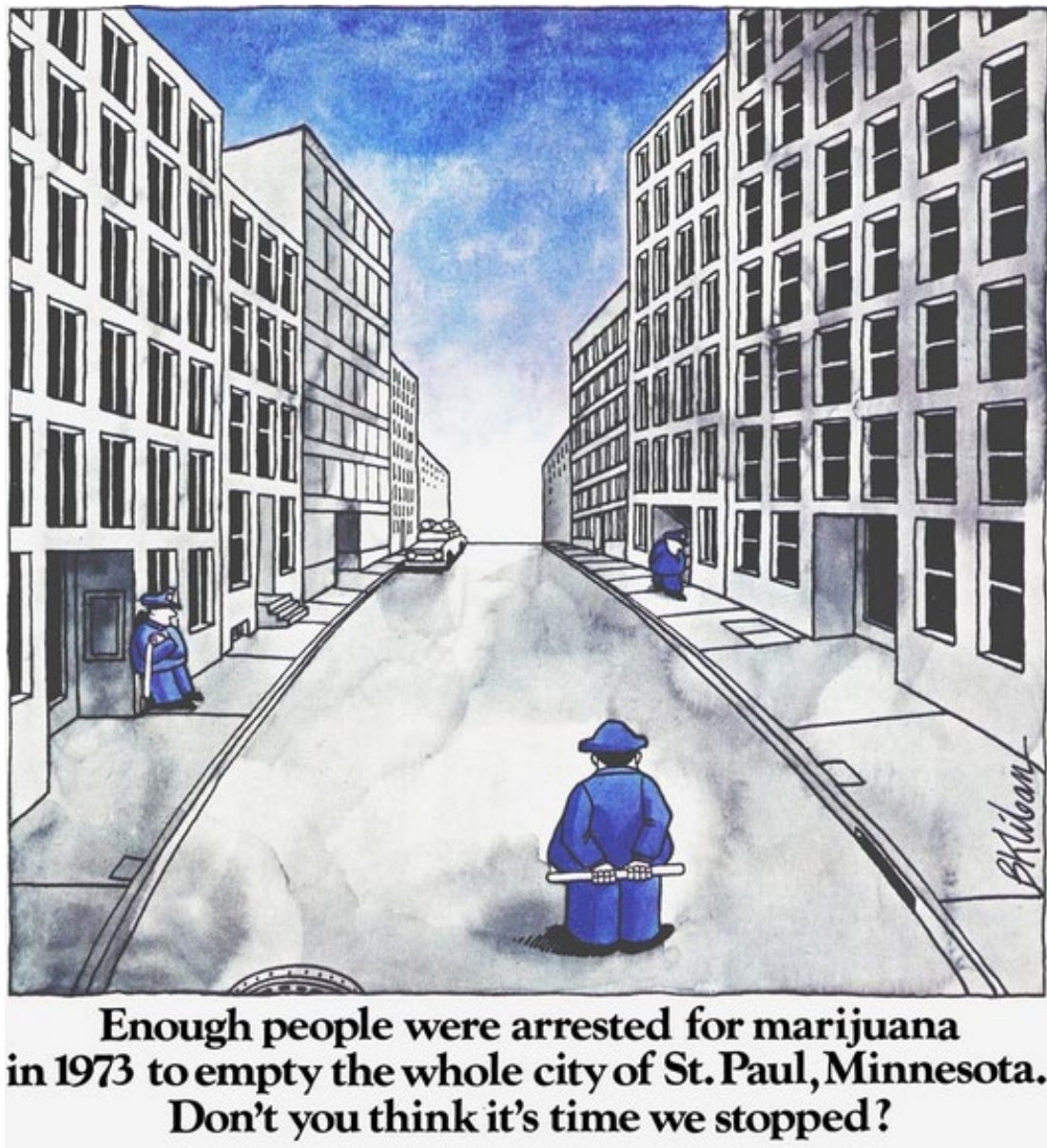
On March 31<sup>st</sup>, 2021, the Marijuana Regulation and Taxation Act (MRTA) was passed in New York, legalizing recreational adult cannabis in the state. Beyond just legalizing cannabis, the law contained a number of significant promises to a group that has for decades been targeted and oppressed for real and perceived relationships to cannabis - people of color. With the law now over two years old, it is worth asking what, if any, of the promises the law claims to have made have actually occurred and whether the restorative justice due to our state's Black and brown communities is being done. The Black Institute (TBI) has decided to initiate an annual series of reports that aims to examine exactly that; analyze the implementation of cannabis laws, particularly as they relate to the experiences and opportunities for people of color within the industry. TBI is a racial justice "action tank," a think tank that takes action, and is dedicated to examining issues and policy from a perspective that centers on people of color. This report serves as the latest in our ongoing commitment to addressing racial disparities and promoting equity in New York, America, and throughout the diaspora.

This report is the first in a series that TBI has decided to call the "Cannabis Chronicles," which aim to talk about cannabis in New York with a deeper perspective. As with understanding anything, it all goes back to history. From its origins as a humble plant in Asia millennia ago to its place in modern day America, cannabis has a long and storied history with immense implications for our understanding of cannabis in the modern era. As a textile, food, medicine, religious herb, drug, and symbol of protest, the story of cannabis in the world and in the United States is in many ways the story of humanity's growing and changing relationship with itself and the world around it.

In this report, this long and storied history will be the focus, along with a background of what the properties of cannabis are and how it is used. After reviewing that background, the report will then proceed chronologically through the history of cannabis. It will discuss the premodern origins of cannabis, trace its route from China to the Middle East and India, explore the first known instances of cannabis repression in Europe and the Middle East, cross the Atlantic into North America. The record of cannabis' use as a medicine and recreational drug will be explored, as well as how it came to grow such a terrifying reputation in the United States and around the world, the men who engineered it. And most importantly, the report will chart the complex and frequently painful relationship that Black and brown communities in America have

with cannabis, born out of our nation's long history of racism and used as a tool to break and imprison millions of men and women in just over a century.

The report will conclude with a discussion of the effects of the War on Drugs in America and what it means for communities of color, as well as cannabis legalization and the industry at large. What should become evident by the end of the report is the sheer scale of injustice that has been done because of this plant. But for as much harm as it has been used to cause, it likewise offers an opportunity for our communities to claim this ancient plant as our own, to use it to rebuild and prosper in ways that have been denied to us for so long.



*Figure 1: A cartoon from the August 1st, 1975 issue of "High Times" about the then-burgeoning War on Drugs*



## Background

Before discussing the various components of the cannabis industry in New York and the relationship to communities of color, it is worth briefly reviewing the plant itself. Without getting too far into the weeds, what is commonly known as cannabis is *Cannabis sativa* L., a member of the *Cannabaceae* Martinov family (more commonly known as the hemp family) in the genus<sup>1</sup> *Cannabis* L.<sup>2</sup> A sturdy flowering plant, *Cannabis sativa* L. is characterized by its distinctly large, jagged leaves and can grow in a range of three to 20 ft high across a variety of climates. Among the hundreds of thousands of plants on Earth, *Cannabis Sativa* L. is among the less than 10% which are dioecious, meaning it has distinct male and female plants.<sup>3</sup> Among other differences, the male plants have a sack to produce pollen that is used to fertilize the flower, or bud, of the female plant.<sup>4</sup> Why this occurred is uncertain – one theory<sup>5</sup> is that it was an evolutionary choice<sup>6</sup> to maintain genetic diversity - but this is perhaps the single most important reason as to why the plant is of such concern in our modern world. That is because female cannabis plants produce a resin on their buds that contains delta-9-tetrahydrocannabinol, or THC, which will be discussed shortly. While *Cannabis sativa* L. can grow in a variety of colors, the reason that most people associate it with the color green is because the green plants contain the most THC; yellow and orange plants, by contrast, contain little to no THC.

Which brings the discussion to what THC, the abbreviation of delta-9-tetrahydrocannabinol (also known as delta-9) is. While the name itself describes the molecular structure of the chemical itself, THC is best known as the main psychoactive component of cannabis that creates the “high” associated with ingesting cannabis.<sup>7</sup> It is a part of a group of chemicals known as

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<sup>1</sup> Genus being a sub-family level of classification in biological studies.

<sup>2</sup> USDA Staff, “Cannabis L.,” USDA plants database, 2022, <https://plants.usda.gov/home/plantProfile?symbol=CANNA>.

<sup>3</sup> Greg Olgers, “Research Explores Genetics behind How Plants Become Male or Female,” Hope College, February 22, 2023, <https://hope.edu/news/2023/academics/research-explores-genetics-behind-how-plants-become-male-or-female.html>.

<sup>4</sup> Bryce Jardin, “Cannabis Gender: Male vs Female Weed,” Future Harvest, November 15, 2022, <https://futureharvest.com/blogs/articles/cannabis-gender-male-versus-female-plants>.

<sup>5</sup> Olgers, “Research Explores Genetics behind How Plants Become Male or Female”

<sup>6</sup> Incidentally, it is possible for cannabis plants to become hermaphroditic, or having both male and female sex organs, which is the default state for most plants. For cannabis, this transformation is believed to be a survival mechanism in the event of environmental stress like drought, allowing it to self-pollinate seeds before dying and thus continuing the species once conditions improve. See footnote 4.

<sup>7</sup> NIDA, “How Does Marijuana Produce Its Effects?,” National Institutes of Health, April 13, 2021, <https://nida.nih.gov/publications/research-reports/marijuana/how-does-marijuana-produce-its-effects>.

“cannabinoids” which also includes the chemical CBD (cannabidiol), which is responsible for the pain-reducing effects of cannabis, CBC (cannabichromene), which is associated with inflammation reduction,<sup>8</sup> and many others which are present in cannabis. These chemicals act on what is known as the “endocannabinoid system,” a network of neurons throughout the human brain that help to regulate a variety of actions including motor function, memory creation, pleasure, and more. Of course, the human body does not naturally produce THC, CBD, or other cannabinoids, it might be confusing to understand why THC does anything at all. However, the body does create “natural cannabinoids,” chemicals that are similar to THC and function in much the same way, one of which is anandamide.<sup>9</sup>



*Figure 2: Side-by-side comparison of female and male cannabis plants. While the female's buds are not visible, note the male's highly visible pollen sacs, containing the genetic material needed to pollinate female plants, who would then produce seeds.<sup>10</sup>*

As an oversimplified example to explain how this relates to cannabis, imagine Employee A is trying to walk into the boss's office to deliver some important documents. However, the door is locked because the boss does not want to be disturbed by employees who are not in the business of delivering important documents. Since Employee A is delivering important documents,

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<sup>8</sup> Angelo A Izzo et al., “Inhibitory Effect of Cannabichromene, a Major Non-Psychotropic Cannabinoid Extracted from Cannabis Sativa, on Inflammation-Induced Hypermotility in Mice,” *British Journal of Pharmacology* 166, no. 4 (2012): 1444–60, <https://doi.org/10.1111/j.1476-5381.2012.01879.x>.

<sup>9</sup> NIDA, “How Does Marijuana Produce Its Effects?”

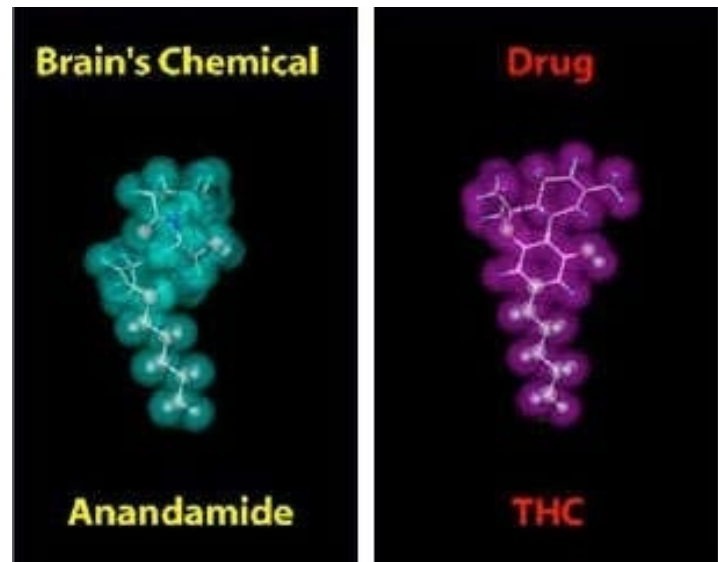
<sup>10</sup> Editorial Team, “Male and Female Cannabis Plants,” *New Normal* 420, January 5, 2021, <https://newnormal420.com/male-and-female-cannabis-plants/>.

though, they have the key to the boss's office and are able to enter the office and deliver the important documents. Then imagine another worker, Employee B, comes in from another office with false documents they want to deliver to the boss. Theoretically, Employee B should not be able to access the boss's office, but they happen to have a key that is basically identical to Employee A's key, which lets them into the boss's office and deliver the fake documents. The boss then uses the information in the fake documents to make decisions for several months before realizing that they are fake, causing office problems.

In this case, the boss's office represents a neuron, or "brain cell," in the endocannabinoid system. Employee A represents the neurotransmitter anandamide, a neurotransmitter being a chemical that conveys information (the important documents), while the lock on the door represents a neuron's receptor, a little appendage that is

designed only to receive a specific chemical. Employee B represents THC, which as the image above shows, has an extremely similar chemical structure to anandamide, which is how it is able to connect to the neuron and produce the psychoactive effects that cannabis use is associated with.

Before discussing the psychoactive properties that cannabis and THC are best known for, it is worth discussing the dizzying array of other uses it can be used for. At this point, however, it is worth noting that there is a functional difference between the term "hemp" and the term "cannabis." As stated earlier, *Cannabis sativa* L. is a member of the hemp family, a group of plants that have enough similar characteristics to be universally called hemp, or hemp plants. Thus, calling cannabis "hemp" is correct, and as will be discussed, even psychoactive cannabis can be used for non-psychoactive purposes. However, in the United States by law the two are defined differently under the Agricultural Act of 2014 and the Agriculture Improvement Act of 2018, two laws which relaxed restrictions on growing hemp in the United States by



*Figure 3: Side-by-side comparison of an anandamide molecule and THC molecule. Interestingly, the two are chemically distinct - it is the shape that allows THC to connect to the brain and produce its effects. See footnote 7*



differentiating between psychoactive and non-psychoactive cannabis. *Cannabis sativa* can only be called hemp in the United States if the plant contains less than 0.3% delta-9 THC,<sup>11</sup> which is the main psychoactive component.<sup>12</sup> For the remainder of this report, the two will be considered distinct as we are discussing the plant in an American context, thus “cannabis” will refer to *Cannabis sativa* plants that have over 0.3% delta-9 THC while “hemp” will refer to plants that have less than 0.3% delta-9 THC. Furthermore, the term “hemp” will be used to refer all uses of the *Cannabis sativa* plant that are not based on its psychoactive properties.<sup>13</sup> It is similarly worth noting that there are some other differences beyond the THC content, such as the parts of the plants that are used, but the THC content is the primary distinguishing factor.

Cannabis can, and has, been used for a variety of purposes throughout history and even into the present day. For centuries, in fact, the primary use of the cannabis plant has been the use of its fibers as textile products, textiles being an umbrella term for fiber-based cloth and woven material. Hemp has been noted to be stronger and more insulating than cotton and many synthetic fibers, which combined with its hardiness, means that for a long time cannabis fibers have been used to make clothes, ropes, sandals, and even sails.<sup>14</sup> Hemp, when pulped and combined with some other fibers, can also be used to make paper for printing and cigarette paper.<sup>15</sup> It is speculated by some that William Randolph Hearst, a media magnate who among many other things is infamous for his opposition to cannabis, pushed for the first ban on cannabis in the 1930s due to his heavy investments in wood-based paper.<sup>16</sup> While this is likely an urban legend, lacking among many things strong evidence of Hearst having significant timber and paper manufacturing investments,<sup>17</sup> this notion that there may have been other reasons to ban cannabis farming in the United States besides simply the psychoactive effects should foreshadow future events in the story of hemp and cannabis.

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<sup>11</sup> By dry weight

<sup>12</sup> Congressional Research Service and Congressional Research Service, Defining Hemp: A Fact Sheet § (2019), <https://crsreports.congress.gov/product/pdf/R/R44742>.

<sup>13</sup> Except in certain cases where other cannabinoids are extracted from hemp for psychoactive purposes which will be identified when pertinent

<sup>14</sup> Navdeep Kaur et al., rep., *Uses of Raw Products Obtained from Hemp: Fiber, Seed, and Cannabinoids* (Gainesville, FL: University of Florida, n.d.).

<sup>15</sup> Kaur et al., *Uses of Raw Products Obtained from Hemp: Fiber, Seed, and Cannabinoids*

<sup>16</sup> Jim Hightower, “Cannabis: America’s Common Sense Crop,” *Illinois Times*, January 22, 2015, <https://www.illinoistimes.com/springfield/cannabis-americas-common-sense-crop/Content?oid=11437982>.

<sup>17</sup> Brian Dunning, “Hemp, Hearst, and Prohibition,” *Skeptoid*, February 11, 2014, <https://skeptoid.com/episodes/4401>.

