

An Exploration of Efforts to Re-Define the Drug Problem
through State Ballot Initiatives

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Abstract

Historically, the federal government has been the institution responsible for setting the nation's drug policy. Since 1996, however, the federal government's authority and legitimacy in this issue area has increasingly been challenged through state ballot measures introduced via the initiative process. While only eight percent of ballot measures historically are approved by voters (Initiative and Referendum Institute 2004), half of the 28 state ballot measures on illegal drugs have been approved by voters over the past decade. The stated goal of those supporting legalization through ballot measures is to "build a political movement to end the war on drugs" (Nadelmann 2004). Nadelmann (2004) suggests that victories in the states show that the "nascent drug policy reform movement" can win in the "big leagues of American politics" and that the successful models presented through the ballot measures will increase "public confidence in the possibilities and virtue" of regulating the non-medical use of illicit drugs. To date there has been no detailed examination of the issue framing strategies in this venue; nor has there been an effort to link the problem definition and direct democracy literatures. This dissertation links the problem definition and direct democracy literatures, using drug policy as the vehicle and applying Stone's (2002) analytic framework of problem definition to make descriptive inferences about the issue framing devices employed in state ballot measures on illegal drugs. The research examines a range of materials related to the state ballot measures on illegal drugs including the language appearing on voter ballots; the full text of the ballot measures, including ballot titles and political preambles; and the voter information statements and their authors. In addition, the dissertation describes the elements of legalization proposed by the ballot measures that were approved by voters and examines three key legal challenges to Proposition 215, one of the first ballot measures on illegal drugs approved by voters in California in 1996, including two U.S. Supreme Court cases.

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1 Introduction

The fundamental principle guiding how the “drug problem” is defined at the national level in the U.S. is that there are substances that can cause direct harm or have the potential to cause serious harm that must be controlled. Historically, the federal government has been responsible for setting the nation’s drug policy. Since 1996, however, the federal government’s authority and legitimacy in this issue area increasingly has been challenged through state ballot measures. Between 1996 and 2004, 28 separate ballot measures addressing illegal drugs were considered by voters, who approved about half. Most of the state ballot measures on illegal drugs received substantial funding from billionaire George Soros and millionaires Peter Lewis and John Sperling whose stated goal is to “build a political movement to end the war on drugs” (Nadelmann 2004a). Nadelmann (2004a) suggests that victories in the states show that the “nascent drug policy reform movement” can win in the “big leagues of American politics” and that the successful models presented through the ballot measures will increase “public confidence in the possibilities and virtue” of regulating the non-medical use of illicit drugs.

Despite the relatively high level of success in this venue, to date there has been no detailed examination of drug policy making via the initiative or, more generally, of associated issue framing strategies. This dissertation links the problem definition and direct democracy literatures, using drug policy as the vehicle. The research question this study addresses is: how, if at all, did definitions of the drug problem evolve in the U.S. through the use of state ballot measures between 1996 and 2004? My dissertation focuses on state drug policy initiatives that qualified for and remained on the ballot for a total of 28 ballot measures across 13 states. My dissertation is intended to contribute to policy scholarship by adding to what is known about the use of the initiative process to shape drug policy in the U.S. The research is descriptive in nature, using Stone’s (2002) analytic framework of problem definition to make descriptive inferences about the issue framing devices employed in state ballot measures on illegal drugs.

1.1 Overview of Direct Democracy

At the beginning of the twentieth century, the Progressives sought to address corruption of the political system through a variety of measures including the recall, referendum, and the initiative (Price 1975). Through petition, voters could qualify initiatives and referenda for the ballot, “effectively short-circuiting or bypassing the traditional political channels of the legislature and governor’s veto” (Price 1975: 244). The referendum process refers to citizens’ ability to reject statutes or amendments proposed or passed by the state legislature (Waters 2003). The initiative process refers to citizens’ ability to adopt statutes or to amend state constitutions; initiatives may be direct (placed on the ballot by citizen petition) or indirect (sent first to the state legislature). Twenty-seven states now have some form of the initiative or popular referendum (Waters 2003). In addition, hundreds of cities and counties have some form of the initiative or referendum process.

California, which often is credited with starting national movements, historically has been the second highest user of the direct initiative; 279 measures have reached the California ballot, second only to Oregon which has considered 375 ballot measures (Waters 2003). The two states have virtually the same passage rates of slightly more than one-third. By comparison, the Initiative and Referendum Institute (2004) reports that, nationally, only 26 percent of all initiatives make it to the ballot and only eight percent are approved by voters. Three decades mark high points in statewide initiative usage across the 27 states with the initiative or referendum process: 1991-2000 was the highest, with 389 considered; followed by 1911-1920 with 293; and 1981-1990 with 271 (Waters 2003: 8). Waters (2003) found that between 1996 and 2002, the number of initiatives was stable. Over the past two decades, the process has been used to address a range of controversial “hot potatoes,” from affirmative action and abortion to physician-assisted suicide, term limits, and illegal drugs.

1.2 Overview of Emergence of State Ballot Measures on Illegal Drugs

In 1972, the first grassroots effort on illegal drugs was placed on the ballot in California. Proposition 19, the California Marijuana Initiative, sought to decriminalize possession and cultivation of marijuana for personal use, but it was defeated with two-thirds of voters opposing the measure (Ehlers 2003). Despite the failure, the measure is perceived to have served as the impetus for California's 1975 law (via the state legislature) to decriminalize marijuana. In 1986, Oregon considered a ballot measure to legalize possession and cultivation of marijuana for personal use, which failed three to one (Ehlers 2003:484). In 1990, a California measure to develop a drug "superfund" and authorize bonds for prison construction failed. That same year, Alaska voters approved a measure to reinstitute penalties for marijuana sale and possession--effectively re-criminalizing marijuana. After 1986, it would be a full decade before any state ballot measures challenged the national approach to drug policy.

Some of the milestones in drug policy leading up to the strategy of shifting to the initiative venue to re-frame the drug issue are provided in Table 1-1. The list of ballot measures I examined and the electoral outcomes appears in Table 1-2. As the tables indicate, 1996 marks the introduction of the first two "professional drug policy reform initiatives" in California and Arizona with funding from billionaire George Soros and millionaires John Sperling and Peter Lewis (Marijuana Policy Project 2004a).

Table 1-1. Selected Milestones in Recent Drug Policy History

1970—National Organization for the Reform of Marijuana Laws (NORML) is founded (national marijuana legalization organization); National Families in Action is founded (national drug abuse prevention organization).

1973-1978—11 states decriminalize marijuana use.

1976—Parents’ movement against illegal drug use established.

1979--NORML makes public statement that medical marijuana being used as a way to give pot a good name.

1982-- The Shafer Commission, appointed by President Nixon at the direction of Congress, recommends decriminalizing marijuana use.

1986--Drug Policy Foundation (DPF) founded; mandatory sentences established for federal drug offenses.

1989—President Bush declares new “war on drugs.”

1992-1993-- George Soros donates \$500,000 to DPF.

1993-- President names Lee Brown drug czar, a former policeman, signaling law enforcement approach.

1994—John Sperling’s Apollo Group, parent of for-profit University of Phoenix, goes public (valued at \$515 million).

1994--Ethan Nadelmann founds Lindesmith Center with Soros funding.

1995—Peter Lewis funds ACLU study on marijuana use and meets with Soros on the results

1995--Rep. Barney Frank (D-MA) introduces medical use legislation in U.S. House (has reintroduced every year unsuccessfully since then)

1995—D.C. based lobby group Marijuana Policy Project founded, which has a local and state grants program to fund ballot measures to (1) allow responsible adults to grow their own marijuana and (2) regulate and tax marijuana businesses.

1996--Soros, Sperling, and Lewis contribute \$3 mil. to California Prop. 215 and Sperling funds Prop. 200 in Arizona (both approved by voters).

1996—Barry McCaffrey, Director, White House Drug Policy Office, in testimony before Senate Judiciary Committee declares 1996 measures have “dangerous implications” as “claimed medical benefit...used as a wedge to open door to full legalization...they are part of wider effort to undermine our National Drug Control Strategy.”

1997--Californians for Medical Rights (leader of 1996 ballot initiatives) is renamed Americans for Medical Rights with the goal of funding and developing state ballot measures; former Surgeon General Jocelyn Elders joins DPF board.

1998—Sperling, Lewis, and Soros commit more than \$3 mil. to ballot measures (and agree to commit more than \$3 mil. each in subsequent elections).

1998—White House Drug Policy Office develops Interagency Marijuana Resource Guide related to the 1998 ballot initiatives to legalize marijuana in seven states. Deputy Director speaks out against legalization ballot measures in Oregon, Nevada, Arizona, and Washington.

2000--The Lindesmith Center and DPF merge and include a litigation component to challenge drug laws.

2001--“The war on drugs is a war on people...the best answer is to move slowly but firmly to dismantle the edifice of enforcement. Start with the possession and sale of cannabis and amphetamines, and experiment with different strategies...Move on to hard drugs, sold through licensed outlets” (Nadelmann 2001: M5).

2001—U.S. Supreme Ct. rules in *U.S. v. Oakland Cannabis Buyers’ Cooperative* that physicians cannot be punished for voicing professional opinion based on best medical judgment

2002--Nov. 4, 2002, *Time Magazine* cover article on Soros-funded legalization movement

2003—U.S. Supreme Ct. denies U.S. request for cert. in *Walters v Conant* (formerly *Conant v. McCaffrey*) letting stand a ruling allowing doctors to recommend marijuana to patients.

2004—U.S. Supreme Ct. hears arguments in *Raich v. Ashcroft*; debate centers on whether the federal government can step in and overrule state medical use laws on the basis of the interstate commerce clause

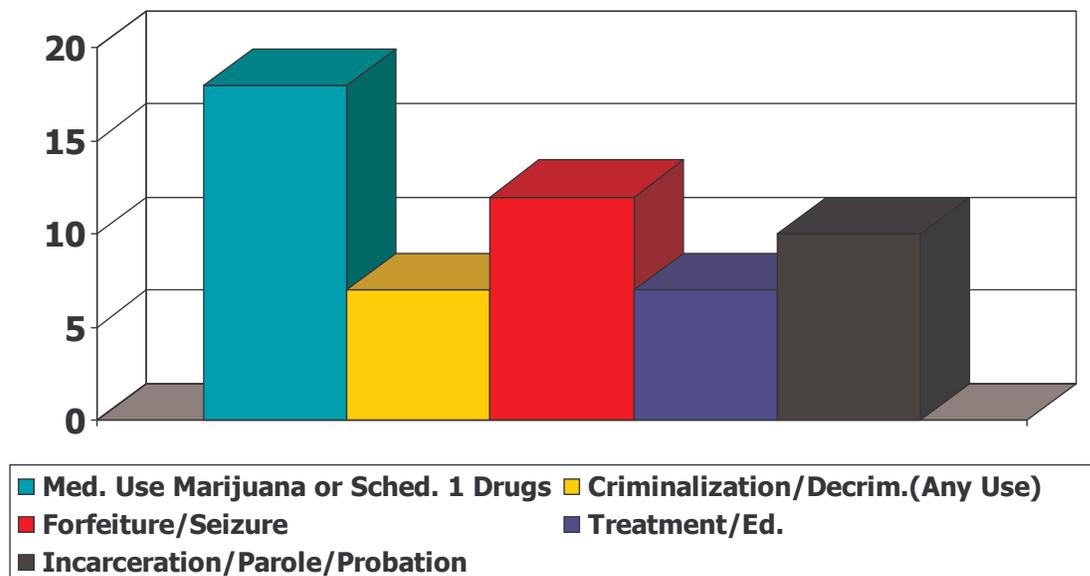
Sources: Musto 2002; Bulletin News media clips for the White House Drug Policy Office, various years; and websites of NORML and DPA.

1996 AZ Prop. 200*. Drug Medicalization, Prevention, and Control Act Y65% N35%	2000 CO Amend. 20 Medical Use of Marijuana Y54% N 42%
1996 CA Prop. 215*. Compassionate Use Act of 1996 "Medical Use of Marijuana" Y 56% N 44%	2000 MA Ques. 8* An Act to Expand...Drug Treatment Program and Provide Funding Through Fines for Drug Violations and Forfeiture Y 47% N 53%
1997 WA Init. 685*.Drug Medicalization and Prevention Act Y 40% N 60%	2000 NV Ques. 9 *An Initiative relating to the use of a plant of the genus cannabis for medical purposes Y 65% N 35%
1998 AK* Meas. 8. Bill Allowing Medical Use of Marijuana Y 58% N 42%	2000 OR Meas. 3*Amends Constitution: Requires Conviction Before Forfeiture; Restricts Proceeds Usage; Requiring Reporting, Penalty Y 66% N 34%
1998 AZ Prop. 300.* Ref. Ordered by Petition of the People relating to the Medical Use of Schedule I Drugs Y 43% N 57%	2000 UT Init. B*Utah Property Protection Act of 2000 Y 69% N 31%
1998 AZ Prop. 301*. Ref. ordered by petition of the people relating to probation eligibility for drug possession or use Y49% N 51%	2002 AZ Prop. 203*Drug Medicalization, Prevention, and Control Act N 57% Y43%
1998 CO Amend. 19* Medical Use of Marijuana Y 57% N 43%	2002 AZ Prop. 302*: Drug Probation Y 70% N 30%
1998 NV Meas. 9*. an Initiative Relating to the Use of a Plant of the Genus Cannabis for Medical Purposes Y54% N 46%	2002 NV Ques. 9*An Initiative Relating to the Use and Possession of up to 3 oz of mj, the distribution of mj, and other matters related thereto Y61% N 39%
1998 OR Meas.57. Makes Possession of Limited Amount of Marijuana Class C Misdemeanor Y 34% N 66%	2002 OH State Issue 1* Ohio Drug Treatment Init. Y 33% N67%
1998 OR Meas. 67*. Allows Medical Use of Marijuana Within Limits; Establishes Permit System Y 54% N 46%	2002 SD* An Amendment to Article VI, Sec. 7 of the Constitution, relating to criminal defendant rights Y 21% N 79%
1998 WA Init. 692*. Shall the medical use of marijuana...be permitted, and physicians authorized to advise patients? Y 59% N 41%	2002 SD M1.*An Initiative Related to Industrial Hemp Y 38% N 62%
1999 ME Ques.9*. An Act to Permit the Medical Use of Marijuana Y 63% N 37%	2004 AK* Cannabis Decriminalization and Regulation Act Y 43% N 57%
2000 AK Meas. 5* Allowing Uses of Hemp, including Marijuana Y40% N 60%	2004 MT Init. 148*. Medical Marijuana Act Y 62% N 38%
2000 CA Prop. 36*. Drugs Probation and Treatment Y 61% N 39%	2004 OR Meas. 33*. Medical Marijuana Act N 58% Y 42%
*Indicates substantial funding received from Soros, Sperling, and/or Lewis.	

Figure 1-1 provides an overview of the topics addressed by the 28 ballot measures considered in 13 states between 1996 and 2004. The topical categories are based on those used by multiple actors in the drug policy arena. All of the ballot measures and topics examined in this dissertation have been defined as “legalization” by several kinds of actors. For example, Nadelmann (2000:M5) states: “efforts by myself and others have been captured by the label ‘legalization.’ The term itself proved immensely successful in

drawing the attention of tens of millions in the U.S. and elsewhere to what was at once a radical sounding but quite sensible critique of American drug control policies.” As Chapter 4 discusses, I examined the full text of each ballot measure to validate that each addressed criminal and civil penalties related to illegal drugs, which meets the dictionary or standard definition of legalization: “to remove a legal prohibition against something which is currently illegal.”

Figure 1-1. Number of State Ballot Measures Addressing Particular Topics, 1996-2004

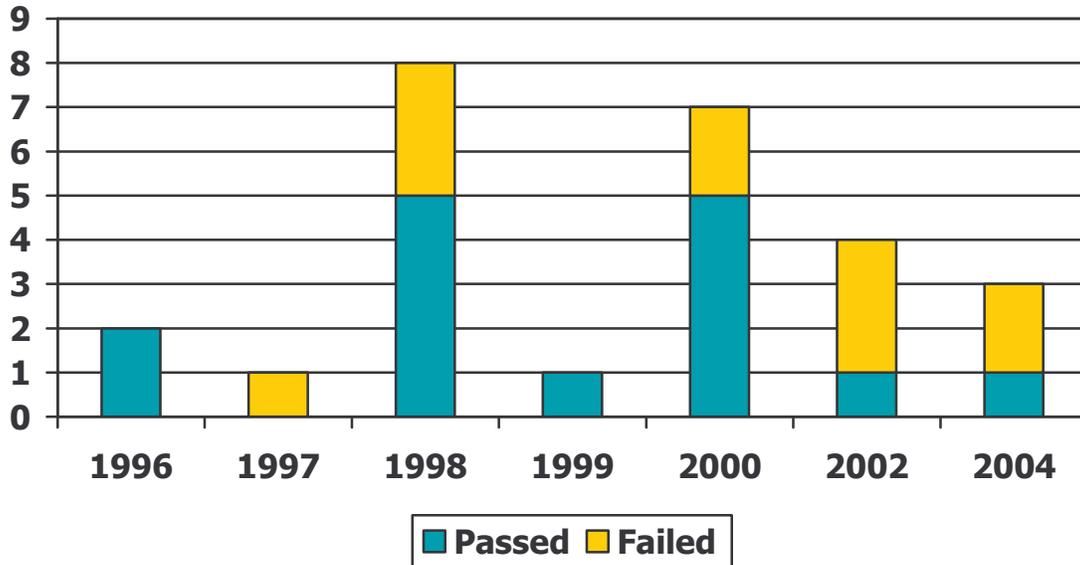


Note that many of the ballot measures addressed more than one topic. Figure 1-2 on the next page provides the electoral outcomes by year.

1.3 Problem Statement

My dissertation uses the literature on problem definition to gain insight into how the drug problem has been defined over the past decade. Aspects of Stone’s (2002:12) framework were applied to various ballot measure materials to examine what “undergirds problem definition.” Stone (2002) contends that by revealing or clarifying what is underneath, more informed decisions will occur. The ability to control the wording of ballot measures and limit the policy options as well as the relatively high degree of success for drug policy measures highlight the potential value of examining the issue framing strategies employed in this venue.

Figure 1-2. Passage and Failure of 28 State Ballot Measures on Drug Policy, 1996-2004



I selected illegal drugs as the vehicle for a number of reasons, the chief being my professional experience in drug policy for the White House Drug Policy Office. Working there has provided me with first-hand knowledge of the funding being used in this venue, the increased national media attention, and the shifts in public opinion regarding the drug issue that many have attributed to the ability to carefully craft and promote particular views through state ballot measures. The use of state initiatives and referenda to change policy is not new, but the level of funding that three wealthy individuals have dedicated over the past decade to this process now totals more than \$80 million, according to national media reports and a review of initiative campaign financial disclosure forms. Even when state ballot measures are not approved by voters, they are often times characterized by supporters and sponsors as a success. Many state ballot measures have received substantial national attention, such as the 2004 state ballot measure in California funding stem cell research to the tune of three billion dollars (Elias 2004).

Some ballot measure sponsors state that just as passage can be deemed a success, obtaining national attention and generating debate about a policy issue is a vital step in moving an issue onto the national policy agenda. It is often controversial issues that state legislatures and the U.S. Congress do not want to address that end up on state

ballots. The drug issue is a useful example of shifting venues to deal with a polarizing issue.

In examining the evolution of definitions of the drug problem in the United States, the focal variables are the extent and nature of the changes in how the drug issue has been framed. My dissertation seeks to unpack the concepts and language used in ballot measures to define the drug problem. Before research can be conducted to develop explanations for the passage or failure of particular ballot measures or to assess their impact on national policy, a better understanding is needed of the “struggle over the criteria for classification, the boundaries of categories, and the definition of ideals that guide the way people behave” (Stone 2002: 9). Thus, my dissertation is exploratory and descriptive in nature and intended to inform future explanatory research efforts. I systematically collected and analyzed a wide range of materials related to the 28 state ballot measures in order to make descriptive inferences (King et al. 1994).

Key aspects of the research include not only the exploration and categorization of issue framing strategies but also documentation of the symbols and rhetoric in the policy arguments of authors of voter information statements and briefs in related legal cases. The analysis describes both patterns in the various ballot measure materials by year, ballot topic, and state and the context that surrounded the initiatives, including rhetoric on the issue at the national level. Information based on interviews, polling data, U.S. Supreme Court briefs, and electoral outcomes also is provided.

1.4 Significance of the Research

As King et al. (1994) state, describing a problem or its conceptualization itself constitutes a research contribution. My dissertation does not examine causality but rather lays out the antecedents to causal research. A narrative interpretive approach is applied to illuminate the issue framing strategies used to define illegal drugs through state ballot measures. The research contributes to policy scholarship, in part “because every description of a situation is a portrayal from one of many points of view” (Stone 2002: 133). It extends the current drug policy and problem definition literatures, providing insight into how “individuals package their ideas...and use political opportunities to drive their policy preferences home” (Mintrom and Vergari 1998:431). The research examines a topic not currently addressed in the drug policy literature—drug problem definition in

the initiative process—which is expected to contribute to more systematic study of this venue and its implications for drug policymaking.

An innovative element of my research design is the analysis of voter information materials. I was unable to identify research in the direct democracy literature that has relied on voter information statements as a data source. I found that this source offered valuable snapshots of and insights into the policy debate around the drug issue in each state and allowed for identification of the range of interests engaged in this venue, suggesting its potential value for policy scholars in other issue areas. In this way, my dissertation links the problem definition and direct democracy literatures. I would expect that my dissertation would be found on a shelf near Stone (2002) and/or on problem definition. The dissertation also may be found on a public policy shelf under the issue area of drug policy. As my dissertation seeks to tease out the extent to which the use of political symbols is a key strategy, it likely would be referenced in the political science literature, potentially appearing near Cobb and Elder (1983) or near Mintrom's various books on aspects of direct democracy.

1.5 Organization of Dissertation

The next chapter explores the literatures informing the dissertation, focusing on linking the problem definition and direct democracy literatures. Chapter 3 presents the research design, describing the sampling parameters, data sources, collection, and methods of analysis. It also addresses validity and reliability issues and the limitations of the research. Chapter 4 provides background on the recent history and rhetoric of U.S. drug policy at the national level and describes the drug-related ballot measures at the state level considered between 1996 and 2004. This is followed by Chapter 5, which explains the various elements or propositions in the state ballot measures based on a review of the full text of each ballot measure. In addition, the chapter analyzes the wording that appears on the official ballots that voters see when they vote and the political preambles to ballot measures outlining the sponsor's purpose and intent. Chapter 6 examines patterns in voter statement authors and in the issue framing strategies in voter information statements. The authors of respondent, petitioner, and amicus briefs and policy

arguments related to California's Proposition 215, including the policy concerns raised by U.S. Supreme Court Justices, are explored in Chapter 7. The last chapter, Chapter 8, summarizes the findings and discusses the implications for future research.

2 Literature Review

In this chapter, I discuss the literature reviewed to inform the dissertation's focus and analysis. The principal literatures are those on direct democracy and problem definition. Also briefly discussed are the drug policy and agenda setting literatures; these serve as resource literatures informing the presentation of the context in which state ballot measures are considered. As I sought to formulate my dissertation focus, I first began emphasizing the individuals who were the primary backers of these efforts, and I was able to determine through various state financial disclosure websites that Sperling, Lewis, and Soros collectively had contributed \$80 million to such efforts either directly or through grants to organizations that then backed many of the ballot measures. The literature on policy entrepreneurs suggested the potential of these actors in agenda setting, which led me to the agenda setting literature and eventually the subset of problem definition literature. At the same time, I began reviewing the direct democracy literature to get a handle on what was known about the use of this process. The chapter examines key themes in these literatures that informed the research, as well as highlights the gap in the literature that the dissertation addresses.