Beyond these uses, hemp can also produce some food products, chiefly from its seeds which when pressed create an oil that is used for cooking, cosmetics, dietary products, and even biofuels and plastics manufacturing.<sup>18</sup> When unshelled, the inner part of the seeds called “hemp hearts” which are considered an easy source of nutrients.<sup>19</sup> Additionally, other cannabinoids are frequently extracted from hemp for their purported medicinal benefits, chiefly CBD (cannabidiol), the chemical that cannabis’ perceived medicinal value is largely attributed to. It is known that CBD works on the same endocannabinoid system as THC and results have shown that CBD acts on the system in a way that mitigates pain, anxiety, insomnia, and even addictions.<sup>20</sup> There is a medication that uses CBD as a basis for treating epileptic seizures which has been approved by the Food and Drug Administration (FDA), which points to CBD as a medicine. However, most scholars and government health agencies emphasize that research is still very new and the effects of CBD, as well as all other cannabinoids, is only partially understood. Because of this, many CBD-based products are marketed as “dietary supplements,” a class of products that are approved for sale but are not proven to have medical benefits. The FDA barely regulates this market, relying on what amounts to an honor system from manufacturers to accurately disclose ingredients or, importantly, the effects of the product. If this sounds like a massive loophole ripe for exploitation by snake oil salesmen, that is because it is. Due to the lack of a massive body of research, CBD products have appeared on shelves promising to help everything from the benign and scientifically based, such pain relief, to wildly untrue claims such as curing cancer.<sup>21</sup> This is extensively problematic, for reasons that should be obvious, and while there has been some action by the FDA there remains a massive market for CBD products of unknown and potentially harmful value.

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<sup>18</sup> CRS, “Defining Hemp: A Fact Sheet”

<sup>19</sup> Bob’s Red Mill Staff, “Hemp Seeds vs. Hemp Hearts: What Is the Difference,” Bob’s Red Mill, October 22, 2022, <https://www.bobsredmill.com/blog/healthy-living/hemp-seeds-vs-hemp-hearts/>.

<sup>20</sup> Peter Grinspoon, “Cannabidiol (CBD): What We Know and What We Don’t,” Harvard Health, September 24, 2021, <https://www.health.harvard.edu/blog/cannabidiol-cbd-what-we-know-and-what-we-dont-2018082414476>.

<sup>21</sup> “FDA Warns Companies Marketing Unproven Products, Derived from Marijuana, That Claim to Treat or Cure Cancer,” *U.S. Food and Drug Administration* (U.S. Food and Drug Administration, November 1, 2017), U.S. Food and Drug Administration, <https://www.fda.gov/news-events/press-announcements/fda-warns-companies-marketing-unproven-products-derived-marijuana-claim-treat-or-cure-cancer>.

Despite the myriad of other uses, however, cannabis is ultimately best known for its psychoactive properties that cause a “high” in users, and it is that component (as well as the products) that this report is chiefly concerned with.

Again, before continuing, there is something to consider regarding the name of cannabis as a drug. Cannabis is derived from its scientific name *Cannabis sativa* and is considered the “proper” name of the drug as a result. However, for a variety of reasons, cannabis has a frankly staggering number of nicknames within and without the United States. Some sources claim there are over a thousand worldwide,<sup>22</sup> while a 2018 Drug Enforcement Agency (DEA) Drug Slang and Code Word sheet<sup>23</sup> lists over a hundred names. These range from the sensible to the nonsensical, examples of which can be found on the right. However, this report will always refer to *Cannabis sativa* as “cannabis” except in certain circumstances where an alternative is used, such as in government materials where “marijuana” is almost universally used.

As previously discussed, THC binds with neurons in the endocannabinoid system in order to produce the variety of effects under the umbrella of the word “high.” Making that connection requires one to either smoke or ingest the cannabis, where it is then absorbed into the body. Virtually all<sup>24</sup> cannabis used to achieve this high comes from the buds of the female cannabis plant, which has

## How Many Ways Can You Say “Cannabis”?

<b>Marijuana</b>	<b>Black Bart</b>
<b>Weed</b>	<b>Wacky Tobacco</b>
<b>Reefer</b>	<b>Jazz</b>
<b>Hashish</b>	<b>Houdini</b>
<b>Spliff</b>	<b>Pretendo</b>
<b>Chronic</b>	<b>Prop 215</b>
<b>420</b>	<b>Sticky Icky</b>
<b>Herb</b>	<b>A-Bomb</b>
<b>Kush</b>	<b>Line Pillows</b>
<b>Grass</b>	<b>Crippy</b>
<b>Flower</b>	<b>Green Goblin</b>
<b>Mary Jane</b>	<b>Christmas Tree</b>
<b>Pot</b>	<b>King Louie</b>
<b>Ganja</b>	<b>Salt and Pepper</b>
<b>Oregano</b>	<b>Young Girls</b>
<b>Green</b>	<b>Love Nuggets</b>
<b>Shoe</b>	<b>Green Paint</b>
<b>Ganja</b>	<b>Loco Weed</b>
<b>Green Goddess</b>	

<sup>22</sup> Katy Steinmetz, “420 Day: Why There Are 1,000 Slang Terms for Marijuana,” Time, April 20, 2017, <https://time.com/4747501/420-day-weed-marijuana-pot-slang/>.

<sup>23</sup> Drug Enforcement Agency and DEA Staff, Slang Terms and Code Words: A Reference for Law Enforcement Personnel § (2018), <https://ndews.umd.edu/sites/ndews.umd.edu/files/dea-drug-slang-terms-and-code-words-july2018.pdf>.

<sup>24</sup> It is possible to extract THC from male plants, including the pollen, but it is harder and concentrations are far lower than in female plants. As a result, male plants are frequently discarded and destroyed despite containing fibers and other materials that could be used for crafting purposes.

the highest concentrations of THC and other cannabinoids. Smoking is the more common of the two main forms of consumption, of which there are a variety of ways with as many names, forms, and processes as there are names for the plant itself. Joints, blunts, spliffs, bowls and bongs are just a few of the ways one smokes the cannabis in its plant form, but there are also oils, waxes, and other extracts with higher concentrations of THC or other cannabinoids that can be smoked or vaped, a process generally referred to as “dabbing.”<sup>25</sup> Cannabis can also be added or infused into food and drink products, which are known generally as “edibles.” These commonly take the form of baked goods (such brownies) and gummies but more esoteric edibles exist, including cannabis marinades for turkey and steak among others.<sup>26</sup>

The time, effects, and other aspects of the cannabis high can vary wildly depending on the person, the product, and the mode of consumption. Smoking or vaping THC typically takes effect within minutes and lasts for a few hours, while edibles can take hours to take effect and last hours, or sometimes even days. Cannabis is popularly associated with positive effects of euphoria (happiness), relaxation, amusement, increased sensitivity to environmental factors like light and sound, and for enhancing creativity.<sup>27</sup> It also stimulates appetite, making users hungry, which can be considered a positive or a negative depending on the individual. These effects have made it popular with a range of people using it for recreational, medicinal, and potentially even productive purposes like creating art. Unfortunately, cannabis use can also lead to negative consequences such as anxiety, confusion, paranoia, nausea, and sometimes hallucinations or psychosis.<sup>28</sup> There is research to suggest that cannabis may exacerbate or even cause mental illnesses like depression and schizophrenia in at-risk and not-at-risk individuals respectively, though again research is still in early stages.<sup>29</sup> Physical effects include higher blood pressure and lowered reaction times, which can put users doing more than watching nature documentaries on the couch at risk of harm.

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<sup>25</sup> CDC Staff, “Frequently Asked Questions,” Centers for Disease Control and Prevention, June 11, 2021, <https://www.cdc.gov/marijuana/faqs.htm>

<sup>26</sup> Cheri Sicard, “Marijuana Marinades: When to Use Them and When Not To,” Cannabis Cheri, November 20, 2019, <https://www.cannabischeri.com/food/cooking-basics/marijuana-marinades/>.

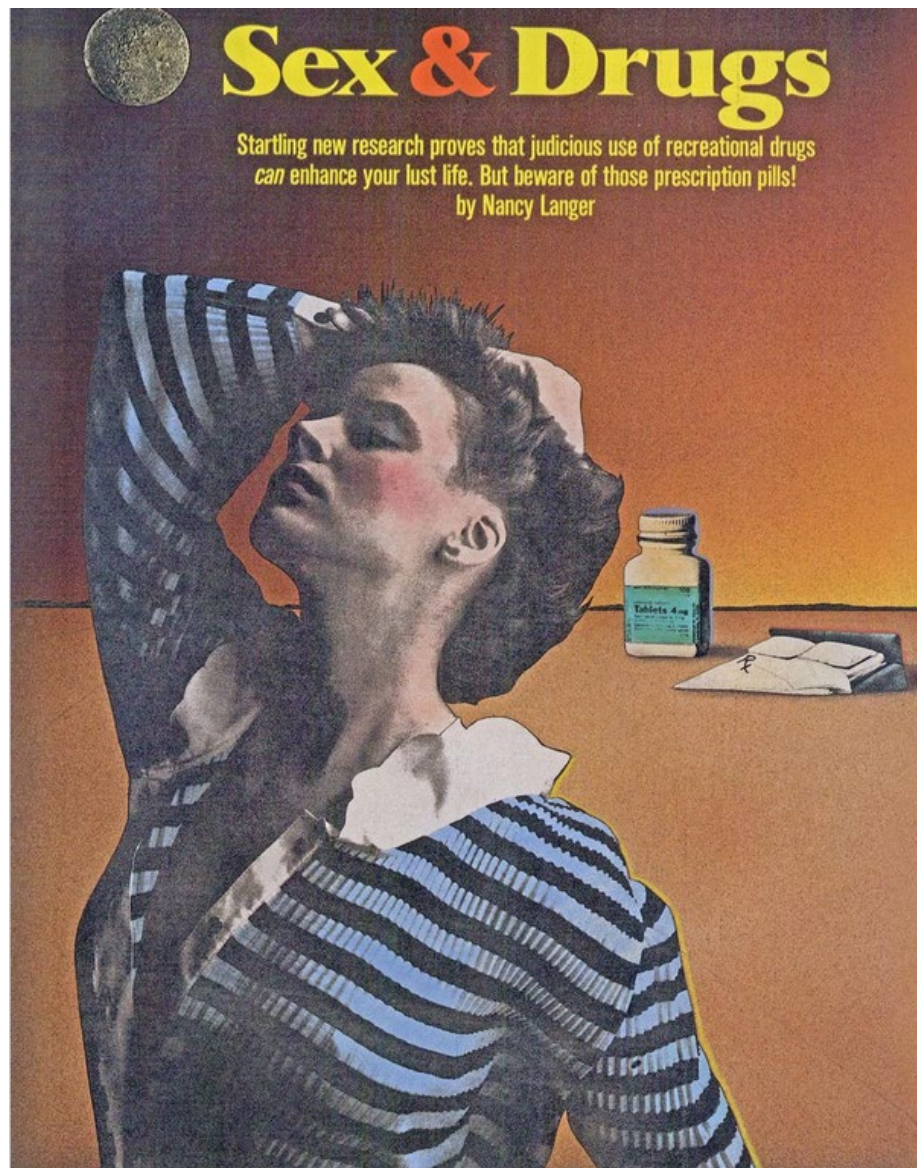
<sup>27</sup> Carly Vandergrindt, “What Does It Feel like to Be High on Marijuana? Smoking and Vaping,” Healthline, March 7, 2019, <https://www.healthline.com/health/what-does-it-feel-like-to-be-high#what-it-feels-like>.

<sup>28</sup> Psychosis is a broad symptom/term used to describe a loss of contact with reality, which should not to be confused with psychopathy, a mental illness defined by low emotional intelligence and/or behavioral control.

<sup>29</sup> Darby J. Lowe et al., “Cannabis and Mental Illness: A Review,” *European Archives of Psychiatry and Clinical Neuroscience* 269, no. 1 (2018): 107–20, <https://doi.org/10.1007/s00406-018-0970-7>.



Like any other topic, cannabis is incredibly deep and complex with many additional facets and intricacies that are beyond the scope of this introduction to the topic. What should be clear is that a total understanding of cannabis, its uses, and its effects does not exist. **A partial and, in some cases, lack of understanding about its psychoactive and non-psychoactive effects and uses is pivotal in understanding the history of cannabis in the United States and, more importantly, the relationship between cannabis and people of color in New York and beyond.**



*Figure 4: The cover for the article "Sex and Drugs" by Nancy Langer, included in the October 1985 issue of "High Times." Cannabis has long been associated with providing sexual benefits to users.*



## Pre-Modern and Classical Antiquity

The cultivation, or growing, of what we know today as *Cannabis sativa* has a history stretching back over 10,000 years, with the earliest record of cultivation dating to 11,700 years ago near the Altai Mountains in what is now China. Due to its hardness and sturdiness as a material, cannabis would have had a variety of uses that we still see today, such as making ropes and clothes, and the oil from the seeds would have been used to cook or season food.<sup>30</sup> At some point humans “chanced upon the euphoriant properties of heated cannabis,”<sup>31</sup> which seems like a nice way to say that once upon a time someone accidentally set fire to a bunch of cannabis and got the whole village high, thus leading humanity to realize cannabis had psychoactive properties. No matter how it happened, it is likely that there was no single discovery, with various nomadic tribes in the steppe likely discovering and disseminating the knowledge across the centuries.

The earliest recorded discovery of the psychoactive and medicinal properties of cannabis, however, is attributed to mythical Chinese emperor Shén Nóng<sup>32</sup> around 2000 BCE. It is called *má* (麻), which means both hemp<sup>33</sup> and cannabis, and is a component character in the words numbness (麻木) and anesthesia (麻醉), pointing to the idea that cannabis was commonly used as a medical drug. However, the work crediting Emperor Nóng with the discovery<sup>34</sup> is commonly dated to the late Han dynasty, which began in roughly 221 BCE and lasted 400 years, nearly 2000 years after the purported discovery, meaning the attribution is likely metaphorical. Without certainty of the Chinese claim the next candidate is India where the Hindu religious texts The Vedas, dated anywhere from 2000-1400 BCE, mention cannabis as one of five sacred plants given to humanity for happiness and liberation from fear. Associated with the god Shiva, it is prepared as a drink/food known as *bhang* or, prepared and smoked, *ganja*.<sup>35</sup>

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<sup>30</sup> Mark David Merlin and Robert Connell Clarke, *Cannabis: Evolution and Ethnobotany*, Google Books (Berkeley, CA: University of California Press, 2013), <https://books.google.com/books?id=poenY6QMq8UC&lr=>.

<sup>31</sup> Marc-Antoine Crocq, “History of Cannabis and the Endocannabinoid System,” *Dialogues in Clinical Neuroscience* 22, no. 3 (2020): 223–28, <https://doi.org/10.31887/dcns.2020.22.3/mcrocq>.

<sup>32</sup> Meaning “Divine Farmer,” so named as he is credited with giving the Chinese agricultural knowledge and tools

<sup>33</sup> Wikimedia User Photohound, “File:Chinese-Ma-Hemp.Png,” Wikimedia Commons, September 20, 2020, <https://commons.wikimedia.org/wiki/File:Chinese-ma-hemp.png>.

<sup>34</sup> Shennong Bencaojing, or *The Divine Farmer’s Herb-Root Classic*

<sup>35</sup> Jaan Gumbiner, “History of Cannabis in India,” ed. Ekua Hagan, *Psychology Today*, June 16, 2011, <https://www.psychologytoday.com/us/blog/the-teenage-mind/201106/history-cannabis-in-india>.