2.1 Direct Democracy Literature

Three themes in the direct democracy literature inform the dissertation focus: state ballot measures and the national agenda, actors in this venue, and the strategies they employed.

2.1.1 State Ballot Measures and the National Agenda

Researchers highlight a number of potential ways in which state ballot measures can be used to address national policy issues. Magleby (1998), Lupia (1992), and others have identified the initiative as a valuable avenue for states to get involved in federal policy disputes and impact federal institutions (e.g., attempts to limit terms for members of Congress and state legislatures). Magleby (1998) concludes that initiatives frequently have been used to mandate specific policies for federal, state, or local governments (e.g., a single state policy might reverse locally enacted laws or conflict with federal law).

Lowery and Sigelman (1981), for example, have documented how a vote on a single issue can propel the issue onto the national agenda. California's adoption of Proposition 13 in 1978 is widely credited with the introduction of similar efforts in 38 states within two years (Lowery and Sigelman 1981).

The direct democracy literature affirms that "initiatives seek to alter federal policy by asserting a state policy role in an area thought to be federal in nature" (Magleby 1998:4). Krois (2001), for example, examined ballot proposals to legalize physician-assisted suicide and concluded they were pursued to generate national debate through the media as well as through legal challenges that would allow the merits of such measures to be considered. According to Cobb and Ross (1997), agenda setting emphasizes individuals and groups with new issues trying to get the attention of key decisionmakers. Mendelsohn and Parkin (2001) concluded that ballot measures are a story of narrowing the political choices to a single question and of voters who simply want to know what the question means. Mendelsohn and Parkin (2001) and Cronin (1989) view ballot measures as vehicles used by those with a particular agenda who selectively present information to achieve a particular end without giving away any power or control. In the case of the ballot measures, the actors have specifically selected a venue that can at times generate national attention and that allows actors to bypass key decisionmakers that typically are the targets in the agenda-setting literature.

2.1.2 Actors in Direct Democracy

The direct democracy literature suggests that a broader range of actors are involved in this venue than in other policymaking venues. Alexander (2002) found that state and national actors, such as governors and presidents, can provide important cues for voters based on their support or opposition to particular ballot measures. Bergstrom (1999) and Newitt (2002) found that the courts are key actors in this venue, forcing other state and federal actors to respond to ballot measures, such as California's Proposition 215 allowing medical use of marijuana. They predict that this ballot measure and the resulting legal challenges ultimately will force national policy to address the issue of medical use of marijuana.

The direct democracy literature identifies policy entrepreneurs (Mintrom 1997a, b; 2000) and the courts, including the U.S. Supreme Court, as among the key actors in the initiative process (Miller 1999; Epstein and Knight 1998). In a study of initiatives in the 1990s, Miller (1999) found that more than half were challenged in court and that in at least half the cases part or all of the challenged initiative were invalidated. Miller (1999:13) reviewed recent research on outcomes of legal challenges in federal and state courts, finding that those opposing particular initiatives often shopped for the most promising venue, specifically bypassing state courts for federal courts since the latter were perceived as being more likely to overturn initiatives. Miller's (1999:22) review of the court opinions identified two key bases for invalidation: (1) violation of individual rights, e.g., rights protected by federal or state constitutions such as the right to free speech, or (2) violation of a structural or procedural rule, such as a state's requirement that an initiative only address one subject.

Just as Miller's research suggests that the courts can serve a powerful role in the initiative process so too does Epstein and Knight's work on the Supreme Court. Epstein and Knight (1998:4) argue that U.S. Supreme Court justices engage in strategic decision-making. Epstein and Knight (1998:88) examined justices' decisions to hear particular cases and their participation in oral arguments, concluding that the determination of what disputes to hear and resolve reflected agenda setting by the justices. The literature on the U.S. Supreme Court's role in agenda setting and public statements by Soros's spokespersons that they sought to have challenges to their initiatives heard by the Supreme Court in an effort to further legitimize their cause led to my adding an analysis of the three U.S. Supreme Court cases resulting from the state drug policy ballot measures. The dissertation, then, will add to the literature on problem definition, providing insight into the role of the U.S. Supreme Court and the policy entrepreneurs principally funding the legalization movement via ballot measures over the past decade.

2.1.3 Strategies Employed in the Venue of the Initiative Process

The direct democracy literature suggests that the initiative process is selected purposely because it allows sponsors to control issue framing, and the policy debates via

the initiative process often are about symbolic politics. Waters (2003) and Lupia (1992) contend that the selection of this venue is strategic in that it allows actors to bypass the state legislature and is frequently faster than the traditional legislative process. McCuran (2002:3) states that “because voters have fewer cues...voting intentions are more likely to shift during initiative campaigns and voters are more susceptible to short-term forces, especially negative ones.”

The decision to fund ballot measures is another important strategic decision. Spending has been considered as a factor in ballot measure success. Indeed, much of the direct democracy literature focuses on trying to establish causality, with considerably mixed results. Cronin (1989) and Gerber (1999) are representative of much of the literature. Cronin (1989) found that certain controversial issues, such as the use of the death penalty or abortion, are immune to spending campaigns, while Gerber (1999) reported that voters often mistrust initiative campaigns that appear to rely solely on money. In contrast, Alexander (2002) in an examination of state gambling initiatives concluded funding can be a key factor.

Krois’s (2001) examination of ballot measures on physician-assisted suicide identified other potential factors affecting the outcome of initiative campaigns. She found that ballot measure length, placement of the measure or initiative on the ballot, and complexity of ballot measures were among the key factors. This led me to examine the various materials available related to ballot measures. Bowler (1998:171) suggests that “the information used [by voters] to assess issues (i.e., who supports what position, who’s behind what) are easily available in public pamphlets and often available from campaigns.” Yet the literature has not systematically examined voter information materials—a gap this research will address.

In terms of strategies employed, many discuss the use of symbols particularly in ballot measure campaign ads (e.g., Krois 2001). Hurd (2002:37) observes how “in politics, as in language, it is the symbols of an issue that constitute its substance” and that serve as cues to guide the behavior of various actors. Whitford and Yates (2003) found that the president and his political appointees send policy priority signals through public rhetoric, which suggests that examination of the statements by national actors in support of and opposition to state ballot initiatives may serve as important voter cues. At

the state level, voter information materials are a frequently used source for identifying and characterizing the actors in the policy debate. However, I was unable to identify any studies of the use of rhetoric and symbols in voter information pamphlets accompanying ballot measures. Because the ballot measures themselves often are more legalistic in nature, the voter information materials also serve as an important data source for examining symbolic politics. Symbols can “be used to justify or rationalize government decisions, challenge those decisions, and mobilize support for new demands,” which led me to focus as well on the problem definition literature (Elder and Cobb 1993: 118). As Hurd discusses (2002: 36), the power of an institution is largely a function of its legitimacy, which “gives rise to symbols that possess a mobilizing power because of their association with the institution.”

2.2 Problem Definition Literature

The literature on agenda-setting highlights the important role of problem definition (e.g., Kingdon 1995; Baumgartner and Jones 1993, 2002). Agenda setting refers to the narrowing of the set of problems or issues (Theodoulou 1995). Kingdon (1995) argues that in order to understand and influence policy, one must understand the agenda-setting process. He identifies the following key concepts: the problem stream, policy stream, political stream, and policy windows. Kingdon concludes that policy windows may appear by chance or due to external events. With the initiative process, actors are in a sense creating their own policy windows in a venue that allows them to manipulate the streams Kingdon discusses. The direct democracy literature highlighted problem definition as a key element, leading me to look to the problem definition literature for approaches to apply to better understand the strategies and specifics of issue framing in this venue.

Problem definition can be viewed as “a political process whose outcome will help determine appropriate solutions” (Anderson 1997: 95). Anderson (1997) states that in order to understand policymaking, it is important to understand how and why problems are defined. To tap problem definition, the literature highlights the importance of understanding the “substance and dimensions of the target problem in order to appraise the policy’s effectiveness” (Anderson 1997: 94) as well as the actors that identify the

issue, the attentive public, the attention paid by groups focused on the issue but lacking knowledge, and the mass public (Cobb and Elder 1983: 104-8). Baumgartner and Jones (1993: 37) state that when the rhetoric changes frequently the venue changes as well. In the venue of the initiative process, the actors have bypassed the traditional decisionmakers (the state legislature) and moved to an alternative venue in order to set the public agenda.

The theories related to agenda setting appear more applicable to examinations of causality rather than the exploratory research this dissertation undertakes. However, the literature on agenda setting highlights the important role of problem definition and identifies related aspects, such as the identification of actors and the language or message strategies employed. Thus, it is the agenda setting and direct democracy literatures that led me to the problem definition literature and generated my interest in how policy problems are defined in this venue.

Cobb and Elder (1983: 104-8) identify as critical to agenda setting: “actors that identify the issue, raise the issue, the attentive public, attention groups focused on the issue but lacking knowledge (their interest can be converted to political action); and the mass public (who usually are committed to issues for only short periods).” In the case of ballot measures on illegal drugs, I did not know who all of the actors were, and I believed that one contribution this dissertation could make would be to identify the various types of actors involved in this venue and in the drug issue at the state level.

Stone (2002) provides a detailed framework for examining the struggle over ideas. She contends that the essence of policymaking is understanding. Stone (2002: 12) emphasizes the need to examine what is behind problem definition and contends that by revealing or clarifying what is underneath, more informed decisions will occur. Her framework indicates “problem definition is a matter of representation because every description of a situation is a portrayal from one of many points of view” (Stone 2002:133). In contrast to Kingdon (1995) and others, Stone’s approach to problem definition appeared to hold the most promise for examining this venue, since it is not clear what comes first—the problem, solution, or goals. In addition, Cobb and Elder’s (1983) research on agenda denial informed the proposed research plan, highlighting the importance of examining the macro forces that shape political discussion and limit which

issues can be considered and discussed. Thus, an important and innovative element of the research design is its analysis of the actors and rhetoric employed in the voter information materials and related U.S. Supreme Court briefs. Mintrom and Vergari (1998: 341) highlight the need and value of examining issue framing, stating that such research can provide further insight into how “individuals package their ideas...build support...and use political opportunities to drive their policy preferences home.”

2.3 Resource Literatures

The literatures on symbolic politics, agenda setting, and drug policy serve as important resources. Related research by Baumgartner and Jones (1993: 10) suggests that “focusing events, chance occurrences, public opinion campaigns by organized interests, and speeches by public officials” can cause issues to rise on the agenda. I had initially considered applying Baumgartner and Jones’s (1993) theory of punctuated equilibrium to the study of state ballot measures but, similar to Sabatier (1999), the framework applies to time frames longer than a decade. In addition, as a demonstrable policy shift has yet to occur at the national level, it appeared premature to examine causality. In my view, an application of Baumgartner and Jones would have been too inconclusive, merely determining as Kingdon would have that conditions may be ripe for change. The agenda setting literature and the literature on symbolic politics suggest that the initiative process may be selected to send a symbolic message or to move an issue onto the public agenda. These works reinforce the importance of examining how problems are defined in this venue because of the potentially far-reaching impact of a single ballot measure.

There is no particularly distinctive “drug policy literature”; rather the issue of illegal drugs draws from many sources, including those in public health, law enforcement, human rights, national security, and public policy. Thus, when speaking of the drug policy literature, it is more accurate to speak of the coverage of the drug issue across a range of literatures. Documentation of state and federal legislative efforts usually takes the form of annual updates provided by the Marijuana Policy Project, NORML, and the Drug Policy Alliance (DPA) among others. Although reviews of changes to state drug laws are published annually, they often focus on efforts funded by

the primary legalization organizations and do not reflect all changes to state laws related to illegal drugs. DPA (2003) provided one of the most comprehensive reviews with its report on 150 drug policy reforms taking place between 1996 and 2002.

The drug policy literature is full of analysis of the normative aspects of policy choices and recommendations about the “one right policy choice” (e.g., Alexandrova 2002). Manderson (1999) characterizes the debate over the use of marijuana for medical purposes as a conflict of rationality versus emotion. Like much of the literature, he focuses on the dichotomies of the philosophical debate rather than on the specifics of various problem definitions. More often than not, the peer-reviewed research, much like the media coverage, pays attention to the extremes—prohibition vs. legalization--good vs. evil--rather than on the actual policy options proposed (e.g., DesJarlais 1995; Hrab 2003; Inciardi and Saum 1996; and Nadelmann 1989). Elaine Sharp, in Rochefort and Cobb (1994:108), suggests the drug topic has high potential for diverse problem definition. She also observes that only if there are “policy entrepreneurs and groups with appropriate stakes in the issue will the rich new material of drug problem definition be extensively mined” (Sharp 1994: 109). The drug policy literature served to validate the heavy use of rhetoric and political symbols and the lack of peer-reviewed research on the mechanics of issue framing in the venue of the initiative process.

2.4 Conclusions

Such a review of relevant literatures helped me to refine the research question and to identify an appropriate framework for better understanding the language of problem definition in the venue of the state initiative process. As Chapter 1 discussed, my dissertation extends the current drug policy and problem definition literatures, bridging a gap between the problem definition and direct democracy literatures. This chapter provides background into how I selected Stone’s (2002) analytic framework to examine the issue framing strategies in the venue of state ballot measures. The research addresses a topic the drug policy literature currently--does not address--drug problem definition in the initiative process—which is expected to contribute to more systematic study of this venue and its implications for drug policymaking. The drug policy literature serves as a resource, since the drug issue is the vehicle for examining problem definition. The

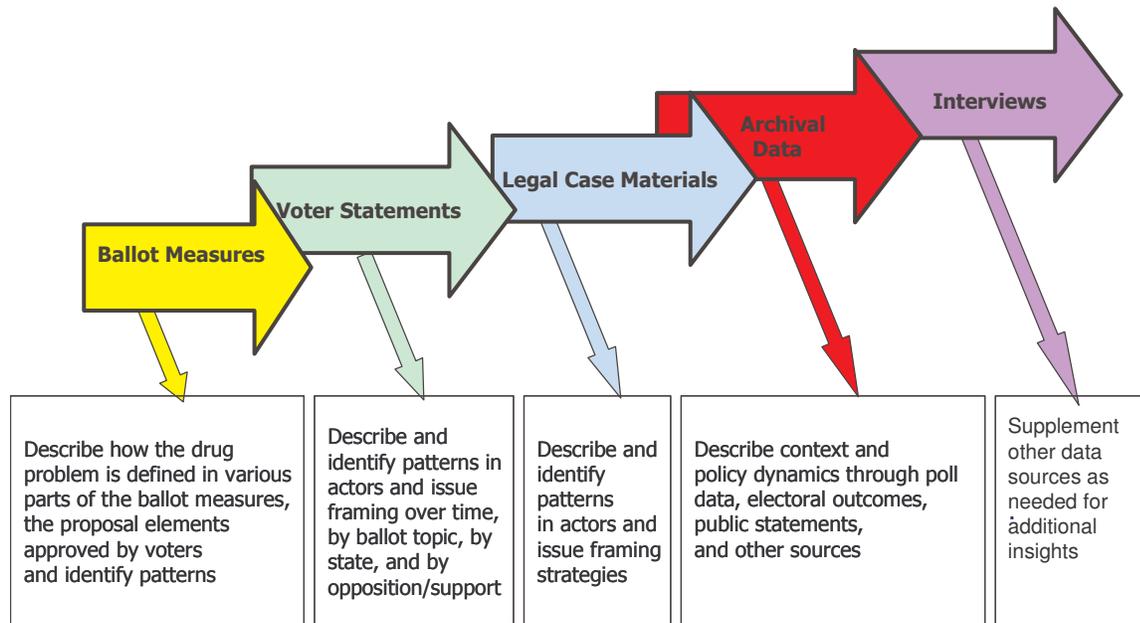
agenda setting literature of which problem definition is a part also is a resource literature and serves to reinforce the potential importance of the venue of the initiative for impacting the national agenda and national policymaking. The next chapter describes the methodology used for exploring the ballot measures on illegal drugs.

3 Research Design

This chapter describes the overall research approach and methodology for conducting the research. The study focuses on an examination of materials related to state ballot measures. This chapter provides a detailed description of the information studied, the sampling parameters and data collection methods, and the approach to analysis. It includes a discussion of issues of reliability and validity.

My research goal was to examine issue framing strategies in the initiative process, using the vehicle of illegal drug policy to better understand policymaking in this venue. An early challenge was simply identifying the various information sources relating to state ballot measures and assessing their potential for providing insight into problem definition. Figure 3-1 below shows the data sources identified and their role in the study.

Figure 3-1. Overview of Research Design



A review of the literature on direct democracy identified a large number of studies focused on the implementation, outcomes, and effectiveness of ballot measures. A large portion of the direct democracy literature has analyzed what led voters to support or oppose particular ballot measures, such as media coverage, ads, and the views of influential politicians. However, the direct democracy literature has not examined materials related to the ballot

measures to examine how policy issues are framed in a systematic way. The literature on problem definition, particularly Stone (2002), suggests that looking at the strategies used to define or redefine a policy issue helps us not only to understand the underlying concepts or values but also to resolve the more overt conflicts. Aspects of Stone's (2002) analytic framework are used in analyzing and describing the various aspects of the state ballot measures related to illegal drugs. Rather than replicate existing studies that do not precisely focus on the issue framing strategies, I wanted to bridge a gap between the direct democracy and problem definitions by examining the issue framing strategies inherent in the text of ballot measures and the accompanying voter information statements.

The next section describes the sampling parameters and data collection methods, detailing the various elements of the ballot measures examined. This is followed by a description of the analysis. The chapter concludes with a discussion of the limitations of the research.

3.1 Sampling Parameters and Data Collection Methods

The direct democracy literature discusses ballot measures in great detail but until I began reviewing the various states' requirements related to the initiative and referenda I did not realize the scope of information sources related to ballot measures. Each data source discussed below was selected for its ability to provide insights into the primary variables of interest--the extent and nature of the changes in definition of the drug problem through the use of state ballot measures over the past decade. The universe of state ballot measures comprises those between 1996 and 2004 that qualified for the ballot, remained on state ballots, and had illegal drugs as the primary subject. The specific criteria used to identify the universe of state ballot measures related to illegal drugs are discussed below.

3.1.1 Illegal Drugs as a Ballot Measure Focus

The initial list of state ballot measures related to illegal drugs was developed based on my professional knowledge and experience with the White House Drug Policy Office. I also reviewed media clips generated for the Office by Bulletin News and press releases by the agency since its inception to identify references to particular ballot measures. Identification and refinement of the list continued through review of reports on drug laws by two principal

national legalization organizations, the Marijuana Policy Project (MPP) and the Drug Policy Alliance (DPA), and key word searches of their websites and the websites of the Ballot Initiative Strategy Center and the National Conference on State Legislatures. I also reviewed Waters's (2003) almanac of initiatives and referenda. The state ballot measures categorized as "legalization" or related to "illegal drugs" varied across information sources. Because my goal was to create a comprehensive list of all state ballot measures related to illegal drugs, I supplemented my initial search with key word searches of Lexis-Nexis News by year, using 1986 as a starting point and 2004 as an endpoint. I used the following search terms: specific drug names from the list of Schedule I drugs, illegal drugs, illicit substances, psychoactive substances, Schedule I drugs, treatment, incarceration, seizure, forfeiture, hemp, decriminalization, legalization, medicalization, state, substance abuse, ballot, initiative, and referendum. All of the state ballot measures related to illegal drugs examined have been characterized as "legalization" measures by more than one source, usually national or state political leaders, media, or organizations serving as sponsors, supporters, or opponents of the measures. I neither created nor imposed the construct "legalization."

Most states require that ballot measures focus on a single topic, facilitating identification of measures in which illegal drugs is the primary focus. I initially excluded ballot measures that focused on hemp as an agricultural product, but after multiple data sources classified the measures as legalization I obtained copies of the measures to examine them in more detail. The review of the actual ballot measure was very informative—the ballot title referenced hemp but the text of the ballot measure indicated the measure addressed all hemp-related products including cannabis. This provided my first real-world illustration of an issue framing strategy and suggested the importance of examining multiple aspects of the ballot measures. Another ballot measure topic that did not on the surface appear to be drug related was related to reform of asset seizure and forfeiture laws. However, the DPA and other national legalization groups specifically label such efforts as drug policy reform. While these organizations also cite changes to sentencing laws as a key challenge to the prevailing approach to illegal drugs, such efforts do not appear to have been the target of state ballot measure efforts. Rather, the legislatures and courts remain the predominant venues for challenging national and state policy in that issue area.

3.1.2 Time Frame

As discussed previously, the first state initiative focusing on illegal drugs was on the ballot in 1972, followed by another initiative in 1986. Two state initiatives reinforcing the national approach were considered in 1990. No state initiatives challenging the national approach to illegal drugs reappeared on state ballots until 1996. Archival documents indicate that the “legalization through ballot movement” began with Soros funding in 1992-1993, resulting in two state ballot measures in 1996. I searched for information on relevant initiatives on the websites of the MPP, DPA, Ballot Initiative Strategy Center, National Conference on State Legislatures, and Lexis-Nexis News, using the terms “state” and “measure” and/or “initiative” and/or “referendum or referenda” by year with 1970 as the starting point and 2004 as the end-point. I then reviewed the articles this search generated to ensure that no additional relevant measures had been omitted. This permitted me to substantiate that the resurgence of the use of the initiative process to address illegal drugs began in 1996 with Proposition 200 in Arizona and Proposition 215 in California.

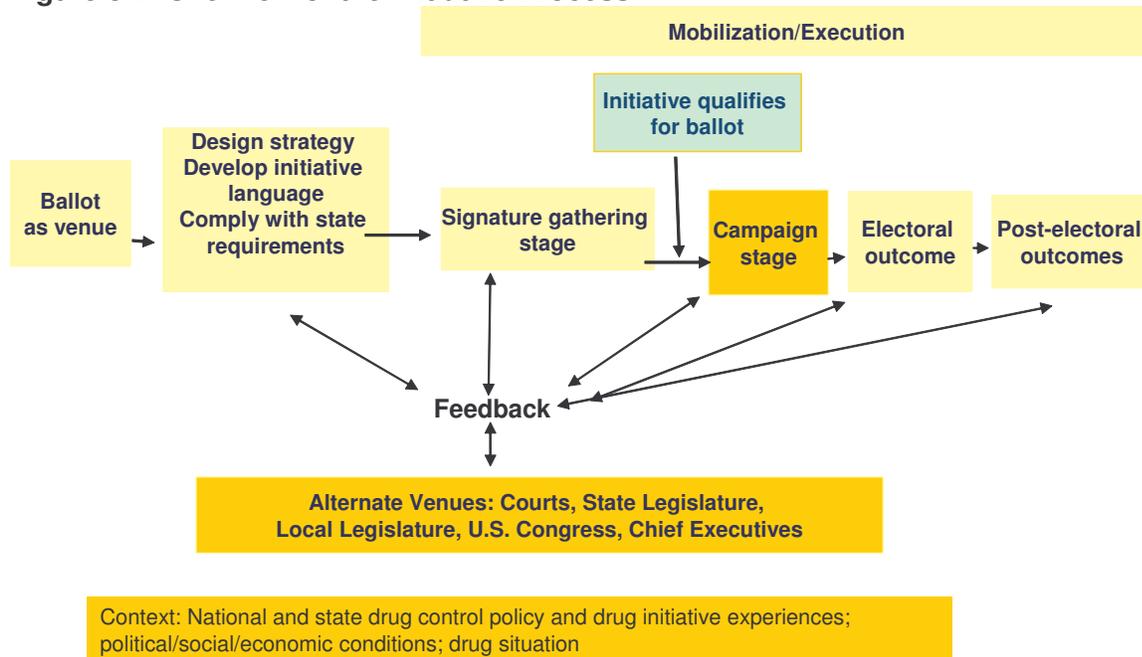
3.1.3 Omission of Local Ballot Measures

Because my research focus is on tracing efforts to redefine the drug problem through state ballot measures in an effort to influence national drug control policy, I initially planned to omit local ballot measures. Before making a final decision to exclude them, I conducted formative interviews with two staffers in the White House Drug Policy Office’s Public Affairs office who reinforced my initial conclusion that such measures rarely receive widespread national media attention. In addition, these measures are less likely to influence the national policy agenda because they are frequently overturned or invalidated upon passage as they are preempted not just by federal but also by state law. Moreover, while myriad county and city ordinances have addressed illegal drugs, there is no systematic way to identify all such initiatives and the level of information available varies widely. I also ultimately dropped Washington, D.C., ballot measures from consideration as more often than not they are categorized as local rather than as state ballot measures. Another reason for excluding Washington, D.C., from this study is the unique nature of its political system—Congress has swiftly invalidated all D.C. drug-related initiatives.