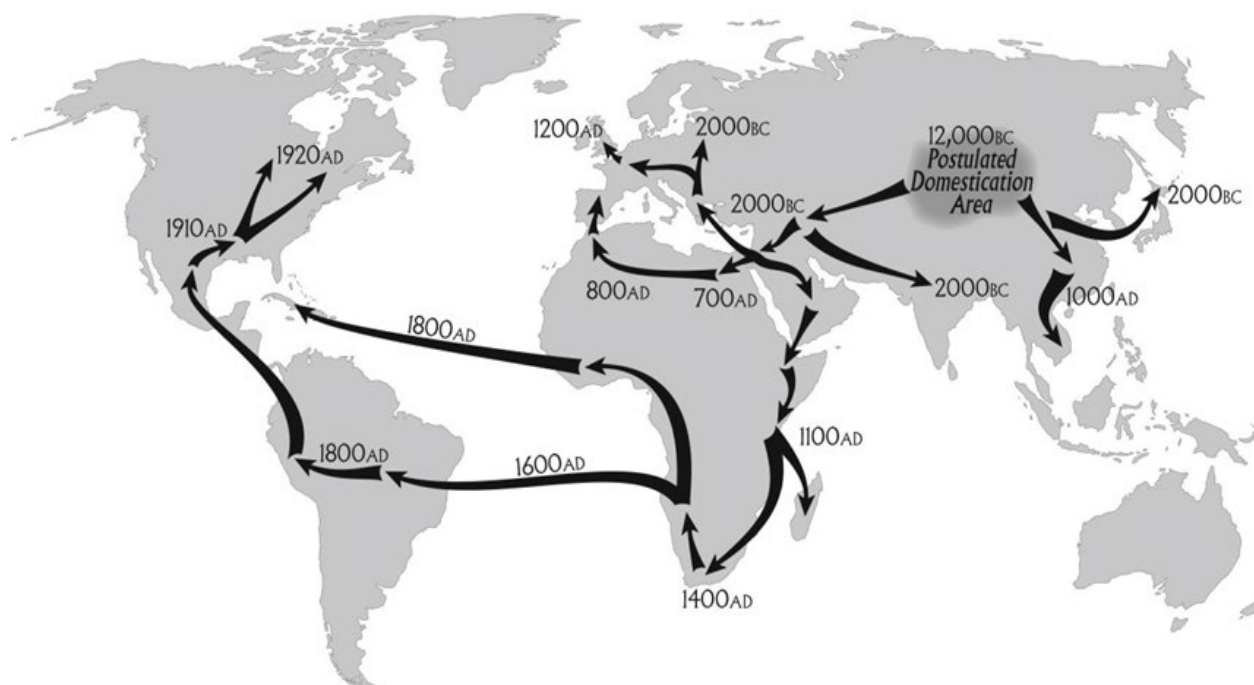


Figure 5: An approximate representation of the spread of cannabis throughout the world. Image credit to Barney Warf, University of Kansas<sup>36</sup>

How cannabis reached India, the Middle East, Europe, Africa, or any other areas of the “Old World” is not entirely known, but is generally attributed to the migration of the nomadic groups of the Central Asian steppes, who deliberately or accidentally brought seeds with them as they moved.<sup>37</sup> Indeed, given the material uses alone, it seems highly plausible that it was intentional that both the plant and the knowledge would spread. The earliest confirmed use of cannabis in the Mediterranean dates to 1500 BCE in Egypt where it is mentioned as helping reduce inflammation.<sup>38</sup> Greek sources mention the use of cannabis medicinally and recreationally, while Roman sources note medicinal and industrial uses of the plant.

<sup>36</sup> Barney Warf, “High Points: An Historical Geography of Cannabis,” *Geographical Review* 104, no. 4 (2014): 414–38, <https://doi.org/10.1111/j.1931-0846.2014.12038.x>.

<sup>37</sup> Merlin and Clarke, *Cannabis: Evolution and Ethnobotany*

<sup>38</sup> Crocq, “History of Cannabis and the Endocannabinoid System”

## Cannabis in the Medieval and Industrial Eras

Following the end of the Roman empire, knowledge on the medicinal uses of cannabis in the West was preserved in the Middle East by Arab and later Islamic scholars. Records of cannabis being used as a medicine by the Arabs exist as early as the 5<sup>th</sup> century CE,<sup>39</sup> but its use



Figure 6: An illustration of "garden hemp" (according to the Arabic on the left), dating to roughly 512 in the Vienna Dioscurides

as a recreational intoxicant appears limited until the birth of Islam, which forbids fermented beverages including, chiefly, alcohol. This was solidified when the Fatimid Caliphate formally banned alcohol in around 1000 CE, after which references to cannabis begin to dramatically increase, where it is called *hashish*, meaning "dry herb."<sup>40</sup>

Used for recreation, medicine, and also religious purposes, it is during this time that the first recorded myth about cannabis was created. In 1090, a man named Hassan-i Sabbah founded the Nizari Ismaili State (Nizari State) following the capture of the mountain castle Alamut, in what is now Syria. While they were widely considered

heretical,<sup>41</sup> the Nizari State had a large number of highly trained and deadly warriors that not only defeated Muslim and Crusader attacks on their fortresses but were exceptionally skilled in targeted political murders throughout the Muslim world and beyond. The strength of the Nizari State was exceptional despite its small size, and the Crusaders and Europe were understandably interested in trying to find out the reason that these warriors were not only so deadly, but seemingly unafraid of death. An explanation for this comes from Marco Polo, who recounts a

<sup>39</sup> Unknown Author, "File:Cannabissativadior.Jpg - Wikipedia," Wikimedia Commons, January 7, 2010, <https://en.wikipedia.org/wiki/File:Cannabissativadior.jpg>.

<sup>40</sup> Gabriel G. Nahas, "Hashish in Islam 9th to 18th Century," *Journal of Urban Health : Bulletin of the New York Academy of Medicine* 58, no. 9 (December 1982): 814–31.

<sup>41</sup> The Nizari Ismaili State was comprised of Nizaris, a sect of the Isma'ili, who are in turn a sect of the Shia Muslims, who are the largest of the two main branches of Islam. They were considered heretical for a number of reasons, but among them was their embrace of some mystical practices that much of the Muslim world felt went against the Quran and Muhammad's teachings.

rumor from his travels that Hassan fed young men a potion and then let them loose in a luxurious garden to make love, binding them to his doctrine and, when fed the potion before battle or a dangerous mission, would make them stronger and more ferocious.<sup>42</sup>

Polo himself gives no indication of what is in the potion, but in 1818 a scholar named Silvestre de Sacy claimed in his book *Memoir of the Dynasty of the Assassins and on the Etymology of their Name* that this drug was hashish.<sup>43</sup> As the name of the book would suggest, he was not interested in discovering the contents of what Polo's potion was. What de Sacy was trying to do was to find the origin of the word "assassin," with his book acting as a response to other linguists' etymologies which used questionable readings of Arabic to derive the term. In his work, de Sacy cites an alternative name used to describe the people of the Nizari State, "Hashashin." This is a corrupted form of *hashishiyya*, which de Sacy interprets as "hashish-eaters," or people who use hashish.<sup>44</sup> As mentioned earlier, the Nizari were infamous for targeted murders against political, religious, and military enemies; in English, we would call these "assassinations" and the perpetrators "assassins." Thus, De Sacy thinks that the Nizari were also called Hashashin because they prolifically used hashish, and because they were also renowned killers, when the Crusaders heard about them, they turned "Hashashin" into "assassin."

How is this important to the first recorded cannabis myth? Because the root word de Sacy translated to "hashish-eater" may not have been meant that literally. The Nizari were widely considered heretical, and many Muslims hated Hassan and his followers because of their faith. However, they could not defeat the Nizari State despite repeated attempts, and Nizari assassins were so effective that they rightly feared Hassan and his people. So, they decided instead to name-call and bad-mouth them, including one religious pamphlet issued around 1123 CE<sup>45</sup> by Fatimid caliph al-Amir which called the Nizari *hashishiyya* – hashish eaters. But rather than *literally* saying the Nizari used hashish, some think al-Amir was using the phrase *figuratively*; that he was calling Nizari beliefs and behaviors as crazy and silly *as* hashish users.<sup>46</sup> Think of it

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<sup>42</sup> Martin Booth, *Cannabis: A History*, Google Books (London, UK: Transworld Digital, 2011), Ch. 5, [https://www.google.com/books/edition/\\_/Mjn6sCiHoFIC?hl=en&gbpv=1&pg=PA84](https://www.google.com/books/edition/_/Mjn6sCiHoFIC?hl=en&gbpv=1&pg=PA84).

<sup>43</sup> Nahas, "Hashish in Islam 9th to 18th Century"

<sup>44</sup> Nahas, "Hashish in Islam 9th to 18th Century"

<sup>45</sup> Farhad Daftary, *The Assassin Legends: Myths of the Isma'ilis* (London, UK: I.B. Tauris, 2008).

<sup>46</sup> Caliph al-Amir would be assassinated by the Nizari in 1130 CE, though not because he essentially mocked the Nizari State as a nation of stoners. The Fatimids were Musta'li, direct religious and political rivals of the Nizari, making his murder a strategic political, military, and religious action. Were it not for that historical context, this

like this - if George calls Larry “gay” for crying during a movie, it is not because Larry is actually gay. George is using what he considers a bad thing to mock Larry for not being a stereotypical man.

While usage of the word *hashishiyya* in reference to the Nizari was uncommon, virtually all sources doing so are religious polemics (writings) extremely hostile to the sect, the Nizari people, and the actions of the state. This reinforces the idea that *hashishiyya* was meant as a figurative insult rather than a literal description of the Nizari and their practices. There is little to no evidence that the Nizari used large amounts of hashish,<sup>47</sup> and if they did it was not for combat because, as previously discussed, people who are high are generally not physically or mentally combat capable.<sup>48</sup> This does not, however, suggest that the Nizari did not use hashish at all. As mentioned, hashish was commonly used recreationally, and due to the influence of mysticism on Nizari beliefs, it is also possible that some rituals involved hashish. But unfortunately, we do not know for certain what the relationship truly was. The Nizari State was severely crippled in 1256 CE during Mongol campaigns, which sadly included the destruction of their famed library, including the truth of their hashish usage. Because the Nizari were considered heretical, this destruction means that our understanding is almost exclusively based on contemporary, hostile Muslim opinions.<sup>49</sup>

Unfortunately, this hostile treatment also extends to the accounts left by Crusaders, who would form the basis for later understanding of the “assassins” and cannabis. Throughout the mainline Crusades (1096-1291), Crusaders would sometimes encounter the Nizari and quickly realized that they were far more dangerous than many of the Muslims they faced. This included the assassination of Raymond II, count of Tripoli and heir to Antioch (one of the Crusader Kingdoms), in 1152.<sup>50</sup> Unfortunately, Crusader understanding was based on their combat experiences and the stories/rumors told to them by other Muslims who, as we have discussed, despised the Nizari. The Crusaders and their chroniclers had no interest in learning about Islam or Islamic culture and, upon being told about a mysterious, hedonistic, and heretical group who lived in the mountains, murdered extensively, and used hashish, they took these almost at face

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may have been one of the first instances of cannabis, or drugs in general, being used as a reason to destabilize a government.

<sup>47</sup> Booth, *Cannabis: A History*, Ch. 5

<sup>48</sup> See Page 11 of this report. See also Daftary, *The Assassin Legends*

<sup>49</sup> Daftary, *The Assassin Legends*

<sup>50</sup> Daftary, *The Assassin Legends*



value. Without understanding or trying to understand the beliefs and motivations of Muslims like the Nizari live, fight, and die, the Crusaders chalked them up to be drug-crazed professional killers in their accounts of the Muslim world.<sup>51</sup>

In the centuries that followed, the narrative around hashish and cannabis would be shaped by these inaccurate records. **Thus, the first great cannabis myth was born - that cannabis encourages violence and brutishness in its users - and this tragedy would come to define millions of lives, many of them people of color, in the centuries to come.** Indeed, some



*Figure 7: An undated engraving of Hassan i-Sabbah, founder of the Nizari Ismaili State. While remembered for their violence, the Nizari were also scholars, artists, and creative luminaries of their age, an often-forgotten fact.*

consider this association, combined with the real intoxicating powers of hashish, that would lead to subsequent Muslim rulers alternately tolerating and punishing the use of hashish in their countries. Crocq gives one such example dating to 1378, when an emir decreed that those who used it would have their teeth pulled out;<sup>52</sup> a harsh, painful, and ridiculous punishment that did nothing to discourage the continued use of cannabis. But as an example of the long-lasting impact of the Crusader narrative and subsequent analysis, take one piece from an outlet called “Big Think” which holds the questionable title “History’s First Terrorists.” In it, the author gives a surface level account of the Nizari State’s assassins as “drug pumped young men”<sup>53</sup> who fanatically killed on the orders of Hassan i-Sabbah,<sup>54</sup> a depiction that serves to both reinforce the idea of

the Islamic world being a source of terror and cannabis as a drug that creates violence.

While scarce, there is some evidence to suggest that around the time of the Nizari State’s destruction, cannabis had not only reached but was being used in Africa. The record is

<sup>51</sup> Booth, *Cannabis: A History*, Ch. 5

<sup>52</sup> Crocq, “History of Cannabis and the Endocannabinoid System”

<sup>53</sup> Paul Ratner, “History’s First Terrorists,” Big Think, April 19, 2022, <https://bigthink.com/the-past/historys-first-terrorists/>.

<sup>54</sup> Unknown Author, “File:Asabah2.Jpg - Wikipedia,” Wikipedia, January 6, 2011, <https://en.wikipedia.org/wiki/File:Asabah2.jpg>.

unfortunately quite patchy, but it is considered possible that cannabis had reached Africa around 2000 BCE and definite by the 1<sup>st</sup> century CE, as indicated by pollen records from lake sediment cores and pollen fossils in caves. Pipes with cannabis in them dating to between 1240 and 1400 CE have been recovered in Ethiopia, with others dating back as early as 1100 CE found in Zambia, which indicates that cannabis use was at least present in sub-Saharan Africa.<sup>55</sup> Unfortunately, these have yet to be fully proven as evidence for active human cultivation, and there is little archeological or botanical evidence that extensive cultivation occurred, at least comparable to other regions. It is also noted that cannabis use may have predominantly been in the form of communal “breathe ins”, where hemp would be tossed on fires and members would take turns inhaling the smoke via a tube.

The Crusaders encountered cannabis during their wars in the Middle East, but to say they connected the potent hashish of the Islamic world to the hemp in their lands would be extremely unlikely. Cannabis is believed to have arrived in force to Europe with the Germanic tribes that had heralded the end of the Roman Empire in the 5<sup>th</sup> century, though Roman records indicate that local varieties had likely existed for some time prior to them.<sup>56</sup> Concurrently, it spread north to Scandinavia and crossed the Channel to Britain several centuries later. But this was for practical purposes; Europe used cannabis hemp first and foremost a material, making cloth, rope, and oil. There was medical use for cannabis, but this was often intertwined with folkish beliefs of cannabis having magical powers – for instance, cannabis was used to help with toothaches because it was



Figure 8: A medieval depiction of tooth extraction. Note the “worm” that the teeth are sticking out of; hemp, among other herbs, was intended to “put it to sleep.”

<sup>55</sup> Mark David Merlin, “Cover Article: Archaeological Evidence for the Tradition of Psychoactive Plant Use in the Old World,” *Economic Botany* 57, no. 3 (Autumn 2003): 295–323, [https://doi.org/10.1663/0013-0001\(2003\)057\[0295:aettto\]2.0.co;2](https://doi.org/10.1663/0013-0001(2003)057[0295:aettto]2.0.co;2).

<sup>56</sup> Jaime Staff, “The History of Cannabis Part 2: Medieval and Colonial Worlds,” Snapdragon Hemp, August 8, 2022, <https://www.snapdragonhemp.com/the-history-of-cannabis-medieval-and-colonial-worlds/>.

“believed it [cannabis] drugged or put to sleep the worms that caused the pain.”<sup>57</sup> Yes, Europeans believed for centuries that *worms in one’s teeth* were the cause of tooth pain.<sup>58</sup>

The European climate meant that cannabis produced far less THC, and thus less psychoactive effects, but the folkish attributions of magical properties and use by “sorcerers” meant that in 1231, the Catholic Church launched an effort to stamp out cannabis, labeling it heretical and a plant of the same Satanic import as other poisonous plants. Use continued in a subsumed manner for several centuries until the Portuguese began to bring back hashish to Europe in the 1500s, though they would not be the ones to fully realize its potential as a product. That distinction would belong to the British, who after some debate in the late 1700s over whether or not to try to ban the product in their colonial Indian possessions, ultimately decided that the costs and unrest associated with a ban would far outweigh the potential profits of sale.<sup>59</sup>

This decision sits squarely between two other major developments. First is the introduction of cannabis to the New World in 1545 when the Spanish brought the plant over for its industrial purposes.<sup>60</sup> Just under a hundred years later, the British colony of Jamestown would mandate the growing of hemp due to its material uses, and the American hemp industry would see significant growth for the next few centuries. This would ultimately reverse following the American Civil War, at which point hemp production declined against cheap imports.<sup>61</sup> In Europe, during the Napoleonic Wars, French troops “rediscovered” hashish while stationed in Egypt as there was no alcohol to be had. It apparently became such a problem that in 1800 a ban on its use was issued and the French would crack down on shops and vendors, but this had little effect and following the return of the troops to France, hashish followed, greatly increasing interest in its psychoactive properties.<sup>62</sup> As a side note, this also inspired a wave of interest in the “Assassins” discussed earlier, and it is partially due to this craze that de Sacy wrote his book making the false connection between the violence of the Nizari State and cannabis.

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<sup>57</sup> Booth, *Cannabis: A History*, Ch. 6

<sup>58</sup> Karen Maitland, “‘Killing the Worm That Gnaws at the Tooth’ by Karen Maitland,” The History Girls, January 8, 2016, <http://the-history-girls.blogspot.com/2016/01/killing-worm-that-gnaws-at-tooth-by.html>.

<sup>59</sup> Booth, *Cannabis: A History*, Ch. 6

<sup>60</sup> Mark Tancig et al., publication, Industrial Hemp in the United States: Definition and History (University of Florida, September 16, 2016), <https://edis.ifas.ufl.edu/publication/AG458>.

<sup>61</sup> Sy Nguyen, “History of Cannabis in Early America - Sapphire Risk Advisory Group,” Sapphire Risk Advisory Group, July 27, 2022, <https://www.sapphirerisk.com/history-of-cannabis-in-early-america/>.