3.1.4 Qualification for the Ballot

As Figure 3-2 shows, the initiative process involves a number of stages. The requirements to qualify a measure for the ballot vary widely by state but generally require stringent adherence to initiative regulations, which include signature requirements. In Arizona, for example, in order to propose any amendment, ballot measure sponsors must submit a petition signed by 15 percent of the total number of voters for all candidates for governor in the last general election. Only about one-fourth of all ballot measures meets states' requirements and qualifies for the ballot (Waters 2003). Identifying and obtaining accurate and detailed information on measures that sponsors attempted to qualify or that were initially qualified but then removed from the ballot due to legal challenges proved extremely difficult. I chose to limit the ballot measures examined to those that qualified for the ballot, were placed on the ballot, and were considered by voters. In addition to the difficulties of obtaining information on these other ballot measure efforts, it appeared logical to limit the ballot measures in this way as they were the most likely to receive national and state media attention and to generate debate.

Figure 3-2. Overview of the Initiative Process



3.1.5 Resulting Sample of Ballot Measures and States

As a result of the application of the selection criteria, 28 state ballot measures related to illegal drugs were identified. Figure 3-3 shows the 13 states that considered ballot measures related to illegal drugs between 1996 and 2004. Table 3-1 lists the short descriptive title of the ballot measures by year and state.

Figure 3-3. Voting on Ballot Measures Related to Illegal Drugs, 1996-2004

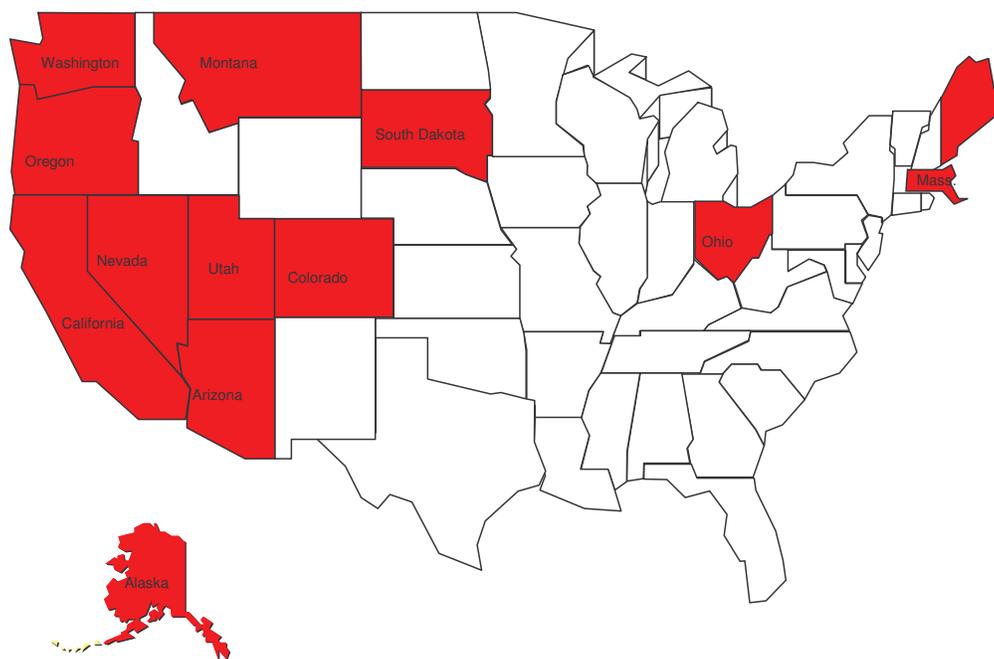


Table 3-1. Ballot Measures on Illegal Drugs by Year and State, 1996-2004	
1996 AZ Prop. 200: Drug Medicalization, Prevention, and Control Act of 1996	2000 CO Amend. 20: Medical Use of Marijuana
1996 CA Prop. 215: Compassionate Use Act	2000 MA Ques. 8: An Act to Expand the Scope of the Commonwealth's Drug Treatment Program and Provide Funding Through Fines for Drug Violations and the Forfeiture of Assets Used in Connection with Drug Offences
1997 WA Init. 685: Drug Medicalization and Prevention Act of 1997	2000 NV Ques. 9: An Initiative relating to the use of a plant of the genus cannabis for medical purposes
1998 AK Meas. 8: Bill Allowing Medical Use of Marijuana	2000 OR Meas. 3: Amends Constitution: Requires Conviction Before Forfeiture; Restricts Proceeds Usage; Requiring Reporting, Penalty
1998 AZ Prop. 300: Ref. Ordered by Petition of the People relating to the Medical Use of Schedule I Drugs	2000 UT Init. B: Utah Property Protection Act
1998 AZ Prop. 301: Ref. ordered by petition of the people relating to probation eligibility for drug possession or use	2002 AZ Prop. 203: Drug Medicalization, Prevention, and Control Act
1998 CO Amend. 19: Medical Use of Marijuana	2002 AZ Prop. 302: Drug Probation
1998 NV Meas. 9: An Initiative Relating to the Use of a Plant of the Genus Cannabis for Medical Purposes	2002 NV Ques. 9: An Initiative Relating to the Use and Possession of up to 3 oz of Marijuana the Distribution of Marijuana, and Other Matters Related Thereto
1998 OR Meas. 57: Makes Possession of Limited Amount of Marijuana Class C Misdemeanor	2002 OH State Issue 1: Ohio Drug Treatment Init.
1998 OR Meas. 67: Allows Medical Use of Marijuana Within Limits; Establishes Permit System	2002 SD: An Amendment to Article VI, Sec. 7 of the Constitution, relating to the rights of a criminal defendant
1998 WA Init. 692: Shall the medical use of marijuana for certain terminal or debilitating conditions be permitted, and physicians authorized to advise patients about medical use of marijuana?	2002 SD Meas. 1: An Initiative Related to Industrial Hemp
1999 ME Ques.9: An Act to Permit the Medical Use of Marijuana	2004 AK Cannabis Decriminalization and Regulation Act
2000 AK Meas. 5: Initiative Petition: Allowing Uses of Hemp, including Marijuana	2004 MT Init. 148: Montana Medical Marijuana Act
2000 CA Prop. 36: Drugs Probation and Treatment	2004 OR Meas. 33: Oregon Medical Marijuana Act

3.1.6 Ballot Measure Materials Analyzed

A range of materials related to state ballot measures are available for analysis.

Appendix A contains samples of the full range of ballot measure materials, including:

- Full text of the ballot proposition, which includes:
 1. Official title;

2. Sponsor's preferred descriptive title;
 3. Political preamble providing sponsor's purpose and intent; and
 4. Text of ballot measure, which is similar in format to a legislative bill.
- Impartial analysis by the state's office of legislative analysis or the state attorney general's office.
 - Fiscal impact summary.
 - Voter information guides, which may include impartial summaries of the arguments, no arguments, or arguments in support and opposition to the ballot measure.
 - Official ballot language--usually a descriptive summary presented as a statement or question-- that voters see on the ballot when they cast their vote. Frequently, this is the only information that voters see before they consider voting for or against a particular ballot measure. Voter information guides also often include the official language.

The elements required for initiatives and referenda vary by state. Appendix A also includes a sample handbook outlining the qualification process as well as requirements related to the voter information guides and ballot propositions. Since the research here focuses on how the various actors tried to define the issue, I sought to obtain the following elements for each ballot measure:

- The full text of the ballot measure;
- The official ballot summary or question appearing on the ballot; and
- The voter information guide statements in support and opposition, including their authors.

I obtained these by contacting the offices and visiting the websites of secretaries of state and state election offices. Some of the materials were available electronically, but some ballot measures from elections prior to 2000 and some voter information guides were not. Because responsibility for the ballot language and voter information statements varies widely by state, I initially used Waters's (2003) listing of initiative and referenda requirements by state to determine whether voter information statements were required by the specific states and to identify the responsible state agencies. In addition, two Soros-funded websites and several

grassroots legalization online newsgroups were searched to ensure that I had identified all of the ballot measures for which there should have been voter information statements. I obtained the following materials for further analysis:

- The full text of the 28 ballot measures.¹
- Political preambles for the 12 ballot measures that included statements of purpose and intent.
- Voter information statements authored by supporters and opponents for 22 ballot measures, yielding a total of 186 statements (Maine, Nevada, and Colorado do not include such statements).

3.1.7 Relevant Court Cases

According to the formative interviews I conducted, a stated goal and measure of success for those sponsoring state ballot measures related to illegal drugs have been to obtain legitimacy and visibility by reaching the U.S. Supreme Court. Such Supreme Court cases play a potentially important role in the drug policy debate as the court increasingly is involved in arbitrating conflicts between state and federal law. A wide range of legal challenges have resulted from state ballot measures, including those focusing on illegal drugs, primarily on technical grounds such as whether the ballot language adhered to the one subject rule or whether signature-gathering procedures for qualification were conducted properly. Almost half of all initiatives have been invalidated in part through such challenges (Waters 2003).

My interest was in the strategies used to frame the issue of illegal drugs via state ballot measures as part of an overall effort to influence national drug control policy. As a result, I limited the scope of court cases I examined to U.S. Supreme Court cases related to the state ballot measures. Between 1996 and 2004, two U.S. Supreme Court cases focused on California's Proposition 215, which was approved by voters in 1996. The cases are *U.S. v. Oakland Cannabis Buyers' Cooperative et al.* and *Raich v. Ashcroft*. In addition, the

¹ The state websites providing additional information on initiative efforts are as follows: Alaska: <http://www.gov.state.ak.us/lgov/elections/homepage.html>; Arizona: <http://www.azsos.gov/>; California: www.ss.ca.gov/elections/elections.htm; Colorado: www.sos.state.co.us/pubs/elections/; Maine: www.state.me.us/sos/cec/elec/; Massachusetts: www.sec.state.ma.us/ele/eleidx.htm; Montana: <http://sos.state.mt.us/css/ELB/Contents.asp>; Ohio: www.sos.state.oh.us/sos/elections/; Oregon: www.sos.state.or.us/elections/elechp.htm; South Dakota: www.sdsos.gov/elections/; Utah: elections.utah.gov/; and Washington: www.secstate.wa.gov/elections/.

federal government submitted a petition to the U.S. Supreme Court asking for review of a 9th Circuit Court of Appeals decision related to Proposition 215. This case, *Walters v. Conant* (formerly *Conant v. McCaffrey*), also is examined as it has implications for other state ballot measures.

The cases were identified based on discussions with the White House Drug Policy Office’s legal staff as well as searches of Findlaw.com for U.S. Supreme Court cases between 1990 and 2004 to identify any addressing illegal drugs and ballot measures or state initiatives (and excluding drug “testing” and “sentencing”). The three cases all focus on aspects of California’s Proposition 215 and have implications for Arizona’s Proposition 200, since Arizona is in the 9th Circuit and is thus affected by the rulings. Another rationale for examining these cases is that their outcomes have implications not just for the state of California but also for other states and for national policy.