<sup>62</sup> Booth, *Cannabis: A History*, Ch. 7

On the other side of the British decision, in 1833 a doctor named William Brooke O'Shaughnessy joined the infamous British East India Company as an assistant surgeon. It was this fateful decision that would see the first recorded clinical studies of the effects of cannabis, as O'Shaughnessy noted the prevalence and effects of Indian cannabis. Following several years of study, in 1842 and 1844 O'Shaughnessy published *The Bengal Dispensatory* and *The Bengal Pharmacopoeia* respectively, both containing mentions of cannabis and its effects, which greatly increased interest in cannabis as a psychoactive and medicinal substance in Britain.<sup>63</sup> Indeed, Queen Victoria herself was prescribed a cannabis tincture created by O'Shaughnessy and a pharmacist by her personal physician for menstrual pains. As in Europe, cannabis as a medicine became extensively popular and was widely available in pharmacies across America, usually as tinctures or other “medicinal” forms. This was as much philosophical as practical; THC had yet to be discovered, but pharmacists and scientists had quickly realized that not all cannabis was equal in its effectiveness. Tinctures and extracts were therefore necessary to “standardize” dosages to avoid under or overdosing patients.

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<sup>63</sup> Brian Houlihan, “Sir. William Brooke O'Shaughnessy - Medical Cannabis Pioneer,” Medium, August 10, 2018, <https://medium.com/@dubhempmuseum/sir-william-brooke-oshoughnessy-medical-cannabis-pioneer-c94798fd7722>.

## Cannabis in Early to Mid-20<sup>th</sup> Century America

However, this “golden age” of cannabis was not to last as the invention or discovery of drugs like aspirin, which were potentially more toxic but also far more effective, displaced it as a medicine. Moreover, while Queen Victoria had herself been prescribed cannabis, the rigid social and moral structure that bears her name ultimately did more to harm the position of cannabis in the West than any other bans had before. The Victorian Age was defined by, among many other things, the importance of appearance and propriety above all; the potentially intoxicating effects of cannabis and other drugs was viewed and blamed for a variety of social ills. In Britain and America, cannabis was severely hampered by associations with legitimately dangerous drugs of the day, chiefly opium and morphine, which were highly addictive.

This was accentuated by more than a touch of racism by white Europeans. By this time, colonial attitudes and the racial pseudoscience were firmly established, and many of the civilizations that had introduced and developed the use of cannabis were viewed with extensive hostility and suspicion. Beginning in the second half of the 1800s, articles reflecting on hashish and cannabis use in America negatively associated it with “Oriental” exoticism and mysticism.<sup>64</sup> **For a country like the United States, historically intolerant to non-white people and hot off the heels of a significant religious and moral revolution,<sup>65</sup> cannabis was a natural enemy; originating from the still-mysterious Asian and Middle Eastern lands, whose people were strange and *not white*.**

In 1906, the Pure Food and Drug Act was passed in the United States. A sweeping piece of legislation aimed at protecting the peoples’ health and would lay the foundation for the modern Food and Drug Administration (FDA), this act had immense implications for the future of cannabis in the United States. For the first time, drug makers could not patent or sell medicine with secret ingredients, which meant that many “miracle cures” that used drugs like morphine or cannabis now had to include them on ingredient labels.<sup>66</sup> This came during a surge of American xenophobia targeted at legal Mexican immigrants fleeing civil war, and newspapers around the country were running stories of Mexicans and the cannabis which ““continues to impel *people of*

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<sup>64</sup> Booth, *Cannabis: A History*, Ch.8

<sup>65</sup> This period, taking place in the mid to late 1800s, is typically called the Second Great Awakening

<sup>66</sup> Four Green Fields Staff, “A History of Medical Cannabis in America: 1900-1960,” Four Green Fields, LLC, September 22, 2020, <https://www.fourgreenfieldsllc.com/blog/2020/9/8/a-history-of-medical-cannabis-in-america-part-1-1900-1960>.



*the lower orders*[italics added] to wild and desperate deeds.”<sup>67</sup> The fear was so great that in 1913, California passed the first law restricting the use and sale of cannabis, which other states rapidly followed suit. This era is where many of the myths related to cannabis were either created or reintroduced, including but not limited to:<sup>68</sup>

- That cannabis causes users to become violent, aka the “first cannabis myth”<sup>69</sup>
- That cannabis use leads to other psychotic behaviors
- That cannabis use permanently damages a user’s mind
- That cannabis use can “dry the brain”, leading to death
- That cannabis is Satanic, and usage constitutes a moral, even religious, failing<sup>70</sup>



Figure 9: A poster for the propaganda film "Devil's Harvest." Note the "evil" attributes of cannabis, as well as the use of a scantily clad woman to convey the moral message.

It is also around the 1920s time that the word “marijuana,” which existed at least as far back as the 1840s, became the primary American word for cannabis.<sup>71</sup> It became the term of choice because of its phonetic (meaning how it sounds) similarity to Spanish, the language of the Mexican immigrants who were now the target of a vicious, racist smear campaign. Newspapers of the day seemed to ignore that Mexico was also cracking down on cannabis,<sup>72</sup> and instead focused on the perceived proliferation of the substance and the “degenerates” who were responsible. Almost coincidentally it was in the 1920s that jazz, a genre with extensive roots in Black communities, first exploded into mainstream cultural consciousness. The intersection of

<sup>67</sup> Kyle Jaeger, “Library of Congress Highlights Racist News Coverage Used to Justify Criminalizing Marijuana a Century Ago,” Marijuana Moment, June 16, 2020, <https://www.marijuanamoment.net/library-of-congress-highlights-racist-news-coverage-used-to-justify-criminalizing-marijuana-a-century-ago/>.

<sup>68</sup> Matt Thompson, “The Mysterious History of ‘Marijuana,’” NPR, July 22, 2013, <https://www.npr.org/sections/codeswitch/2013/07/14/201981025/the-mysterious-history-of-marijuana>.

<sup>69</sup> See pages 14-15

<sup>70</sup> Takeshi Mori, “5 Anti Weed Posters from Back in the Day: It’s Primo Blog,” Its Primo, May 21, 2019, <https://itsprimo.com/5-anti-weed-posters-from-back-in-the-day/>.

<sup>71</sup> Anna Wilcox, “The Origin of the Word ‘Marijuana,’” Leafly, July 28, 2020, <https://www.leafly.com/news/cannabis-101/where-did-the-word-marijuana-come-from-anyway-01fb>.

<sup>72</sup> Thompson, “The Mysterious History of ‘Marijuana’”

jazz and cannabis is extensive; pioneers like Billie Holiday, Louie Armstrong, and many others either used or referenced cannabis in their music,<sup>73</sup> and cannabis was frequently used by jazz listeners and dancers. This association is incidentally where the terms “jazz cigarette” and “reefer” come from, the latter derived from the 1932 song “Reefer Man” by Cab Calloway about a cannabis seller.



Figure 10: A 1935 notice about the dangers of cannabis<sup>74</sup>

At this point in the story of cannabis in America two men properly enter the narrative, William Randolph Hearst and Harry Anslinger. This report has mentioned Hearst before; a newspaper titan unmatched even by the empire of Rupert Murdoch, Hearst is remembered primarily for sensationalizing and exaggerating news stories to sell papers. He is responsible for popularizing many of the myths associated with cannabis, once labelling it as “a short cut to the insane asylum...what was once your brain will be nothing but a storehouse for horrid specters.”<sup>75</sup> Hearst is also remembered as an unmitigated racist who likely did more than anyone in the early 1900s to cement the perceived connection of “reefer madness” and people of

<sup>73</sup> Rob Mejia, “The Intersections of Jazz, Cannabis and Black History I Opinion,” NJ.com, February 16, 2023, <https://www.nj.com/opinion/2022/02/the-intersections-of-jazz-cannabis-and-black-history-i-opinion.html>.

<sup>74</sup> Brent Staples, “The Federal Marijuana Ban Is Rooted in Myth and Xenophobia,” The New York Times, July 29, 2014, <https://www.nytimes.com/2014/07/30/opinion/high-time-federal-marijuana-ban-is-rooted-in-myth.html>.

<sup>75</sup> Robert Solomon, “Racism and Its Effect on Cannabis Research,” Cannabis and Cannabinoid Research 5, no. 1 (February 27, 2020): 2–5, <https://doi.org/10.1089/can.2019.0063>.

color.<sup>76</sup> While the historical evidence for the theory that Hearst helped write what became the 1937 Marihuana Tax Act is shaky,<sup>77</sup> his contributions to the demonization of cannabis and its association with communities of color make him a spiritual godfather of that law and future enforcement.

Harry Anslinger,<sup>78</sup> by contrast, had a very real, and immensely damaging, hand in defining American cannabis policy for the next several decades. He was appointed as the first commissioner of the Federal Bureau of Narcotics in 1930, the Bureau being the predecessor of the modern DEA. An ardent prohibitionist, Anslinger shared Hearst's hatred of cannabis and minorities to such an extent it could be said that he even eclipsed Hearst in those respects. Anslinger was known to use racist language constantly, to the point that even conventional racists were uncomfortable, and was incredibly concerned that cannabis use could encourage Black men to "lust after white women"<sup>79</sup> and "makes darkies think they're as good as white men."<sup>80</sup> His hatred of cannabis itself was such that, in a sign of



*Figure 11: Harry Anslinger, first head of the Federal Bureau of Narcotics and the grandfather of the War on Drugs*

things to come, he would regularly disregard facts if they contradicted the narrative of the "Killer Weed" that he spun for both the government and the public.<sup>81</sup> His horror stories allowed him incredible leeway in targeting cannabis and other narcotics, including the establishment of many modern law enforcement techniques like undercover agents.

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<sup>76</sup> Jaeger, , "Library of Congress Highlights Racist News Coverage Used to Justify Criminalizing Marijuana a Century Ago"

<sup>77</sup> Dunning, "Hemp, Hearst, Prohibition". See also page 8.

<sup>78</sup> Staff WNYC, "The Man Who Declared War on Drugs: On the Media," WNYC Studios, April 14, 2017, <https://www.wnycstudios.org/podcasts/otm/segments/man-who-declared-war-drugs>.

<sup>79</sup> Trevor Buruss, "Marijuana Prohibition Was a Farce from the Beginning," The Cato Institute, October 13, 2022, <https://www.cato.org/commentary/marijuana-prohibition-was-farce-beginning#>.

<sup>80</sup> Wilcox, "The Origin of the Word 'Marijuana'"

<sup>81</sup> Booth, *Cannabis: A History*, Ch.13

Capitalizing on Congressional ignorance that cannabis and marijuana were the same drug, in 1937 Anslinger's signature achievement was passed – the Marihuana Tax Act of 1937. This was not an explicit prohibition on cannabis, as it is frequently portrayed, but rather made it illegal for anyone to do anything commercial with cannabis without getting a license *and* paying a tax, delineated below:<sup>82</sup>

1. Importers, manufacturers, compounders - \$24/year
2. Producers - \$1/year
3. Doctors, dentists, vets, etc. - \$1/year
4. Researchers - \$1/year
5. Anyone else - \$3/year IF they have also registered and paid the fee associated with either bullet 1 or bullet 2

When the Act was passed in 1937, the median income was around \$1,300,<sup>83</sup> roughly \$28,622 in 2023 dollars, and the taxes outlined in the act ranged from \$21 to \$582 in 2023 dollars. But here is the kicker – those taxes only applied to *industrial* enterprises, i.e., people who had registered for a license, as a cost of doing business. One could still buy cannabis regardless of whether they had a license or not *if* they paid another tax, and that is where the law goes from an annoyance to an effective ban. If one had a license, they had to pay the modern equivalent of \$21 per ounce, but if the recipient was unlicensed, they had to pay \$2,154 *per ounce* (\$100 in 1937). In other words, the 1937 law made it so that a person would have to pay about 10% of their annual income for an *ounce* of cannabis, and this is based on the *median income*. In Depression-era America, to say these taxes killed the legal cannabis industry is a gross understatement. Another casualty was the struggling hemp industry, since while the Act theoretically did not prohibit cultivation or require a license if you were growing cannabis for hemp.<sup>84</sup> In practice, though, farmers had no way to prove they were not using the forbidden parts of the plants, and the hemp industry was effectively dead by 1940. It has been posited that were it not for the law, America could have become a self-sufficient natural fiber producer via hemp

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<sup>82</sup> David Solomon, "The Marihuana Tax Act of 1937," The Marihuana Tax Act of 1937 - Full Text of the Act, 2023, Section 2, <https://www.druglibrary.org/schaffer/hemp/taxact/mjtaxact.htm>.

<sup>83</sup> Diane Petro, "Brother, Can You Spare a Dime?," National Archives and Records Administration, Spring 2012, <https://www.archives.gov/publications/prologue/2012/spring/1940.html>.

<sup>84</sup> Solomon, "The Marihuana Tax Act of 1937" Section 1(b)



thanks to an invention, the decorticator, that made extracting the fiber far more cost-effective, but this was not to be.

In an ironic twist of fate, however, the death of the hemp industry had immense repercussions when America entered World War II. The military had a sudden and desperate need for ropes, textiles, and oil that the hemp industry would have otherwise supplied, and indeed there was a brief reversal in policy which saw domestic hemp production supported by the government. In the same vein as scrap metal and other now-precious material drives, rural children were almost begged by the government to forage or even grow wild hemp for the war effort.<sup>8586</sup> This was similarly ironic, as Anslinger's cannabis eradication drive had even included a national effort to destroy wild hemp. While the liberation of Europe and end of the war ultimately ended the brief resurgence of hemp farming, this is a footnote of history that illustrates the immense hypocrisy of the American government when it comes to drugs; it would not be the last.

Anslinger remained committed to eliminating cannabis, but what that really meant was targeting the communities of color he so despised and associated cannabis with. Due to legal issues arising from attempts to prosecute cannabis uses, the rhetoric was scaled down but not the violent oppression was not. Throughout the 1950s, national policy remained largely unchanged beyond the 1952 Boggs Act and 1956 Narcotics Control Act.<sup>87</sup> These laws, which created the first

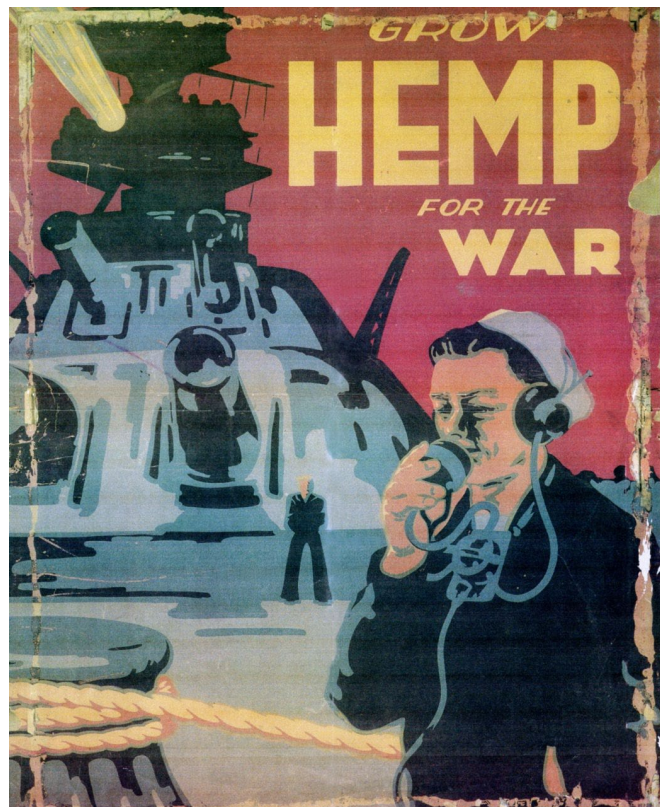


Figure 12: A World War II poster urging Americans to grow hemp in order to produce ropes and other materials for the war effort. Credit to the Hash, Marihuana and Hemp Museum.

<sup>85</sup> Booth, *Cannabis: A History*, Ch.13

<sup>86</sup> 1. Hash Museum Staff, "Hemp for Victory," Hash Marihuana & Hemp Museum, August 12, 2021, <https://hashmuseum.com/en/collection/growing-hemp/hemp-for-victory/>.

<sup>87</sup> Narconon Staff, "Twentieth Century Marijuana," Narconon, 2023, <https://www.narconon.org/drug-information/marijuana-20th-century.html>.



mandatory minimums related to cannabis, subjecting first-time cannabis possession with 2-10 years in prison and a fine up to \$20,000,<sup>88</sup> established the American attitude towards drugs and drug users – to ban the former and lock up the latter. But little else changed; the narrative still promulgated the evils of cannabis and its association with people of color, but less explicitly through the methodical releases of crime reports, annual arrest summaries, and other data by Anslinger. These reports all showed that Black and brown communities were arrested at significantly higher rates for drug crimes, especially cannabis.<sup>89</sup>



*Figure 13: A poster for the infamous film "Reefer Madness." Several crucial elements of the cannabis scare campaign appear, including scantily clad, photogenic white women, mistruths about cannabis addiction, and invoking "vulnerable" children.<sup>90</sup>*

<sup>88</sup> Four Green Fields, "A History of Medical Cannabis in America: 1900-1960"

<sup>89</sup> Booth, *Cannabis: A History*, Ch.13

<sup>90</sup> Charles P. Pierce, "The Racism Was Baked in from the Beginning of Reefer Madness," *Esquire*, May 24, 2023, <https://www.esquire.com/news-politics/politics/a41561335/biden-marijuana-reefer-madness/>.