Table 3- 2 shows the materials obtained for each case for analysis. These materials were obtained from the White House Drug Policy Office and through online searches.

Table 3-2. Court Case Materials Obtained for Analysis		
<i>U.S. v. Oakland Cannabis Buyers’ Cooperative et al.</i>	<i>Ashcroft v. Raich</i>	<i>Conant v. Walters</i>
Respondent and Petitioner Briefs	Respondent and Petitioner Briefs	Respondent and Petitioner Briefs
10 Amicus Briefs	7 Amicus Briefs	2 Amicus Briefs
Transcript of Oral Arguments, U.S. Supreme Court and Opinion of Court	Transcript of Oral Arguments, U.S. Supreme Court	Opinion of the U.S. 9th Circuit Court of Appeals

3.1.8 Archival Data

Archival data were used primarily to provide information on the context in which the state ballot measures and court cases were considered. Information collected and reviewed includes the electoral outcomes of the ballot measures, related public opinion polls, public statements by national actors in the drug policy debate, historical information on milestones leading up to the use of state ballot measures in 1996 to redefine the drug issue and background on the cases leading to the three U.S. Supreme Court cases examined.

In order to characterize the rhetoric on the drug issue at the national level (that is, the status quo), I obtained and reviewed the following aspects of National Drug Control Strategies for 1996 through 2004:

- National Drug Control Strategy goals to determine whether and how the prevailing approach has changed over time;
- Transmittal letters from the President with characterizations of the drug problem (letters were available for all years except 2001, and none included references to legalization or ballot measures); and
- Paragraphs in the Strategies referring to drug legalization or state ballot measures (paragraphs from the 1998 through 2004 Strategies were identified through key word searches of the documents for ballot, ballot measure, reform, initiative, medical marijuana, and legalization).

3.1.9 Key Informant Interviews

Initially, I had planned to use key informant interviews to supplement data collection efforts if needed to obtain further insight into issue framing strategies. Aberbach and Rockman (2002: 673) state that interviewing is valuable when the desire is to understand what “a set of people think or how they interpret an event or series of events.” The primary purpose of the interviews was to obtain additional insights about the context in which these state ballot measures were considered; the strategies used by sponsors, supporters, and opponents; and respondents’ perceptions regarding problem definition efforts. Some interviews were to be conducted if uncertainties or questions arose in the analysis; however, few if any emerged. The interviews were intended primarily for triangulation, to enhance validity by supplementing and serving as a check on the other data collection efforts.

My initial interview target list was developed based on a review of the national initiative sponsors, a cursory review of the national media coverage conducted for the White House Drug Policy Office by Bulletin News over the past two years, and my professional experience and contacts in the area of national drug control policy. Additional interview targets were to be solicited from those interviewed. I conducted several formative interviews with two public affairs staff members in the White House Drug Policy Office and with representatives of two state offices of two national legalization organizations. These

interviews allowed me to refine my discussion topic guide, which was approved by the Institutional Review Board (IRB). (The discussion guide and IRB approval form are included as Appendix B.) The primary lesson of the formative interviews, though, was that it was best to allow the interviewees to direct the content, with me simply providing prompts and asking specific questions based on my discussion topic guide.

As I had ready access to current and former officials in the White House Drug Policy Office, I conducted those interviews as the persons were available rather than waiting until data collection and analysis were complete. Some of the interviewees expressed concern, however, about my efforts to interview leaders of national legalization organizations. While I had planned to represent myself as a doctoral student when conducting those interviews, concern was expressed that some organizations might be familiar with my professional role and might conclude incorrectly that I was acting on behalf of the Office rather than as a student. In addition, the interviews I had conducted with former and current government officials were not as helpful as I had expected. The most relevant insights were provided by persons who had opposed the state-level ballot measures. Most of the other interviews conveyed the same rhetoric on the drug issue found in the National Drug Control Strategies with which I was already very familiar due to my professional position. Few of the interviewees were able to speak to issue framing strategies related to specific state drug policy ballot measures.

The interviews I conducted were as follows:

- John Walters, Director, White House Drug Policy Office.
- MaryAnn Solberg, Deputy Director, White House Drug Policy Office; former state anti-drug coalition leader from Michigan with a long history of involvement in state ballot measure efforts.
- Scott Burns, Deputy Director, Office of State and Local Affairs, White House Drug Policy Office; served four terms as the Iron County Attorney in Cedar City, Utah, and was involved in opposing Utah's 2000 Property Protection Act.
- Hope Taft, First Lady, State of Ohio; played a leadership role in opposing State Issue No. 1 in 2002.
- Robert Weiner, former Chief, Press Relations, for the White House Drug Policy Office, for former Director Barry McCaffrey.

- Formative interviews with two representatives of state affiliates of two national legalization organizations who did not wish to be identified.
- Formative interviews with three White House Drug Policy Office Officials: Jennifer deVallance and Tom Riley within the White House Drug Policy Office's Public Affairs Office, and Ed Jurith, Office of General Counsel (who also was the former acting director of the White House Drug Policy Office prior to Director Walters being named and confirmed).
- Background discussions with Kate Malliarakis, nurse practitioner, and former Branch Chief, Specific Drugs, White House Drug Policy Office, who was involved in state ballot measure efforts during the Clinton administration.

3.2 Data Analysis

This section describes the overall methodology and the specific analytic approach by data element. While opponents and proponents of the ballot measures seem to agree that legalization is the end-goal or solution being proposed via state ballot measures, there has been no systematic examination of the various definitions of the drug problem contained in the initiatives; nor has an effort been made to understand the extent to which the principle of legalization is articulated. The primary method I relied on to review, describe, and analyze problem definition strategies in materials related to state ballot measures on illegal drugs was content analysis. This technique is widely used in the social sciences and, as Krippendorff (2004) notes, it can be particularly useful in investigating symbolic communications and other social processes. Stone (2002), in particular, informed my research design and the selection of content analysis to examine policy argumentation. Krippendorff's (2004) guidance on the steps in content analysis was adhered to. As the previous section discussed, I selected the data elements and designated the units of analysis. I developed categories for analysis based on Stone's framework, and sought to be transparent and explicit in my coding and categorizing.

The overall goal of this analysis was to provide an understanding of the language strategies used to define the drug problem in state ballot measures, to identify the actors in this policy venue and related issue areas, and to identify patterns over time, by ballot measure topic, and by author type (e.g., opposition versus support). The primary types of descriptive inferences made involved identification of trends, patterns, and differences. I triangulated

the data from the various materials related to the ballot measures. While I was not interested in making causal inferences, I also connected ideas to particular types of actors.

The presentation of results will be guided by the following questions:

- How was the drug problem defined in ballot measures using Stone's analytic framework on the language of problem definition? What patterns emerge according to measure topic, over time, and between those that failed and those that voters approved? Medical marijuana measures generally were approved by voters, while those focused on treatment failed. Understanding differences in how the drug problem was defined in these two types of initiatives might suggest potential explanations to be explored in future research.
- Who were the actors in this venue, and what patterns can be identified among the initiative sponsors, the supporters of opposition or counter-initiative campaigns, the authors or funders of voter statements, the actors involved in U.S. Supreme Court cases and amicus briefs, and actors identified through archival data sources (e.g., poll sponsors, discussions of ballot measures or legalization in National Drug Control Strategies, and key informant interviews)? For example, archival data suggest there were no clearly defined state-level opposition actors. Examination of the authors of voter information statements and amicus briefs sheds light on the actors in this venue.
- Based on analysis of the actual ballot measures, how was legalization defined? What aspects of legalization ballot measures were approved by voters and which were not? Were there any identifiable differences over time?
- What patterns can be identified in the arguments supporting and those opposing particular ballot initiatives in the voter information materials?
- What patterns can be identified in drug problem definition and the arguments presented in the U.S. Supreme Court briefs, and how do they compare to those presented in the ballot measure materials?

3.2.1 Analysis of Ballot Measures

In order to better understand the context in which the issue framing strategies were developed, it was important to review the full text of the ballot measures in order to identify

exactly what they proposed. Examining the full text of the ballot measures also is necessary to understand the specific concepts comprising legalization that the initiatives expressed.

The aspects in the “what” of problem definition that I sought to describe are as follows:

- The measure’s purpose, implicit and/or explicit.
- The actors and/or subjects explicitly and implicitly referenced in the ballot measures and their attributes.
- The purposes, solutions, and tools articulated in the full text of the ballot measures.

These categories closely align with the elements of policy design outlined by Ingram and Schneider (1993). In describing the purpose of a measure or its solution to the problem, I examined the location of the actors in the chain of effects within the policy “logic”; the tools through which the policy attempts to motivate target populations to take the actions envisioned by policy; and the rationales for justifying and explaining policy (such as merit, need, equality, efficiency, or effectiveness). Appendix C outlines these aspects for each ballot measure. This categorical examination of the ballot measures helped to ensure consistency in approach and facilitated the identification and description of patterns in the elements by passage and failure of the ballot measures, ballot measure topic, state, and year. Perhaps most importantly, mapping the provisions allowed me to articulate the conceptualization of legalization based on the ballot measures.

3.2.2 Analysis of Question or Descriptive Statement Comprising the “Official Ballot Language”

The summary of the question or statement appearing on actual ballots can be viewed as presenting the “solution” to a problem. The language on the ballot represented the means of addressing the policy problem. Stone (2002: 261) believes that “policy actions ... are really ongoing strategies for structuring relationships and coordinating behavior to achieve collective purposes.” She outlines a number of strategies used to try to change behavior and policy. The official ballot language for each of the 28 ballot measures was content analyzed to describe the solution strategies used and to make descriptive inferences regarding the language used by ballot topic, year, and state. The language was examined to identify whether and to what extent the following solution strategies were used: inducements, facts, rules, rights, and powers.

3.2.3 Analysis of Political Preambles

In reviewing the full text of the 28 state ballot measures related to illegal drugs, I found that 12 included language reflecting the political intent of the initiative sponsors or authors. This text often took the form of statements of “findings and declarations” and “intent and purposes”; it usually was preceded by a descriptive title that the sponsors asked be used to refer to the ballot measure. To gain insight into how those submitting the ballot measures sought to characterize the drug problem, for the 12 measures with preambles I analyzed the language of the descriptive titles and the text using Stone (2002). Specifically, I used Stone’s analytic framework to identify the strategies evident in the text’s implicit and explicit expression of goals, solutions, and problems. The analysis describes patterns in issue framing strategies in these three areas by initiative topic, year, and state, and compares solutions presented in the official ballot language to those provided in the available political preambles.

3.2.4 Analysis of Voter Information Statements and Authors

Because only 12 ballot measures included narrative that could be analyzed and the wealth of arguments and strategies apparent in the voter information statements, the analysis of the voter information statements was expanded. Of the 28 ballot measures, seven included either no voter statements or impartial State summaries of supporters’ and opponents’ positions. The remaining 21 measures included 186 total statements by supporters and opponents. Thus, the population is all statements by individual authors, which represents 10 out of the 13 states considering state ballot measures about illegal drugs between 1996 and 2004. Maine, Colorado, and Nevada were the only states excluded, and their initiative and referenda requirements were verified by contacting the states’ Secretary of State or election offices as well as by reviewing of requirements provided by Waters (2003). Voter information statements were obtained via official Secretary of State and state election websites and email, telephone, and fax requests to relevant state offices. Although the initial analysis plan was limited to identifying and categorizing authors and themes, the rest of this section describes the final analysis.

3.2.4.1 Analysis of Voter Information Statement Authors

Because not all of the voter information statements were available electronically and due to the length and variation in format of the statements, two key organizing steps were taken. First, a chart of all of the support and opposition authors by ballot measure was created to facilitate categorization and identification of trends in authors (see Chapter 6). Categories of actors were developed based on multiple reviews of the statements and are provided in Table 3-3.

Authors sometimes fell into more than one category and therefore could have been counted more than once. For example, individual names may have been followed by a reference to an organization or affiliation. Many individuals had their statements paid for by the initiative sponsor organization, and this appeared to be relevant for analysis. Categories D, E, and G in Table 3-3 could have been combined into a larger “law enforcement” category. However, because states and localities vary in terms of whether law enforcement, judicial, and other legal positions are elected, appointed, or civil service, I sought to limit the “political official” category to those who did not typically participate directly in street-level law enforcement activities. Here, those personnel traditionally involved with arrests and enforcing current drug laws were placed in the “law enforcement” category, while the

Table 3-3. Categories of Voter Information Statement Authors

<p>A. <u>Medical/health care</u>: physicians, patient groups, hospice worker, nurse, medical and health care professional society, drug-free workplace or employee assistance program, treatment professional, pharmacist (See too F7: state/local health/medical societies)</p> <p>B. <u>Individuals</u>: survivors, addict in recovery, mother, homeowner, patients (those with cancer, multiple sclerosis, or other health/medical condition), petitioners, initiative sponsors</p> <p>C. <u>Religious</u>: pastor, bishop, religious group leader</p> <p>D. <u>Law enforcement</u>: sheriff, police chief, law enforcement organizations such as sheriffs or peace officers association, detective, state patrol officers, probation officers, sex assault investigators</p> <p>E. <u>Political officials</u>: former, current, or candidates for elected office; political party members, U.S. members of Congress, state legislators; mayors; council persons; lt. governor or governor; assemblyman, former or current federal agency officials, former or current secretary of state, libertarian party members</p> <p>F. <u>Other</u>:</p> <ol style="list-style-type: none"> 1. Initiative sponsor organization 2. National organization (e.g., MADD, ACLU) 3. Businesses 4. State or local law enforcement organizations 5. State or local opposition groups (e.g., usually anti-drug coalition or alliance) 6. Other state or local organizations (e.g., prevention group) 7. State or local health/medical organizations <p>G. <u>Legal/prosecutorial</u>: attorney, lawyer, prosecutor, district attorney, judge, attorney general</p>

“legal/prosecutorial” grouping sought to capture those responsible for adjudicating, defending, and prosecuting drug laws. The additional breakdowns under the category “other” were used to gain further insight into nontraditional actors and to further classify particular types of state and local authors when they were so identified. Patterns were identified and described in terms of the types of actors by ballot measure topic, support vs. opposition statement, year, and state.

3.2.4.2 Analysis of Voter Information Statements

The voter information statements varied in length from 100 to more than 500 words, and the number of voter information statements per ballot measure ranged from two to more than 20. To facilitate analysis, a detailed chart was developed noting key elements in the voter information statements. Specifically, based on my professional expertise as a senior policy analyst in the area of drug control policy and on multiple readings of the ballot measures and voter statements, I was able to articulate the relevant elements expressed implicitly and explicitly (see Chapter 6). The dimensions of analysis were based on Stone’s framework for understanding the strategic representation of situations as problems. The voter information statements were analyzed to identify the following elements in Stone’s analytic framework:

- Language, including use of symbols, synecdoches, rhetoric, and metaphor, as well as identification of strategies inherent in particular terms and ambiguous language. Focal words were identified through multiple readings of the voter statements, and these words were grouped together as concepts. I then searched for these words and how they were used in the voter information statements.
- Stories, including stated and implicit policy narratives, hidden stories, causal stories, testimonials, and myths/parables. With regard to the stories used, I sought to identify in each statement whether a story was expressed implicitly or explicitly and to describe the story. The stories and associated arguments were then categorized as to type (e.g., blame, helplessness, control), based on Stone’s framework to obtain insight into the strategies used.
- Numbers and facts, not only for defining problems but as metaphor.

I next used content analysis to identify the principal issue framing strategies based on the detailed chart articulating the elements outlined by Stone. Patterns in the most prevalent problem definition strategies were identified and described across voter information statements, by opposition and support statements, by ballot measure topic, by state and within state by specific ballot measure.

3.2.5 Analysis of Court Cases

To obtain a better understanding of how the drug issue was framed by various actors, I described the key legal milestones related to the cases and categorized the authors of the respondent and petitioner briefs as well as the amicus briefs in the cases, using the same categories employed for the voter information statement authors. The briefs then were reviewed to examine the key arguments, using Stone (2002) as a guide. The descriptive analysis focuses on the extent to which the arguments reflected political strategies to redefine the policy issue. The transcripts of the oral arguments in *U.S. v. Oakland Cannabis Buyers' Cooperative et al.* and in *Ashcroft v. Raich* also were examined for issue framing strategies, with a focus not just on the respondents and practitioners but also on those of the U.S. Supreme Court Justices. For *Walters v. Conant*, the briefs of the respondents, petitioners, and amici were examined as well as the opinion of the Ninth Circuit U.S. Court of Appeals.

The manner in which the justices framed the drug issue and central elements related to Proposition 215 were examined in the two opinions in *U.S. v. Oakland Cannabis Buyers' Cooperative et al.* The Court has yet to rule in *Ashcroft v. Raich*. The analysis sought to answer the following questions:

- Who were the actors in the respondent, petitioner, and amicus briefs; what categories do they fall under; and were they the same or different from those appearing in the voter information statements?
- How did the briefs and opinions define the drug problem; that is, what elements of Proposition 215 were identified as being of concern and what issue framing techniques were used? In terms of issue framing techniques, I sought to examine how the various actors defined the problem and to characterize the arguments or evidence based on Stone, using the approach employed for the voter information statements.

- To what extent did the definitions of the drug problem and arguments in the U.S. Supreme Court briefs and Court opinions align with those in the voter information materials?

3.2.6 Analysis of Archival Data and Key Informant Interviews

The primary purpose of the archival data examined here was to serve as validating evidence and to describe the historical context in which the ballot measures were considered (Krippendorf 2004). Electoral outcomes and polls helped provide a sense of the extent to which particular legalization concepts may have resonated with voters and to suggest insights into the repetition of particular ballot measure topics over time. Other archival data included public statements made by ballot measure sponsors and national legalization organizations available through websites, national media clips, or identified based on my knowledge of the drug issue. These information sources were used to describe the emergence of the use of state ballot measures and to gain insight into the goals, motivations, and strategies of these actors.

As discussed previously, I relied on National Drug Control Strategies between 1996 and 2004 to characterize the prevailing approach to illegal drugs at the national level and to document the rhetoric related to illegal drugs.

The following elements of the Strategies were examined:

- Transmittal letters from the President were analyzed to identify arguments and symbols used.
- National drug policy goals served as a point of comparison with the approach to the drug problem articulated in ballot measures.
- Key word searches identified references to legalization and the state ballot measure efforts.

As already mentioned, interviews were intended as supplemental. They were to be conducted if needed to obtain answers to specific questions that arose from the content and archival data analyses and to gain insight into key actors' perceptions. A discussion guide was drafted with elements adapted from Mintrom's (1997b) interview guide for his study of school choice initiatives. The guide focused on such issues as obtaining insights into specific

strategies used by proponents and opponents of ballot measures, and eliciting elite perspectives on key national and state level actors, on the perceived effectiveness of various strategies, and on the perceived importance of particular ballot measures or definitions and the implications for policy.

I conducted several formative interviews using the discussion guide, including interviews with state representatives affiliated with two national legalization organizations. These indicated that grassroots “legalizers” believe that Soros had sidestepped them, using money rather than building coalitions; concern was raised about what will happen when the “big money” is gone; the White House Drug Policy Office and U.S. Drug Enforcement Administration were the primary actors mentioned in terms of organized opposition to state initiative campaigns. I also spoke with two public affairs officials of the White House Drug Policy Office who accompanied the drug czar in 2002 and 2004 on state visits to advocate against state initiatives. They both reported that the initiative process was “misused” to promote legalization of all currently illicit drugs. Both stated that the drug czar’s legal authority to advocate actively had been validated by a U.S. Government Accountability Office (GAO) review and successful defense against a lawsuit brought by the Marijuana Policy Project and others. The lawsuit had challenged the Office’s authority to advocate against proposed state laws. GAO and the courts determined that the Office is obligated by statute to actively support current federal law and oppose efforts that did not agree with federal law. I also had numerous conversations with a nurse practitioner who served as the senior advisor for specific drugs to Barry McCaffrey. She cited Soros as the principal architect behind the renewed push for legalization and viewed the previous czar as more effective at using the office as a “bully pulpit.” She stated that the Office’s legal interpretation after 1996 was that it did not have the authority to advocate openly; state actors previously had asked the agency to become involved and it did not, creating ill-will. The former drug czar never called Soros or his colleagues by their names in a deliberate effort not to give them legitimacy.

Based on these formative interviews, unstructured interviews were employed thereafter because the knowledge base and role of the various actors varied greatly. The structured discussion guide was not conducive to obtaining the desired insights, and ultimately discussion guide topics were used as prompts only. The more senior the person interviewed,

the more desirous they were to tell their story in a free-flowing manner from their own perspective. A key lesson from the formative interviews was that open-ended questions and unstructured interviews yield more useful results. As discussed by Aberbach and Rockman (2002:674), an open-ended approach is appropriate when the desire is to explore “complex issues in a relatively uncharted area at the time and that validity can be maximized by allowing the respondents to organize their answers by their own frameworks.” The interviews ultimately were not a particularly valuable information source. Information from the interviews is used as appropriate to provide insight into particular ballot measure campaigns and perceptions regarding specific issue framing strategies as well as to develop the discussion of rhetoric on the drug issue.

3.3 Validity and Reliability

As Krippendorff discusses (2004: 313), “validation provides compelling reasons for taking the results of scientific research seriously.” The primary research method was content analysis of various texts using aspects of Stone’s analytic framework and triangulation of data from various sources related to state ballot measures. In order for the analysis to be valid, the inferences drawn must hold based on tests of independently available evidence. In terms of my research focus on understanding how the drug problem was defined in ballot measures and the voter information statements, the objective summaries of the ballot measures and unbiased summaries of the voter information statement arguments produced as required by law in some of the states served as an independent source for assessing inferences made about drug problem definition in the ballot measures. Empirical validity also was addressed through the selection of an established analytic framework (i.e., Stone) to apply to the data and the use of a documented and accepted research process.

To ensure the reliability of research results, the rules of scientific inference as outlined by King et al. (1994) guided my dissertation research. Recognizing the potential for personal bias based on my professional position, I have carefully documented how I categorized various data elements for analysis throughout the dissertation and am careful to state any assumptions used in the analysis based on my professional experience. King et al. (1994) state that clear articulation of the methods and logic employed is critical in exploratory research involving descriptive inference. Multiple data sources were selected to allow for

triangulation of data, which contributes to verification and validation as well as examination of the consistency between different sources using the same method. Another researcher may not have highlighted all of the particular terms or phrases that I did. The identification and categorization of elements was based on multiple reviews and my professional knowledge of and experience with the drug issue. It should be recognized that this type of research requires discrimination and judgment.

Validity and reliability also are key concerns in using open-ended interviews. Berry (2002:680) suggests issues of validity and reliability can be addressed through the use of multiple sources as I did, by asking the subjects to critique the perspective they promoted, and by recognizing that the interviewee may be an ideologue. In reality most if not all interviewees were ideologues. As a result, the interviews were used primarily to validate the rhetoric expressed by the status quo and on occasion to provide insight into specific state ballot measure campaigns.

3.4 Limitations of the Research

An important caveat is that the research is not causal but more descriptive in nature, in the tradition of narrative interpretation. The research was not designed to assess the arguments made in support of or opposition to particular initiatives. It did not seek to analyze the normative or empirical premises of the ballot measures. I did not challenge the categorization of the measures as “legalization” but accepted that categorization and sought to articulate the concepts of legalization expressed in the ballot measures and the issue framing strategies various actors used to define and redefine the drug problem. As discussed previously, the research is limited to state initiatives focusing on illegal drugs and a few key legal cases. This is due in part to the lack of available data on the range of local drug policy initiatives and the focus here on problem definition. The previous section highlighted the potential difficulty in replicating the research, which some may consider a limitation.