What the reports did not disclose is that while his rhetoric targeting these communities as drug peddlers and users had declined, disproportionate targeting had not. Anslinger had fully realized as early as the 1930s that if he wanted to connect minorities to drugs, all he needed to do was enforce the law in minority communities so thoroughly that the data would say what he could not. A stereotype was created and so thoroughly ingrained in the American psyche through disproportionate targeting of communities of color that its implications continue to haunt the country to this day. Anslinger retired from the Federal Bureau of Narcotics (FBN) in 1962; by most accounts, he predates the next phase in American cannabis history, the War on Drugs, by at least a decade. But in truth, by the time Nixon declared the war, he was too late. **The real War on Drugs began in 1930 when one man, with an unmitigated hatred of a plant and a people, got the power to eradicate both; while he ultimately failed, he destroyed millions and crippled millions more Black and brown lives in the process.**



Figure 14: A 1937 article entitled "Marijuana: Assassin of Youth" by Harry Anslinger. Note that the youth portrayed in the top are white and look to be upper or middle class, an image of "respectability" for those Anslinger was trying to scare. From the collection of the Hash, Marijuana, and Hemp Museum.<sup>91</sup>

<sup>91</sup> HMH Museum Staff, "Assassin of Youth," Hash Marihuana & Hemp Museum, February 6, 2023, <https://hashmuseum.com/en/collection/reefer-madness/assassin-of-youth/>.

## The War on Cannabis (and People of Color)

On June 17<sup>th</sup>, 1971, Richard Nixon addressed the White House Press Corp and declared, using inflammatory and militaristic language, that America would fight what the press labelled a “war on drugs.”<sup>92</sup> This is the clearest date available to mark the beginning of the War on Drugs, but it should be clear by now that when it comes to cannabis, nothing is clear. While this report has argued that roots of the War begin with the appointment of Harry Anslinger, a more accepted origin is the counterculture movement of the 1960s. To grossly oversimplify, the movement was marked by a rejection of traditional white American social and economic structures, opposition to the Vietnam War, and civil rights advocacy. It is important to note that this was not a unified movement, and that certain elements and ideas of the movement (especially Black and brown civil rights protesters) faced far more significant opposition and rejection than others. Moreover, while the movement was characterized by common aspirations to reject the old socioeconomic order and embrace more liberal ideas, differing groups could and did have extensive differences in how they expressed and advocated for these ideas.

The point of saying this is that while popular conception of the counterculture movement rightfully includes a strong association with drugs,<sup>93</sup> use cannot be generalized across the movement except in the broadest sense. Cannabis is a microcosm of this idea. For example, many consider the Beatniks, or Beats, of the late 1940s and early 1950s to have defined the place of cannabis in what became the counterculture movement, but this is intensely exclusionary. Beat generation luminaries Allen Ginsberg, Jack Kerouac and William Burroughs were all white men, but much of their philosophy was drawn from the Boppers, Black jazz musicians in 1940s New York who rebelled against the perceived perversion of jazz by white musicians.<sup>94</sup> By the time the Beats began to nascently form by hanging with the Boppers, the 1937 cannabis law had existed for nearly a decade and Anslinger, with his persecution of minorities and cannabis, had been in power for nearly two.

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<sup>92</sup> Benjamin T Smith, “New Documents Reveal the Origins of America’s War on Drugs,” Time, August 24, 2021, <https://time.com/6090016/us-war-on-drugs-origins/>.

<sup>93</sup> Donald R. Wesson, “Psychedelic Drugs, Hippie Counterculture, Speed and Phenobarbital Treatment of Sedative-Hypnotic Dependence: A Journey to the Haight Ashbury in the Sixties,” *Journal of Psychoactive Drugs* 43, no. 2 (Spring 2011): 153–64, <https://doi.org/10.1080/02791072.2011.587708>.

<sup>94</sup> Booth, *Cannabis: A History*, Ch.17



For the Boppers, using cannabis and heroin was more than rejecting the law. **Cannabis use by the Boppers was a protest of the racism and discrimination they faced, the co-opting of their culture, and the aspirations of social respect.** While the Beats respected and were undoubtedly influenced by these ideas, their philosophy revolved more around the rejection of sociocultural norms in the pursuit of freedom and authentic experiences. Whereas cannabis was a social statement for the Boppers, to the Beats it and other drugs were a means to achieve a liberation from society.<sup>95</sup> Did both groups use cannabis as an additive to their works? Yes. Was it used to similar ends? To an extent. The Beats were inspired by the ideas of social, economic, and racial justice, believed in it themselves,<sup>96</sup> and in turn inspired the counterculture of the 1960s, but they were white men who had the luxury of choice to oppose the norm by doing things like cannabis. The Boppers, and people of color as a whole, had no choice but to be opposed to the norm; unwanted and hated by it, using cannabis was a defiant gesture by men and women who were already beyond saving to the powers of the day.



*Figure 15: A photo of a "Hash Bash" in 1977. Note the diversity, or lack thereof, within the crowd milling about.<sup>97</sup>*

<sup>95</sup> Encyclopedia.com Staff, "Beatniks and the Beat Movement," Encyclopedia.com, June 21, 2023, <https://www.encyclopedia.com/history/culture-magazines/beatniks-and-beat-movement>.

<sup>96</sup> Allen Ginsberg, "Allen Ginsberg's Definition of The Beat Generation," Literary Hub, April 20, 2017, <https://lithub.com/allen-ginsbergs-definition-of-the-beat-generation/>.

<sup>97</sup> Ryan Stanton, "A History of Hash Bash and Marijuana Activism in Ann Arbor," mlive, April 6, 2019, <https://www.mlive.com/news/g66l-2019/04/9de0d746255993/a-history-of-hash-bash-and-marijuana-activism-in-ann-arbor.html>.

Reviewing this divide is important because, by the time the 1960s countercultural movement was in full swing, that disparity meant everything. At this point, it is worth going into some more detail about who made up the movement and what the issues were. The counterculture movement is typically attributed to younger people, the children of the so-called “Silent” and “Greatest” generations, who were born and/or lived through the Great Depression and the Second World War, more commonly known today as the Baby Boomers, or “Boomers.” While generations are a broad and arguably useless way of categorizing population cohorts, the general timelines place many of the men and women who became hippies as Baby Boomers. These were white, middle-class youth who, rejected the norms and situations of their time in favor of social and cultural changes.

Concurrently, the civil rights movement was picking up steam as Black and brown Americans demanded equality with white Americans. These two movements, for reasons previously stated, had a level of synergy between them in the common goal of disrupting social structures, though like the differences between the Boppers and the Beatniks, the stakes and purpose of cannabis within these distinct silos of the counterculture movement varied dramatically. As before, white hippies using cannabis and experiencing reprisals for the first time were making a choice that members of the civil rights movement did not have. By this time the 1937 cannabis law had existed for at least 30 years, and the 1952 Boggs Act and 1956 Narcotics Control Act for over a decade. Anslinger’s hatred of minorities and cannabis having been established, it is worth considering what the costs of his heretofore private war had been on communities of color, compared to white communities.

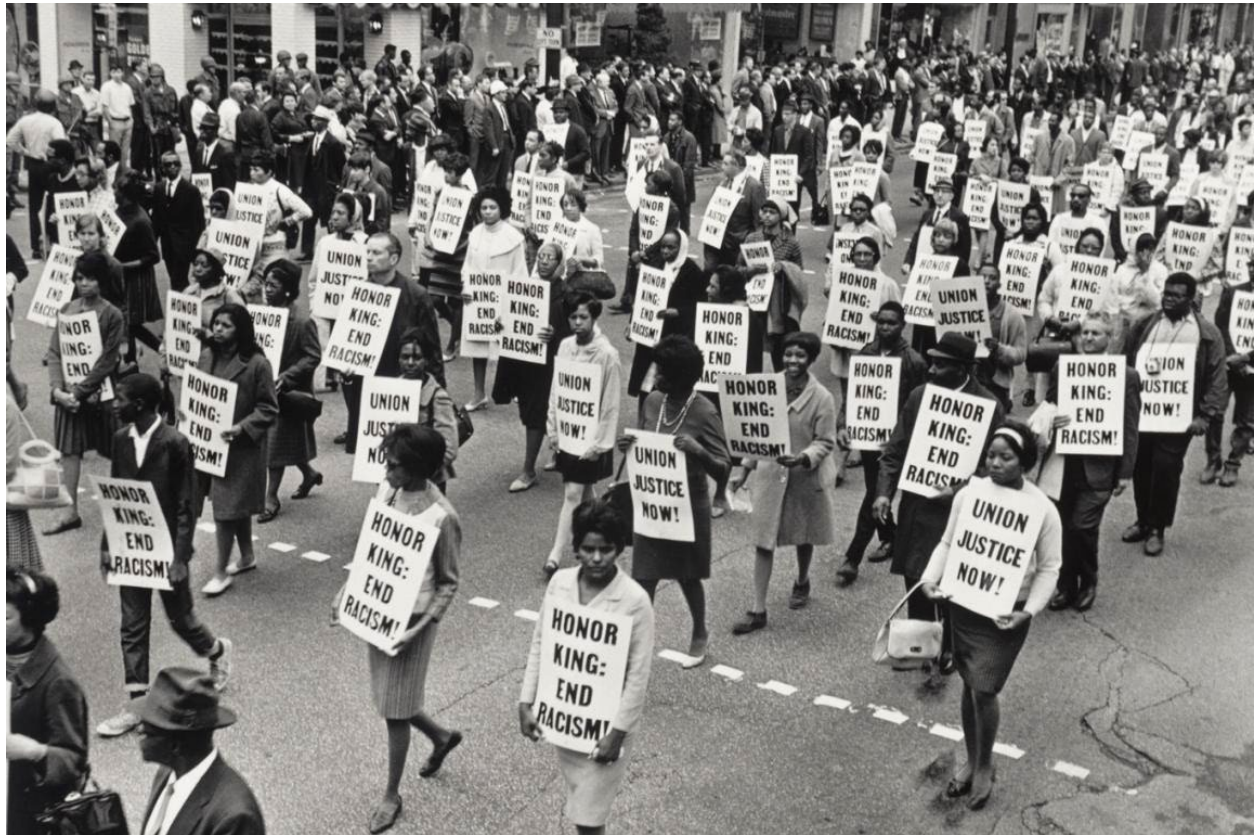
Unfortunately, extensive national arrest and punishment records for the period between 1937 and the late 1960s/early 1970s are effectively non-existent. During that time, enforcement of these laws had been at the local level, supported by the FBN.<sup>98</sup> Yet even local records are scarce; in New York City, for example, the New York City Police Department (NYPD) has no easily accessible records from anywhere before the late 80s, leading one to question if they even exist. And this is just for summaries of crime, grouped in several broad categories; specific crime data is unclear until far more recently, and is again far from complete. On the basis of what has already been discussed, however, it is safe to assume that people of color during this period were

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<sup>98</sup> Office of Congressional Research and Lisa N. Sacco, Federation of American Scientists § (2014), Drug Enforcement in the United States: History, Policy, and Trends.



arrested and punished at far higher rates than their white hippie equivalents. But as the movement grew, so too did the fears of the white elites and conservative pundits who embraced the narrative that drugs, sex, and rock and roll (and Black and brown people agitating for their rights) were undermining the core of America's values.



*Figure 16: A memorial march following the assassination of Martin Luther King Jr. in 1968.<sup>99</sup>*

Winding back the clock a little, in 1964 Lyndon B. Johnson signed the landmark Civil Rights Act, which among other things formally forbade discrimination along racial lines in work, public spaces, and voting.<sup>100</sup> This is the law that ended the exclusionary, racist laws of Jim Crow in the South and eliminated many of the common practices used to disenfranchise voters of color, which promised to fundamentally shift the balance of political power in the United States as millions of Black and brown Americans were given (again) the right to vote.<sup>101</sup> America at the time was still majority white, majority Christian, and enthralled with the mythos of the American

<sup>99</sup> NMAAHC Staff, "The 15 Year Battle for Martin Luther King, Jr. Day," National Museum of African American History and Culture, May 2, 2023, <https://nmaahc.si.edu/explore/stories/15-year-battle-martin-luther-king-jr-day>.

<sup>100</sup> National Archives Staff, "Black Americans and the Vote," National Archives and Records Administration, June 9, 2021, <https://www.archives.gov/research/african-americans/vote>.

<sup>101</sup> At least until new voter disenfranchisement laws, such as ID requirements, were implemented

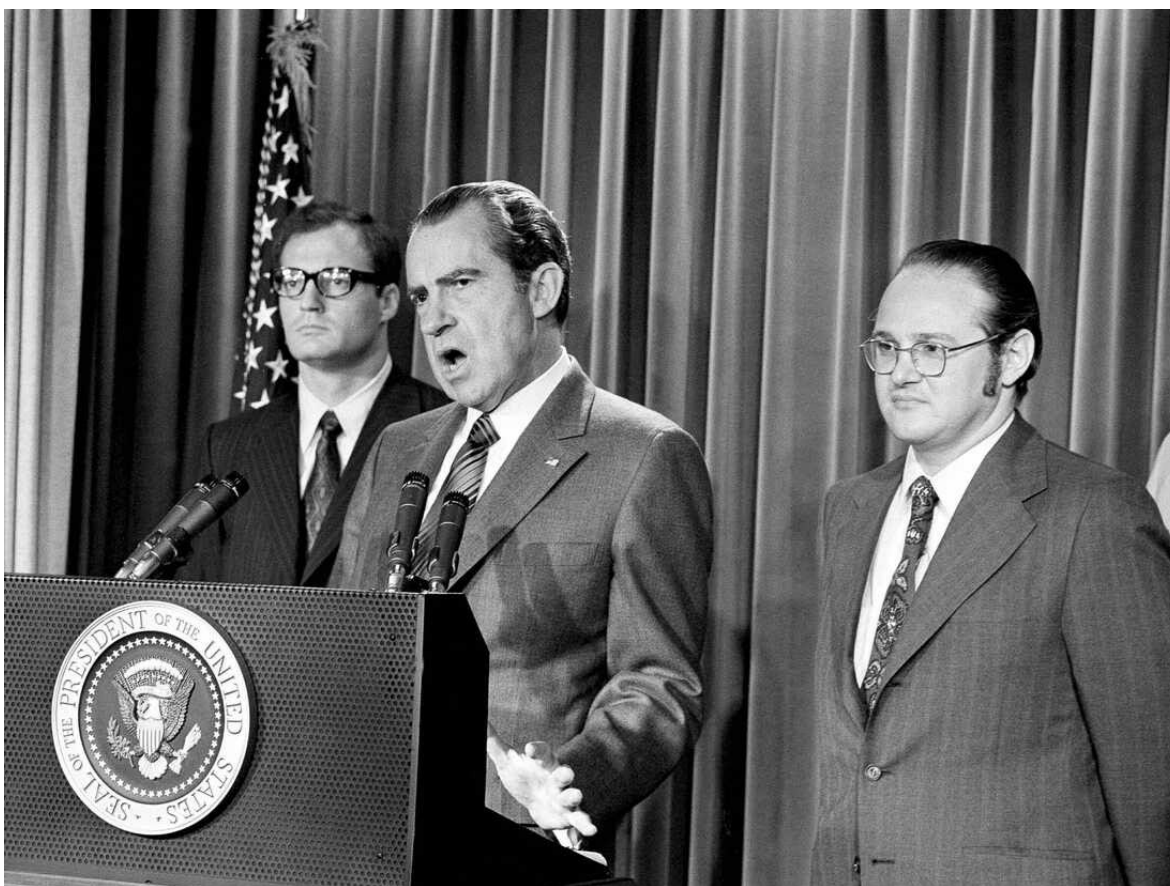
dream, which had until then excluded everyone who was not white. The Civil Rights Act, along with further advocacy following its passage, was a violent shake to white voters, as were the protests-turned-riots following the assassination of American civil rights activist Martin Luther King Jr. four years later.

But this is far from the only pressure that white Americans felt. Growing resentment against the war in Vietnam had led to unprecedented civil opposition to the draft and the government, a protest which had no contemporary equal in the minds of those who had served in Korea and the two World Wars, especially the Second. These cultural priorities, when combined with civil rights and some of the more “esoteric” ideas, confused and concerned white Americans about the direction of what they saw as “their country.” So, in 1968, Richard Nixon defeated Hubert Humphrey (and George Wallace) running on a platform promising “law and order” and a more “moderate” interpretation of government action to mitigate centuries of systemic discrimination and racism. While not entirely verified, a purported quote given by then-domestic affairs advisor John Ehrlichman is closer to the truth with the Nixon’s administrations true actions:

**“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people...We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities...We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”<sup>102</sup>**

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<sup>102</sup> Tom LoBianco, “Report: Aide Says Nixon’s War on Drugs Targeted Blacks, Hippies,” CNN, March 24, 2016, <https://www.cnn.com/2016/03/23/politics/john-ehrichman-richard-nixon-drug-war-blacks-hippie/index.html>.



*Figure 17: Nixon speaking to Congress on the need for funding the new "War on Drugs"<sup>103</sup>*

But President, though in this case General might be better, Nixon's first real offensive on cannabis did not begin with the announcement of the War on Drugs in 1971. That dubious distinction is held by the passage of the Comprehensive Drug Abuse Prevention and Control Act (CDAPCA), more commonly called the Controlled Substances Act (CSA), as part of the passed in May 1970. If one were to point to the single most important piece of legislation regarding cannabis in American history, the CSA is it. The most infamous element of the CSA, and what most would associate it with, is the creation of the scheduling system for drugs and other chemicals that were and remain illegal to manufacture, possess, or use.<sup>104</sup> **The CSA is the law which infamously ranked cannabis as Schedule I, meaning cannabis not only as something with no medical use but a potential for addiction and abuse on par with heroin and worse**

<sup>103</sup> Brian Mann, "After 50 Years of the War on Drugs, 'What Good Is It Doing for Us?'" NPR, June 17, 2021, <https://www.npr.org/2021/06/17/1006495476/after-50-years-of-the-war-on-drugs-what-good-is-it-doing-for-us>.

<sup>104</sup> Controlled Substances Act, Pub. L. No. 91-513, 84 Stat. 1236 (1970) <https://www.govinfo.gov/content/pkg/STATUTE-84/pdf/STATUTE-84-Pg1236.pdf>.

**than cocaine, opium, and meth.** This is a scheduling that remains uncontested to the present day.

However, equating cannabis to heroin was only the first part of the CSA's one-two punch. Title II, which lays out the mechanisms for scheduling as well as what substances are to be scheduled where, lays the groundwork for the subsequent Title III, which consolidated and reformed the patchwork of prior federal drug legislation. Until this point, cannabis was regulated primarily by the 1937 law, which had its own unique restrictions, requirements, and punishments. That law provided a maximum fine of \$2,000 and imprisonment up to 5 years, but these punitive measures were not the same as laws targeting opium or heroin. The CSA "solved" this issue by making all drug punishment based on the scheduling of the drug(s) one was caught with and how much they had.<sup>105</sup> Caught with 5 kilograms of cocaine or 100 kilograms of cannabis, Schedule I and II drugs respectively?<sup>106</sup> A maximum of 15 years of imprisonment or a maximum fine of \$25,000, or both for a first time offender; 30 years or a maximum fine of \$50,000, or both for a repeat offender. The punishments scale downwards for Schedules III, IV, and V but in relation to cannabis, offenders are not eligible for parole for three years as a first time offender, while repeat offenders must wait six years. Distribution to minors (under 21 years old) by anyone at least 18 years old carries double penalties, triple if a repeat offender.<sup>107</sup> An astute reader may have noticed that thus far, there has been no mention of what the crimes actually are. 21 U.S. Code § 841, subsection a, makes it illegal to (in relation to a controlled substance):

- Manufacture, or possess intent to manufacture
- Distribute, or possess intent to distribute
- Dispense, or possess intent to dispense

There is no *explicit* prohibition on use, but the devil is in the details of what exactly distribution, dispensing, and intent actually mean. Distribution and dispensing are fairly straightforward; they both refer to the action of giving or administering a controlled substance to someone else. The real issue comes from what constitutes "intent" to manufacture, distribute, or dispense, because this is not explicitly defined in relation to the act's provisions. In fact, intent is

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<sup>105</sup> Pub. L. No. 91-513, 84 Stat. 1236 (1970)

<sup>106</sup> Ibid. See Section 401, subsection B(1)(A)

<sup>107</sup> Ibid. See Section 405, subsections A and B



not strictly defined, but rather more of a way of trying to classify what the mindset of the person who committed a crime was – the legal term for this is *mens rea*. Depending on the mindset of the criminal when they committed the crime, this can result in widely different punishments for it. This may not seem like a massive issue; different degrees of murder exist because people can kill other people for reasons that range from accidental (meaning no intent) to premeditated (meaning clear intent and planning). However, actually proving (or disproving) what the intent of a criminal was can be incredibly difficult without sufficient evidence, assuming the courts are fairly evaluating it. The CSA provides some guidelines for intent based on the amounts of substances, but it is sufficiently vague to allow for a more generous interpretation of intent by individuals caught with cannabis, making it open to exploitation. **Simply put, biased courts were now able to use the CSA and a loose definition of intent to impose harsher penalties on people of color.**

This becomes even worse when considering 21 U.S. Code § 844, which bans intentional

## What Else is in Schedule I?

- **Heroin (opioid)**
- **Lysergic Acid Diethylamide (LSD, hallucinogen)**
- **Diethylthambutene (opioid)**
- **Etoxeridine (opioid)**
- **Morphine (opioid)**
- **Mescaline (hallucinogen)**
- **Psilocybin (hallucinogen)**
- **3,4-methylenedioxyamphetamine (MDA, stimulant)**

individual possession of non-prescribed controlled substances. The punishment is far less severe for individual possession; not more than 1 year of prison, not more than \$1,000 in fines, or both for a first-time offense. Three key things are missing from this section, however: the vagary of “intent,” the scheduling of the controlled substance, and the amount possessed as punitive multipliers. Intentional possession is still subject to many of the same issues, but the law is narrow in that being charged with individual possession carries very specific punishments. These were much less severe than penalties for intention to manufacture, distribution, and/or dispense. Likewise, simple possession is standard for all controlled substances, regardless of schedule or amount. If two people were charged for simple possession, with the first caught with an ounce of cannabis and the second with an ounce of codeine

(a schedule IV narcotic), the penalties would be largely similar. Moreover, in the event that this is a first offense and the defendant is either found or pleads guilty, the court is empowered to “divert” the individual into a probationary program without actually considering them guilty, without a stain on their permanent record.<sup>108</sup>

There are a variety of ways that this can and has been interpreted, but the technical interpretation is that the law is supposed to be penalizing drug dealers more than users. The law grants the government extensive prosecutorial powers with regards to the intent to manufacture, distribute, or dispense controlled substances. By comparison, the penalties for possession are lenient, arguably even benevolent; a fine and probation in exchange for having one’s public record being kept clean? This gives the impression that the government accepted some “wayward youth” might experiment, and that simple possession penalties were meant to “scare them straight.” It is a mild reprimand compared to the real evildoers, the makers and sellers of controlled substances,

Unfortunately, reality is far from kind, at least for people of color. Distinguishing simple possession from manufacturing and dealing and predicated on intent is, as stated earlier, very difficult and fraught with abuse potential. The law does not specify the line between simple possession and intent to distribute for anything above Schedule III; in theory, having a few grams of cannabis could be enough to justify intent to distribute, while 200 kilograms of cannabis could be considered simple possession. While this is a ludicrous example, the vagueness meant that prosecutors had extensive leniency in picking how to categorize individual cases. Combine that with the intent of the Nixon administration to take out hippies and non-white people, and the problem should be clear. **The CSA enabled the government to drastically overcharge individuals caught with cannabis or other controlled substances without the appearance of bias.** If a 22-year-old Black man was caught with a joint, he could be charged with intent to distribute and be jailed for over a decade, while a 22-year-old white man with three joints could avoid that fate entirely by spending a few months on probation and the promise not to do it again. This disparity, to this day still largely baked into the law, laid the groundwork for decades of racial profiling, incarceration, and wholesale razing of communities of color.

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<sup>108</sup> The law does note that the Department of Justice will retain a “non-public” record, so that in the event of a future offense the individual would not be treated as a first-time offender for a second time.

If the CSA was the bomb that would destroy communities of color, then Nixon's next act would create the bomber dropping it. The law had reformed how drug crimes would be prosecuted and punished, but at the time it passed the mechanisms to enforce it were lacking. The old Federal Bureau of Narcotics (FBN) was in an administrative war with multiple other government agencies answering to different masters, and all of them lacked extensive authority to target the third villain of the drug war – the rest of the world, but mostly Mexico and South America.<sup>109</sup> To deal with the problems of administration and enforcement, including outside of the US, in 1973 Nixon amalgamated the following organizations into a single entity:<sup>110</sup>

- Bureau of Narcotics and Dangerous Drugs
- Office for Drug Abuse Law Enforcement
- Office of National Narcotics Intelligence
- Narcotics Advance Research Management Team
- Portions of U.S. Customs

This coagulation of federal agencies produced the modern Drug Enforcement Agency, or DEA, and much of the DEA's further history and function is a result. The DEA not only inherited thousands of personnel but received extensive powers as a consequence of its new role, not limited to wiretapping, warrantless searches, near-limitless ability to conduct civil asset forfeiture,<sup>111</sup> authority to operate in foreign countries, and many other similarly problematic abilities that granted it extensive authority to enforce drug prohibitions and destroy the drug trade. The DEA would become symbolic of the War on Drugs in so many ways: uncompromising, militarized, terrifying, and ultimately ineffective at deterring either drug users or the drug trade. But that did not stop them, or the Nixon administration, from trying, though without much success.

Cannabis use, along with other drugs, was becoming a business of epic proportions in spite of the CSA and the DEA. The culture had extensively shifted for many of the white hippies who had ultimately dominated the counterculture movement; cannabis was no longer a protest,

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<sup>109</sup> Booth, *Cannabis: A History*, Ch.20

<sup>110</sup> Justice Department Staff, "Organization, Mission and Functions Manual: Drug Enforcement Administration," The United States Department of Justice, September 21, 2022, <https://www.justice.gov/doj/organization-mission-and-functions-manual-drug-enforcement-administration>.

<sup>111</sup> The practice by which law enforcement is allowed to keep and sell assets taken from arrested individuals, often for extra funding

but a recreational product. Coupled with this shift was the growth of “cannabusiness”, both with the plant itself but also products.<sup>112</sup> Cannabis was still illegal, but while smuggling a few ounces across the border for friends was essentially impossible in the 1970s organized smuggling was still relatively easy and profitable. Bowls, rolling papers, jewelry, and other cannabis paraphernalia was likewise becoming big business, and despite some token efforts to disrupt smuggling and virtue signaling to youths, subsequent president Gerald Ford did comparatively little to combat cannabis in America. The ill-fated Jimmy Carter became president in 1976 with a slate of promises, including a desire reduce punishment for cannabis possession,<sup>113</sup> but the fruits of Anslinger and a growing parent morality movement bore fruit at the same time. Cannabis was not the only reason Carter lost, but it certainly did not help him and instead helped the rise of the most recognizable and arguably worst leaders of the War on Drugs, Ronald and Nancy Reagan.

The election of Ronald Reagan is the last possible date one can give for the start of the War on Drugs, but in the context of prior discussion it is better to classify it as the start of a new phase of the War. In this phase, America would shift from a limited conflict focused mostly on dealers and smugglers to a total war on the very idea of drugs. Barely two years into the Oval Office, in 1982 he created the White House Drug Abuse Policy Office. From this brain trust came the dismissal of Carter’s proposals, the re-introduction of mandatory minimum sentencing



Figure 18: A 1970 Moroccan poster reading "Kif destroys the body and the mind." Kif is a form of cannabis used in Morocco, smoked in long pipes with small bowls.

<sup>112</sup> Booth, *Cannabis: A History*, Ch.20

<sup>113</sup> Edward Walsh, "Carter Endorses Decriminalization of Marijuana," *The Washington Post*, August 3, 1977, <https://www.washingtonpost.com/archive/politics/1977/08/03/carter-endorses-decriminalization-of-marijuana/7e4b0e9a-90c9-4bdb-a49b-57290236a671/>.



guidelines, and an attack on cannabis<sup>114</sup> and other drug paraphernalia. It was under Reagan that the sentencing loopholes in the CSA became so explicitly abused, with total prison populations exploding from around 500,000 at the time of his election to nearly a million by the time he left.

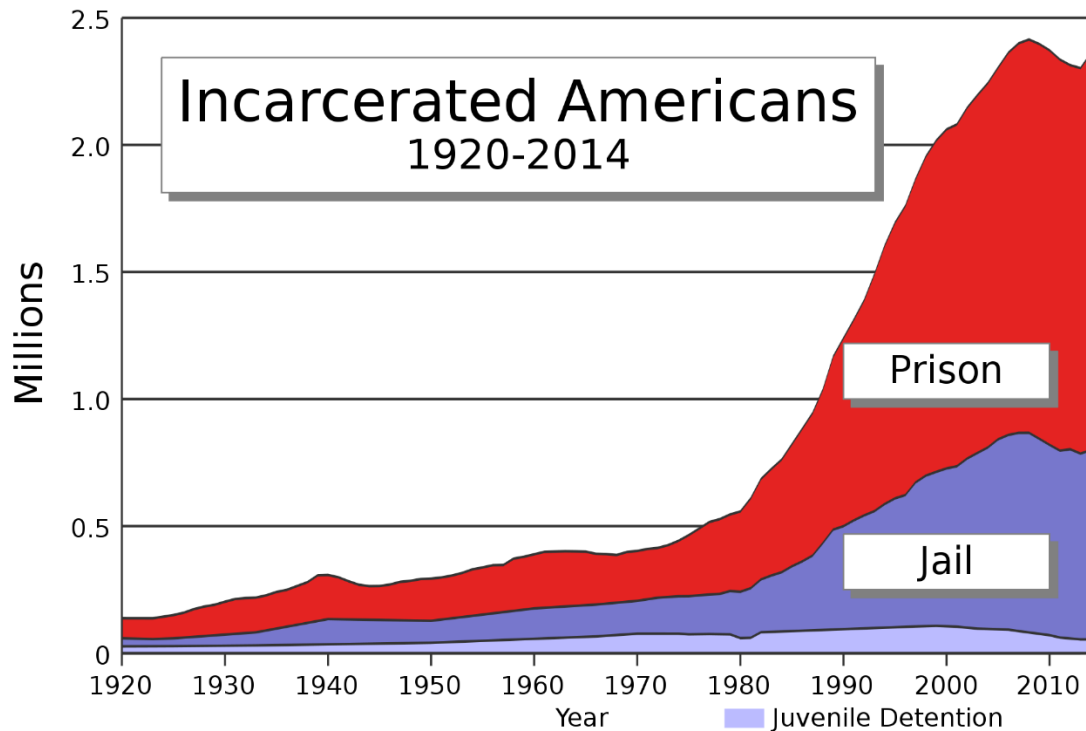


Figure 19: Total incarceration by type, 1920-2014<sup>115</sup>

The chart above does not begin to capture the extent of Reagan’s impact on even the driest prison statistics. In 1970, only about 16% of the population was incarcerated for drug-related offenses – in 1994, the figure was 62%.<sup>116</sup> Some have argued that Reagan may be less culpable for this than commonly asserted; prison growth really began in the 1970s,<sup>117</sup> for example, and much of the further prison population growth belongs to Reagan’s successors. One might note that much of the continued growth dates to after Reagan, belonging to the 1990s and 2000s. But this undercuts Reagan’s role in truly mobilizing the nation’s resources to attack “crime”, but especially people of color and drugs.

<sup>114</sup> Unknown Author, “Cannabis,” Essaouira, 2023, [https://www.essaouira.nu/culture\\_cannabis.htm](https://www.essaouira.nu/culture_cannabis.htm).

<sup>115</sup> Prisonstudies Staff, “United States of America,” United States of America | World Prison Brief, January 1, 1970, <https://www.prisonstudies.org/country/united-states-america>.

<sup>116</sup> Booth, *Cannabis: A History*, Ch.20

<sup>117</sup> Tony Platt, “U.S. Criminal Justice in the Reagan Era: An Assessment,” *Crime and Social Justice*, no. 29 (1987): 58–69, [https://www.jstor.org/stable/29766345?read-now=1&seq=10#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/29766345?read-now=1&seq=10#page_scan_tab_contents).

It was Reagan who truly “federalized” drug crimes, not only conceptually, but literally, by funding and militarizing not only the DEA but local law enforcement to combat drugs.<sup>118</sup> It was Reagan who can be credited for the creation of SWAT and other “siege” units, an invention to combat the crime issues of cities that were by this time predominantly black and brown. It was Reagan, and his wife Nancy, are responsible for the “Just Say No” campaign, which used questionable facts to scare youth away from cannabis and other drugs and contributed to decades of misinformation about them, while having no meaningful impact on youth drug use.<sup>119</sup> And it was Reagan that pushed for mandatory minimums on some of the controlled substances that ravaged communities of color the hardest. These came primarily in the form of the 1986 Anti-Drug Abuse Act, which is what established the mandatory minimums for crack cocaine vs regular cocaine, emblematic of the disparities that would plague the War on Drugs. While not explicitly dealing with weed, the Act established that in the eyes of the law, 5 grams of crack was equal to 500 of cocaine, the former being more prevalent in communities of color and the latter a “white man’s drug.”<sup>120</sup> conservatives like Nixon and Reagan truly made the War on Drugs what it became for America.

An important aspect of these laws, as well as others which increased the number of crimes and penalties associated with them, was that they opened up new segments of the population to prosecution. This reflects an important point about the crime and incarceration rates of the Nixon, Reagan, and subsequent administrations because perceived rises in crime and incarceration justified the expansion of law enforcement and prison system. Many of the subsequent increases in crime and incarceration are attributable in part to the increase of *things it is illegal to do* and *enforcement of laws prohibiting illegal activity*. An often-cited example of this concept is jaywalking, a crime that millions commit daily but which few are arrested or prosecuted for. Were the police to monitor and enforce jaywalking laws, the crime rate would surely skyrocket, and thus justify the need for more enforcement, more prisons, etc. A more exaggerated example might be the act of breathing which, if banned, would result in a total crime rate that would reach nearly 100%.

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<sup>118</sup> André Douglas Pond Cummings, “‘All Eyez on Me’: America’s War on Drugs and the Prison-Industrial Complex,” SSRN, April 5, 2012, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2035133](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2035133).

<sup>119</sup> Booth, *Cannabis: A History*, Ch.20

<sup>120</sup> “Anti-Drug Abuse Act of 1986,” 100 § (1986).

The point is that cannabis use was not strictly illegal before the CSA enhanced possession laws, but following it cannabis use *became* illegal, making not only dealers but *users* criminals, and thus contributing to an increased crime rate. And with the “rising” crime rate, enforcement in cities like New York subsequently attempted to “solve” it, with implications that echo to this day. New York in particular is noted for its crime reduction tactics which tacitly endorsed the idea of racial profiling in law enforcement. The election of Rudy Guiliani as Mayor of New York City in 1994 brought with it a number of new or improved policing tactics to combat crime, drugs, and people of color. These policies were based on the so-called “broken window theory,” first posited in 1982,<sup>121</sup> but coming into vogue with Guiliani as an explanation for the apparent rise in urban crime. The authors argue that crime on a small scale (such as breaking windows or jaywalking) and the failure to address them (fixing the window) creates an environment which makes crime “permissible.” After all, if one window is broken and not repaired, people will think it is ok to break the others, and that creates a spiral where petty crime escalates into more problematic crime within a given neighborhood. It was simple, rational, and gave “law and order” leaders the perfect excuse to escalate policing in areas of urban decay.

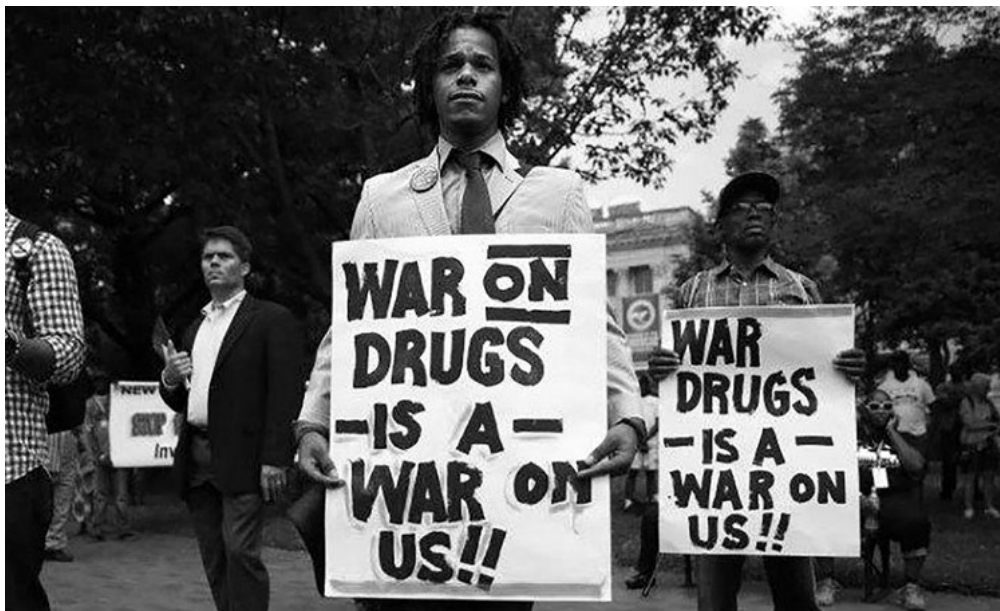


Figure 20: A protestor holds a sign decrying the War on Drugs as an attack on people of color.<sup>122</sup>

<sup>121</sup> James Q. Wilson and George L. Kelling, “Broken Windows,” *The Atlantic*, March 1982, <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

<sup>122</sup> 1. Rebecca Crown Library Staff, “The War on Drugs: History, Policy, and Therapeutics,” Rebecca Crown Library, 2020, <https://research.dom.edu/the-war-on-drugs--history-policy-therapeutics/history>.

This theory formed the backbone of “broken window policing”, an aggressive strategy of imperialist power projection into communities of color. The tactics used were variations on that theme, but all were ultimately aimed at the reintroduction of persecuting “lawbreakers” no matter the severity of the crime. During Guiliani’s tenure, the New York City Police Department (NYPD) not only attempted to curtail violent crime, but also a variety of lower-level misdemeanors including public urination, graffiti, fare evasion, public drinking and, of course, possession of cannabis.<sup>123</sup> These and many more minor crimes were seen as contributing factors in whether a neighborhood, or an entire city had “broken windows.”

The tactics used included the highly controversial “stop and frisk,” a strategy whereby police would be able to stop and search “suspicious” individuals. Suspicious how, and for what would they be searched for? That was up to the discretion of the officer, and as a result being “suspicious” really meant being non-white or being in a neighborhood that was considered a criminal hotbed. It is worth noting that this policy would eventually be found unconstitutional after nearly a decade on the grounds that it violated the Fourth Amendment, which protects people against unjustified search and seizure by the government.<sup>124</sup> Unfortunately, this ruling came in 2013 – over a decade after its introduction into New York. While stop and frisk itself was a policy that came after Guiliani, the policy was the apotheosis, the ultimate climax, of decades of propaganda and association that “existing while Black” was a crime in and of itself. It is worth noting that at least one of the authors of the original article foresaw the racial implications of policing based on broken windows, asking “How do we ensure ... that the police do not become the agents of neighborhood bigotry? We can offer no wholly satisfactory answer to this important question.”<sup>125</sup> Unfortunately, that is exactly what they engineered; a rational for persecuting communities of color.

The 1990s for cannabis was a dark time. Use was ongoing and mandatory minimums combined with vagaries of intent ensured that Black and brown cannabis users could face disproportionately higher scrutiny and prison time than their white counterparts. Combined with a general push to eradicate crime in urban areas, this ensured that millions of people of color

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<sup>123</sup> Shankar Vedantam et al., “How a Theory of Crime and Policing Was Born, and Went Terribly Wrong,” NPR, November 1, 2016, <https://www.npr.org/2016/11/01/500104506/broken-windows-policing-and-the-origins-of-stop-and-frisk-and-how-it-went-wrong>.

<sup>124</sup> CCR Staff, “Stop-and-Frisk Practice Violated Rights, Judge Rules,” Center for Constitutional Rights, August 1, 2013, <https://ccrjustice.org/home/press-center/ccr-news/stop-and-frisk-practice-violated-rights-judge-rules>.

<sup>125</sup> Wilson and Kelling, “Broken Windows”



would be arrested and imprisoned at the federal and state level. **Indeed, had Anslinger survived until this decade, he would no doubt have been pleased with what he saw; communities cowering, cannabis vilified, and people of color behind bars and away from the rest of society, to be wholly broken as a people.**

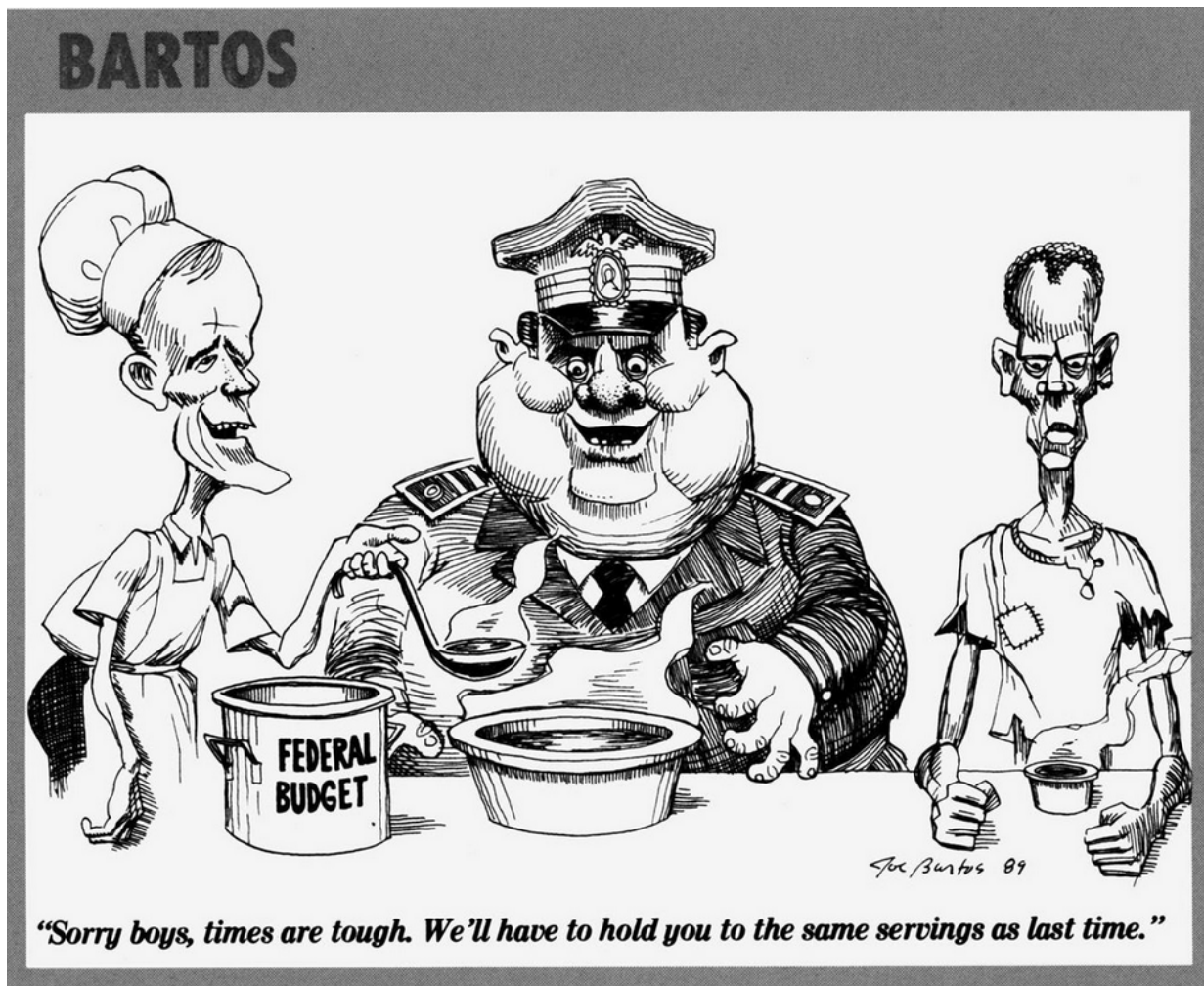


Figure 21: A comic from the April 1989 issue of *High Times* by Joe Bartos. The cartoon embodies the national direction of the time, focusing on oppressing people of color rather than addressing root causes of the drug and crime "epidemic" of the 1980s and 1990s.

## Cannabis in the 21<sup>st</sup> Century

The 21<sup>st</sup> century for cannabis began almost where it had left off in the 1990s. Stop and frisk, as well as other policies, were either implemented or being implemented. Communities of color in New York and throughout the country were being terrorized by law enforcement armed with military equipment and a license to violate constitutional rights. More and more Black and brown men were being arrested and incarcerated for minute amounts of cannabis, petty crime, or even just for having too much melanin in their skin, further depriving families of socioeconomic stability that was already lacking to begin with. And as a result, their communities, already decaying from a lack of investment, suffered even more. It would undermine the severity of the situation to bring forward the proverb “it is always darkest before dawn,” because in many ways the dark night of racism, hate, and violence communities of color have endured is still far from over. But with the new millennium, American attitudes regarding cannabis had begun to change.

Despite it being a dark decade, there was one bright spot which heralded developments in the cannabis space in America. In 1996, California became the first state to authorize access to and use of cannabis as medicine via proposition, provided it was under medical supervision.<sup>126</sup> The states of Nevada,<sup>127</sup> Washington, Oregon, and Alaska followed suit two years later, as did Washington, D.C.<sup>128</sup> While the Clinton administration at the time threatened to revoke the licenses of physicians who prescribed it, in the 2000 case *Conant v. McCaffery* several physicians successfully argued that they were allowed to recommend cannabis as treatment under the First Amendment.<sup>129</sup> This was a significant victory as, while it was technically illegal for doctors to *prescribe* cannabis as a treatment, they could inform patients that cannabis was an option, which opened many people suffering from chronic conditions to cannabis. In turn, patient

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<sup>126</sup> Mary Barna Bridgeman and Daniel T. Abazia, “Medicinal Cannabis: History, Pharmacology, And Implications for the Acute Care Setting,” *Pharmacy and Therapeutics* 42, no. 3 (March 2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5312634/>.

<sup>127</sup> Nevada’s implementation was delayed due to state law requiring proposition approvals be approved twice

<sup>128</sup> The District of Columbia officially voted for medical cannabis that year, but because the city’s budget is controlled by the federal government, implementation was delayed until 2009

<sup>129</sup> MPP Staff, “State-By-State Medical Marijuana Laws: 2015,” Marijuana Policy Project, 2015, <https://www.mpp.org/assets/pdf/issues/medical-marijuana/State-by-State-Laws-Report-2015.pdf>.

access to cannabis would theoretically have a ripple effect that would change American minds about its use and effects, even in the limited context of medical use.

While this was a step in the right direction, it was not the beginning of a brave new age. Instead, it brought raids and reprisals from the federal government, during the Clinton and later George H. W. Bush's presidencies, the latter of whom had backtracked from prior support of states' rights on cannabis by encouraging more militant raids on providers, patients, and landlords.<sup>130</sup> While several states would legalize cannabis for medical conditions throughout the 2000s,<sup>131</sup> access remained limited and patients were at constant risk of federal investigation and indictment. The Obama administration followed the Bush administration in the sense that despite promising more limited enforcement, crackdowns and raids continued and even escalated across the board throughout the early 2010s.<sup>132</sup> The brutality and intensity of these raids proved more shocking than those initiated under previous presidents as by now, cannabis was becoming less and less of a bogeyman for Americans in spite of DEA and other federal efforts. Multiple lawsuits and federal clarifications ensued, with the Obama administration first attempting to claim they were *not* cracking down on medical cannabis before relenting in 2013 with the issuance of the 2013 Cole Memo, which began to limit federal crackdowns. This was further enhanced by the 2014 Rohrabacher–Farr amendment to an appropriations bill, which directly prohibited the Department of Justice from interfering with medical cannabis programs using federal funds. Following a court challenge, which the Justice Department lost, the amendment has been renewed yearly and is one of the most significant for liberalizing cannabis laws as many of the states that would go on to permit medical cannabis did so in the years following.

One other major step forward came in 2012, when voters in Colorado and Washington approved measures to legalize recreational cannabis. This is widely considered the historic beginning of the current era of cannabis in America, a step towards ending the prohibition on cannabis that had endured for over a century. With these two milestones broken, multiple other

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<sup>130</sup> AFSA Staff, "What's the Cost: The Federal War on Patients," Americans for Safe Access, June 2013, <https://american-safe-access.s3.amazonaws.com/documents/WhatsTheCost.pdf>.

<sup>131</sup> Maine (1999), Hawai'i (2000, first to legalize via legislature), Colorado (2000), Maryland (2003, via trial), Vermont (2004), Montana (2004), Rhode Island (2006), New Mexico (2007), Michigan (2008), Massachusetts (2008), New Jersey (2010), Arizona (2010), Delaware (2011), Connecticut (2012)

<sup>132</sup> Tim Dickinson, "Dickinson: Obama's War on Pot," Rolling Stone, February 16, 2012, <https://web.archive.org/web/20170515040424/https://www.rollingstone.com/politics/news/obamas-war-on-pot-20120216>.

states began to follow suit, including New York State. New York first legalized medical cannabis in 2014, and legalized recreational cannabis under the Marihuana Regulation and Taxation Act of 2021, becoming the 23<sup>rd</sup> and 16<sup>th</sup> state to legalize respectively. New York also bears the distinction of having one of the most progressive legalization bills to date, with significant emphasis on restorative justice for communities affected by War on Drugs including priority access to the legal cannabis industry and a social equity fund aimed at rebuilding communities affected by prohibition. It is also worth mentioning the 2018 Agriculture Improvement Act, which was notable for fully legalizing hemp in the United States after decades of being banned.

There have been numerous attempts to legalize or reschedule cannabis at the federal level, which have met with comparatively little success. In 2015, an attempt was made to fully restrict the federal government's ability to interfere with state legalization efforts through the McClintock-Polis Amendment to a 2016 appropriations bill,<sup>133</sup> which was defeated by a small margin. In 2018, Attorney General Jeff Sessions rescinded the 2013 Cole memo, which theoretically re-opened the possibility for Department of Justice litigation of cannabis growers and users, but seems to have had little effect.<sup>134</sup> In 2019, Marijuana Opportunity Reinvestment and Expungement Act was proposed and passed the House Judiciary committee, as it did in 2022, but has yet to become law.<sup>135</sup> As such, the current legal state of cannabis remains in a gray zone, technically illegal but functionally permitted in more than half of the United States in some capacity.

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<sup>133</sup> NORML Staff, "House Members Reauthorize Measure Protecting State Sanctioned Medical Marijuana Programs," NORML, June 4, 2015, <https://norml.org/news/2015/06/04/house-members-reauthorize-measure-protecting-state-sanctioned-medical-marijuana-programs>.

<sup>134</sup> Josh Gerstein and Christiano Lima, "Sessions Announces End to Policy That Allowed Legal Pot to Flourish," POLITICO, January 8, 2018, <https://www.politico.com/story/2018/01/04/jeff-sessions-marijuana-policy-us-attorney-enforcement-324020>.

<sup>135</sup> Natalie Fertig, "House Passes Marijuana Legalization Bill (Again), but with No Clear Path Forward," POLITICO, April 1, 2022, <https://www.politico.com/news/2022/04/01/house-passes-marijuana-legalization-bill-again-but-with-no-clear-path-forward-00022303>.



## Effects on Communities of Color

What should be clear by now is that the War on Drugs was neither sudden, nor isolated even within the Reagan years. All of this took place in the midst of a reinvigorated fetishism for “law and order” that was more generally perpetrated. The War on Drugs was only a component of a larger shift in the American consciousness about what crime really was, and how to address it. The race riots of the 1960s had become stuck and reinforced in the minds of many Americans, and the brief experiment with Carter’s more liberal outlook only further convinced white America that it was under siege. That those sieging decent Americans were also not white, or at least appeared as such, is instrumental to understanding why such dramatic changes were ever permitted by the American people. Cannabis and other drugs were an identifiable, easy strawman for the government to use as a symbol of crime, and the fact that they came from Mexico and were sold in inner cities made drawing an unconscious line between race, drugs, and crime child’s play. With that unconscious idea embedded, it was easy to tell white Americans that they needed more prisons, tougher enforcement, and more, and with stronger enforcement mechanisms than ever, filling these prisons with people of color was easier than ever.

By contrast, people of color were in a losing position from the start. Decades of redlining and other systemic racism had ensured that people of color were confined to cities with few opportunities to expand or exceed economically, socially, or politically. These communities had had nearly half a century of constant association with cannabis and other drugs, and while people of color were almost certainly punished harder than white people, the laws leading up to the CSA were very different from the punitive measures it would introduce. Even after passage, the uncertainty over enforcement made cannabis sale and use a crime of intermediate scale. Reagan’s reintroduction and enforcement of mandatory minimums, as well as a renewed focus on policing urban environments, transformed it into a life sentence, in some cases literally. For men and women of color caught with even minute amounts of cannabis, a decade in prison transformed from “likely possible” to “guaranteed.”

This reflects an important point about the crime and incarceration rates of the Nixon, Reagan, and subsequent administrations because perceived rises in crime and incarceration justified the expansion of law enforcement and prison system. But many of these increases are attributable to the increase of *things it is illegal to do* and *enforcement of laws prohibiting illegal activity*. An often-cited example of this concept is jaywalking, a crime that millions commit daily

but which few are arrested or prosecuted for. Were the police to monitor and enforce jaywalking laws, the crime rate would surely skyrocket, and thus justify the need for more enforcement, more prisons, etc. A more exaggerated example might be the act of breathing which, if banned, would result in a total crime rate that would reach nearly 100%. The point is that cannabis use was not strictly illegal before the CSA enhanced possession laws, but following it cannabis use *became* illegal, making not only dealers but *users* criminals, and thus leading to an increased crime rate.

Because of the association between race and cannabis, more men and women of color became drug criminals in the eyes of the law, and as a result crime rates rose, and more enforcement ensued. So too did the rates of incarceration for people of color, *proportionate to the population*. This distinction is sadly important to make, because a common argument about incarceration is that white criminals are jailed just as much as, if not more than, Black and brown criminals. This is true, but only to an extent. In 1974, 837,000 adult white men had been incarcerated in America, while the figure for Black and Hispanic men was 595,000 and 94,000, respectively. But in 1974, these figures amounted to 1.4%, 8.7%, and 2.3% of the white, Black, and Hispanic male population, respectively. By 1991, the shares of the population had risen to 1.9%, 12%, and 4.9% for white, Black, and Hispanic male populations, respectively. By this time, only 200,000 more White men had been incarcerated than Black men.<sup>136</sup> The numbers have only gotten worse since then.

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<sup>136</sup> Department of Justice Statistics and Thomas P. Bonczar, Prevalence of Imprisonment in the U.S. Population, 1974-2001 § (2023), <https://bjs.ojp.gov/content/pub/pdf/piusp01.pdf>.

## Disproportionate Impact of Drug Laws on Black and Latino Communities

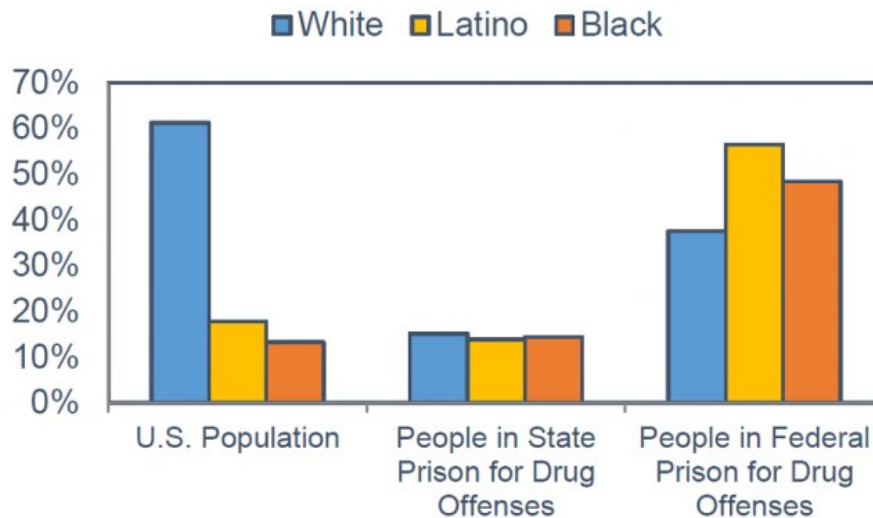


Figure 22: Incarceration Statistics by race<sup>137</sup>

Mass incarceration of people of color for cannabis or other drug-related crimes is bad enough, but this is only the beginning of the effects of the War on Drugs. The social and economic effects of this policy on people of color can only be described as devastating. Before the War on Drugs, Black and brown communities were struggling financially as the ramifications of centuries of slavery, discrimination, and lack of access to higher education of skills meant that people of color were, and would remain, overrepresented in low or no skill sectors. These are jobs that by nature are low paying and not conducive for building the generational wealth that Black and brown families need to be socially and economically competitive with white ones, and more importantly means that they are less resilient to sudden economic disturbances. Such disturbances include a primary breadwinner's incarceration for years, even decades. As a result, even in the 1990s the Black and brown poverty rate exceed that of white and Asians by anywhere from 10% to 20% throughout the decade, and to this day people of color are more

<sup>137</sup> DPA Staff, "The Drug War, Mass Incarceration and Race," Drug Policy Alliance, 2019, [https://drugpolicy.org/sites/default/files/drug-war-mass-incarceration-and-race\\_01\\_18\\_0.pdf?link\\_id=2&#38;can\\_id=06017bfe53f48bf1fd45d52fda568dee&#38;source=email-lets-talk-about-the-land-we-live-learn-and-organize-on&#38;email\\_referrer=email\\_1157009&#38;email\\_subject=exploring-mrta](https://drugpolicy.org/sites/default/files/drug-war-mass-incarceration-and-race_01_18_0.pdf?link_id=2&#38;can_id=06017bfe53f48bf1fd45d52fda568dee&#38;source=email-lets-talk-about-the-land-we-live-learn-and-organize-on&#38;email_referrer=email_1157009&#38;email_subject=exploring-mrta).

likely to be in poverty.<sup>138</sup> While the overall poverty rate for people of color declined in the 1990s, this does not contradict that assertion; this decline is explained by the generally strong economy of the 1990s which ensured a drop for all races,<sup>139</sup> leading one to question whether declines in that decade would have been more significant if not for the increasing ferocity of Black and brown prosecution and incarceration during that time. In 2013, over 3 million Black men were incarcerated in the United States, over 40% of whom were incarcerated for drug offenses; 3 million out of a total Black population of 39 million.<sup>140</sup> Factoring in Latino incarceration, 80% of those incarcerated in federal prisons for drug offenses were Black and brown.<sup>141</sup>

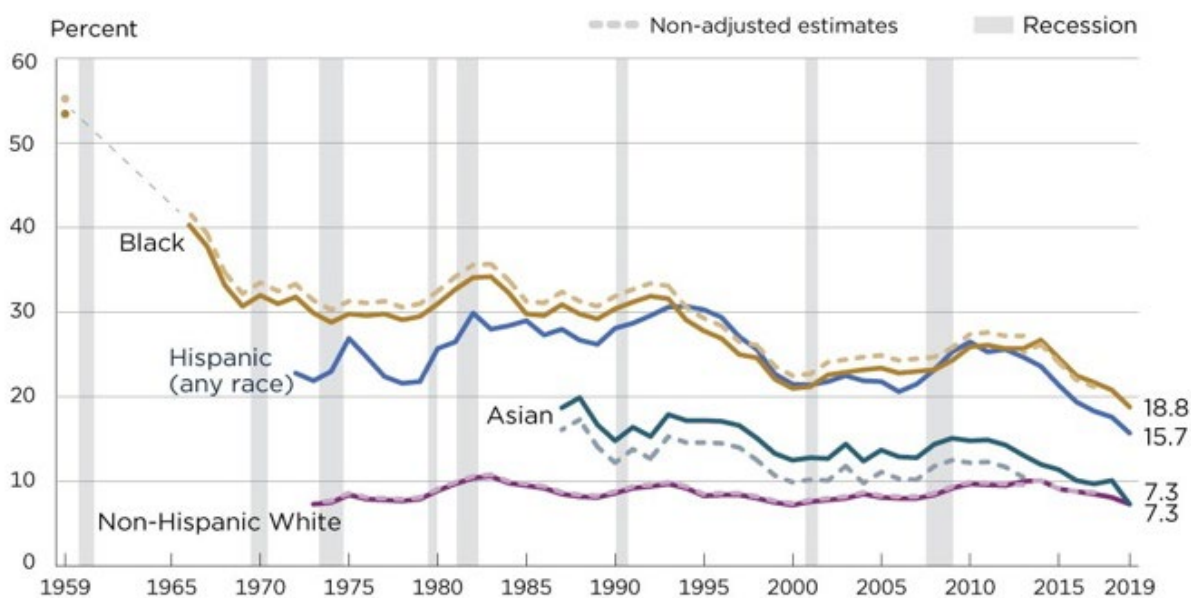


Figure 23: Poverty Rates by Race and Hispanic Origin, 1959 to 2019<sup>142</sup>

The social consequences of the War on Drugs have likewise been devastating. Black and brown Americans have endured racism, discrimination, and hostility for centuries, virtually since the first slave ship landed at Jamestown back in 1619. This stigma festered and had become so

<sup>138</sup> Jessica Semega, "Income and Poverty in the United States: 2017-Current Population Reports," Census.gov, October 8, 2021, <https://www.census.gov/library/visualizations/2018/demo/p60-263.html>.

<sup>139</sup> Algernon Austin, "Three Lessons about Black Poverty," Economic Policy Institute, September 18, 2009, [https://www.epi.org/publication/the\\_lessons\\_of\\_black\\_poverty/](https://www.epi.org/publication/the_lessons_of_black_poverty/).

<sup>140</sup> US Census Bureau Public Information Office, "2010 Census Shows Black Population Has Highest Concentration in the South - 2010 Census - Newsroom - U.S. Census Bureau," United States Census Bureau, May 19, 2016, [https://www.census.gov/newsroom/releases/archives/2010\\_census/cb11-cn185.html](https://www.census.gov/newsroom/releases/archives/2010_census/cb11-cn185.html).

<sup>141</sup> DPA Staff, "The Drug War, Mass Incarceration and Race"

<sup>142</sup> Semega, "Income and Poverty in the United States: 2017-Current Population Reports"



strong by the time that the War on Drugs truly began that conflating Blackness and criminal behavior was essentially taken as a given. The lurid tales of Mexican immigrants and Black Americans assaulting white women under the influence of cannabis that began in the yellow press of the early 20<sup>th</sup> century had disappeared, but that is because they were no longer needed. White Americans only needed to pick up a newspaper during the height of the War on Drugs and the anti-crime battle to see a statistic that Black and brown people were more likely to use drugs, more likely to be arrested for drugs, and more likely to commit crimes, and make that association unconsciously. This ingrained bias was not created during the War, but it was enhanced and strengthened by facts of the racist establishment's own design. To calculate the damage that this has caused to the socioeconomic prosperity of Black and brown people would be impossible; accounting for every job rejection, every humiliating search by the police, every blow from a stranger using a slur, every instance of racially motivated bias, it is incalculable.

## Conclusion

The history of cannabis, as presented in this report, provides valuable insights into the cultural, medicinal, and social dimensions of this remarkable plant. From its ancient origins in Central Asia to its widespread use across different civilizations, cannabis has left an indelible mark on human history. In this history, we can see many of the elements present in contemporary cannabis discourse and use; a pain reliever, a joy giver, and a source of constant and terrible harm to marginalized groups. The devastating consequences of cannabis prohibition, particularly in the United States, cannot be understated. The racially biased War on Drugs has disproportionately targeted communities of color, perpetuating systemic injustices and perpetrating deep social divides.

The only knowledge gained from this decades-long crusade against cannabis, as well as other substances, was a lesson that should have been learned by the time the 21<sup>st</sup> Amendment was passed – prohibition does not work. It only breeds discontent, bigotry, and destruction. But unlike alcohol, cannabis prohibition was never truly intended as a general prohibition. From the very start, it was a policy that singled out Black and brown communities as targets for hatred and repression by the government, a scapegoat for social ills that would be too bitter to resolve in any other way. The people who had the power to stop it chose not to, content to ingest the convenient lies they were fed and to face away from the responsibility of upholding those most sacred words at the end of the Pledge of Allegiance – freedom and justice for all. They chose instead, consciously or through apathy, to give power to men who would engineer one of the greatest crimes against humanity that America has ever committed; a systemic program of jailing men and women for the crime of being Black.

Looking ahead, there is much promise and potential for the industry. Much of this will be covered in the subsequent reports in this series, and the conception of our series is to chart the fulfillment of those promises and potential. There is still much uncertainty; federal prohibition remains the law if not the practice, and the laws that were used to oppress our communities lie mostly dormant but ready to lash out again. We must not allow the current laws to remain, to pull our communities and our nation once again into the prison gates. Rescheduling cannabis or decriminalizing it is not enough. Cannabis must be legalized, with provisions to ensure that the unjustly jailed are given the chance to chart a new course free from the mark of Cain that is a felony conviction.

Moreover, in much of the discourse about the future of the cannabis industry, the history is often lost. Black and brown people, who have suffered so extensively because of cannabis prohibition, remain a minority in the industry at large. They do not have the connections, the capital, or the systemic knowledge required to succeed in our hyper capitalist nation, having existed on the outskirts of society or in prisons for so long. This is not only unacceptable, but downright criminal in nature. **There can be no cannabis industry in America that does not include people of color.** We have suffered too much to be excluded from what is already a billion-dollar industry, which appropriates our culture and icons for its own profit. Any legalization must follow a similar model to that of New York or similar states. Be it provisions, allowances, priority, whatever is necessary to ensure that our communities are given the unconditional chance to claim the share we are due. This is far from the restorative justice we deserve, but it is a start. We likewise are owed an apology, not from processions of white men in suits but in dollars and jobs invested in our devastated communities, to rebuild what was destroyed.

A common joke among historians is that history does not repeat, but it sure does tend to rhyme. In a new era of cannabis in America, it is important that we do not forget the legacy of cannabis. Generations of Americans were put behind bars because of cannabis and other drugs, and those who have escaped are still suffering the consequences of this dark history. There are many who would prefer that that period be lost in the haze of legalization and decriminalization. But we have a duty to ensure that this history of cannabis is never forgotten, and that the fruits of legalization are justly distributed to those who have suffered the most.

## **Demands**

The Black Institute demands:

- **That the DEA formally remove cannabis from the list of controlled substances**
- **That Congress pass, and the President sign, legislation to legalize both medical and recreational cannabis cultivation, sale, and use**
- **That Congress pass, and the President sign, legislation that will tax the sale of any cannabis products intended for consumption at a reasonable amount**
- **That any legislation passed taxing the sale of cannabis allocate no less than 60% of the proceeds to programs directed at communities affected by the War on Drugs**
- **That Congress pass, and the President sign, legislation that will ensure the participation of Black and brown entrepreneurs in the cannabis industry by providing funding or exemptions from taxation for a period no less than 5 years**
- **That the United States formally withdraw from, or push the amendment of, any international treaties regarding prohibition of cannabis and legal cannabis commerce**



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