3.5 Conclusion

This study is intended to provide insight into issue framing strategies in the venue of the initiative process, using drug policy as the vehicle. The examination of multiple aspects of the state ballot measures yields insight into the extent to which strategies varied not only across state ballot measures but also across various elements of those measures. The value

in such exploratory descriptive research is not only in illuminating areas of future research relating to the use of this venue but also in identifying potentially rich data sources that have previously been untapped. The next chapter describes the policy arena of illegal drugs, the emergence of the use of state ballot measures as a venue for redefining the drug issue, and the ballot measures focused upon.

4 Overview of the National Drug Policy Debate and the Use of State Ballot Measures to Redefine the Drug Problem

This chapter sets the stage for the analysis of efforts to redefine the drug problem through state ballot measures. The chapter reviews developments in drug policy at the state and national levels over the past few decades, providing insight into the debate over how best to address illegal drugs. It also describes the rhetoric around legalization efforts over the past decade and around the use of the state initiative process as a specific venue. Then, an overview of state ballot measures addressing illegal drugs discusses their passage and failure and the topics addressed by state and over time.

4.1 Overview of National and State Drug Control Laws

For insight into how the drug problem is defined at the national level, a review of some key points in recent policy history is instructive. This section overviews a few of the key milestones in the development of the drug control policy framework operating at the national, state, and local levels. Some of the policy shifts occurring at the state level that are in direct opposition to federal laws also are briefly described. Most of these changes, which occurred in the 1970s, are largely symbolic as federal law preempts state law.

Two key policymaking institutions—the White House and Congress—largely have agreed about the characterization of illegal drugs as a threat to public safety and the threat and use of sanctions as a deterrent. The federal government’s authority in the area of drug policy was well established with the 1914 Harrison Act. This act gave the federal government the power to tax opium and coca. Subsequent federal laws served to reinforce preserving and protecting public safety as the policy rationale. The most severe sanctions for involvement in the manufacture, sale, and use of illegal drugs culminated with qualification for the federal death penalty in 1957.

By the 1960s and 1970s, Gallup Polls began to show increasing social acceptance of illegal drug use. In 1970, the Comprehensive Drug Abuse Prevention and Control Act

reduced federal penalties for marijuana and allowed first-time drug offenders to be placed on probation. In 1972, a commission appointed by President Richard Nixon recommended that marijuana be decriminalized. While increased funding was providing for treatment under the Nixon administration, marijuana law at the federal level remained unchanged. The U.S. Drug Enforcement Administration (DEA) was created within the U.S. Department of Justice in 1973. The DEA was delegated authority for scheduling illegal drugs based on “the substance's medicinal value, harmfulness, and potential for abuse or addiction. Schedule I is reserved for the most dangerous drugs that have no recognized medical use, while Schedule V is the classification used for the least dangerous drugs” (DEA 2005:1). More than 100 drugs are included in Schedule I including marijuana, heroin, LSD, and methamphetamine.

In the 1970s, the public and the states increasingly supported decriminalization of marijuana. The first national organization supporting legalization of marijuana was the National Organization for the Reform of Marijuana Laws (NORML) founded in 1971. NORML, which received substantial funding from millionaire Hugh Hefner, brought on several high-profile physicians from Georgetown and Harvard Universities to lobby for legalization of marijuana. Between 1973 and 1978, the legislatures in 11 states decriminalized possession of small amounts of marijuana, replacing the threat of incarceration with fines and citations. Jimmy Carter called for legalization of marijuana during his 1976 presidential campaign. As President, in 1977, he made the bold step of calling for decriminalization and research into the potential medical uses of marijuana and heroin (Sharp 1994). During this same time, Congress sought to strengthen controls over illicit drugs, passing the 1978 Comprehensive Drug Abuse Prevention and Control Act which expanded the basic federal anti-drug civil asset forfeiture provisions passed by Congress in 1970 to authorize the forfeiture of money and other things of value furnished or intended to be furnished in exchange for illegal drugs.

At the state level, a range of state therapeutic research programs were established in the late 1970s and early 1980s. At the same time, the federal government funded the National Institute on Drug Abuse (NIDA) to conduct research to assess the potential medical uses of marijuana. Over the next decade, NIDA supplied marijuana to seven states for use in their therapeutic research programs (California, Georgia, Michigan, New

Mexico, New York, Tennessee, and Vermont). Table 4-1 lists relevant state legislation approved between 1978 and 1995. Of the 32 states passing legislation related to the use of illegal drugs, eight specifically allowed for marijuana to be prescribed for medical purposes. Despite state and public expectations, the federal DEA did not reschedule marijuana. As a result, the states' marijuana laws were not implemented as prescribing marijuana would have violated federal law. In addition, most of the state laws listed in Table 4-1 could not be implemented because there was no legal source from which marijuana could be obtained. As a consequence, other than the states with research programs receiving marijuana supplied from NIDA, the remaining state laws were largely symbolic in nature.

Table 4-1. State Laws Related to Medical Marijuana Approved by State Legislatures, 1978-1995		
State, Yr.	Provisions	Status
FL 1978	therapeutic research program	repealed or expired
IL 1978	therapeutic research program for cancer chemotherapy, glaucoma	not operational
LA 1978	therapeutic research program	not operational
NM 1978	therapeutic research program	extended indefinitely
AL 1979	therapeutic research program for cancer chemotherapy, glaucoma	not operational
CA 1979	therapeutic research program	ended in 1989 (amended in 1980, 1983, extended in 1984)
CO 1979	therapeutic research program	never implemented; amended 1981; repealed 1995
IA 1979	dual scheduling scheme to recognize therapeutic use	not operational
ME 1979	therapeutic research program	repealed 1987
MI 1979	therapeutic research program	expired; another passed in 1982 that expired in 1987
MT 1979	automatically reschedule to Schedule II if approved by FDA.	
NC 1979	prescription marijuana	de facto repealed in 1987
TX 1979	therapeutic research program	not operational; amended in 1983 and 1989
VA 1979	prescription marijuana	
WA 1979	therapeutic research program	1996 budget included funding for research but didn't occur
WV 1979	therapeutic research program	not operational
GA 1980	therapeutic research program	
MN 1980	therapeutic research program for cancer only	not operational
NY 1980	therapeutic research program	
OH 1980	therapeutic research program; medical necessity defense	expired in 1984; later repealed in 1997

RI 1980	therapeutic research program	not operational
AR 1981	prescription marijuana	law repealed
CT 1981	prescription for marijuana for cancer chemotherapy and glaucoma	no source for marijuana
NH 1981	prescription marijuana	no source for marijuana
TN 1981	therapeutic research program and dual scheduling recognizing therapeutic use	repealed 1992; dual scheduling remains
NJ 1981	therapeutic research program	not operational
VT 1981	prescription marijuana	
AK 1982	therapeutic research program	
WA 1986	dual scheduling of marijuana/THC dropped	amended in 1989
WI 1988	prescription marijuana	
LA 1991	prescription marijuana	
MA 1991	therapeutic research program	not operational
Source: Marijuana Policy Project 2004b.		

At the same time that potential therapeutic uses for marijuana were being examined at the state and national levels, penalties for drug-related crimes increased. Under the Reagan administration, the social acceptance of illegal drug use that had prevailed in the mid- to late-1970s was replaced with mandatory sentencing and “three strikes” laws to address violent offenders and drug traffickers. The increasing media attention to “crack” babies in the early 1980s, the widely publicized overdose death of Boston Celtics draftee Len Bias in 1986, and several other celebrity overdoses led President Ronald Reagan to declare drugs the number one problem facing the nation. Instrumental in shifting public opinion and reinforcing characterization of the drug problem as a threat to society was the AIDS epidemic and intravenous drug use, which promoted the spread of HIV/AIDS (Sharp 1994).

The primary national drug control laws implemented in the 1980s, which continue to guide drug control policy at the federal level, include the following:

- The Comprehensive Crime Control Act of 1984 raised the asset threshold for court proceedings to \$100,000; created U.S. Department of Treasury and Justice funds for handling forfeiture; and granted a range of other powers to judges and law enforcement for addressing those accused of drug offenses.
- The Anti-Drug Abuse Act of 1986 established mandatory minimum sentences (reassigning authority from judges to prosecutors) and increased the penalties for federal drug offenses.

- The Anti-Drug Abuse Amendment Act of 1988 established the White House Drug Policy Office, redefined any drug use as abuse, and strengthened and expanded the federal government's use of forfeiture.

As Sharp (1994) and Musto (2002) discuss, President Reagan's 1988 White House Conference for a Drug-Free America was a pivotal moment in the nation's drug policy, with the President for the first time focusing on "casual" or "occasional" (i.e., less than weekly) users as "morally challenged" in announcing a "zero tolerance" approach to illegal drugs. The desire to take symbolic leadership of the issue resulted in Congress establishing the White House Drug Policy Office or "drug czar's" office in 1988. While the term czar means kaiser, the legislative intent was to provide symbolic leadership and create a "bully pulpit" on the drug issue. The Office was created to coordinate federal drug control efforts, certify or approve the budgets of the more than 50 federal agencies involved in addressing illegal drugs, and develop the nation's drug control strategy.

The late 1980s were a high point for attention to the drug problem, which topped the public's agenda and the policy agendas of the U.S. Congress and the White House. During this time, Alaska and Oregon, which had decriminalized marijuana in the 1970s, recriminalized marijuana possession. Since the 1980s, the nation has seen an increase in mandatory sentences and other "tough on crime" measures at the federal level as well as increased emphasis on interdiction and a zero tolerance policy toward drug use (Sharp 1994). Over this same timeframe, states have passed a number of largely symbolic laws related to the medical use of marijuana. According to the Marijuana Policy Project (MPP) (2004b:5), in 1991, 34 states and the District of Columbia had laws "favorable" to legalization, which increased to 36 by 2003 with Hawaii and Maryland passing medical use measures. The state legislatures passing legislation related to medical use of marijuana since 1996 are shown in Table 4-2. Only Texas in 1997 sought to restrict localities from adopting laws that would be in opposition to state drug control laws. In 1999, New Hampshire's legislature required approval by the U.S. Food and Drug Administration (FDA) before a physician could prescribe marijuana. In addition to the laws in the table, Arizona's legislature approved restrictions in 1997 to the first state ballot measure related to illegal drugs approved by voters in 1996.

Table 4-2. Laws Regarding Medical Use of Marijuana Passed by State Legislatures, 1996-2004		
Yr.	State, Bill No.	Provisions
1996	MA H 2170	Mandated within 180 days state rules and regulations to operate therapeutic research program
1997	TX HB 2213	Prohibited local governments from adopting laws that would prevent them from fully enforcing existing state drug laws
1999	AK SB94	Made a voluntary registry program mandatory and removed an affirmative defense for possessing more marijuana than permitted by law
1999	CA SB847	Appropriated funds for medical cannabis research
1999	NH HB 1563	Required FDA approval for physicians to prescribe marijuana
1999	OR HB3052	Prohibited marijuana use in correctional facilities; limited patients and caregivers to one marijuana grow each; required diagnosis within 12 months prior to arrest to assert an affirmative defense; relieved police from maintaining live marijuana plants while a case is pending.
2000	HI SB862 HD1	Exempted persons from prosecution if they had a registry card; allowed an affirmative defense if not registered but met standards
2001	NV AB453	Implemented ballot measure approved by voters in 1998 and 2000
2002	ME LD611	Increased the amount of usable marijuana a patient may possess from 1.25 ounces to 2.5 ounces; clarified the legal protections for both patients and caregivers
2003	MD HB 702	Approved use of marijuana for medical purposes
2004	CA SB420	Established a voluntary medical marijuana registry for verification of eligibility
2004	VT S76	Exempted persons from arrest/prosecution if they were part of the registry

Meanwhile, the approach to illegal drugs at the national level has been consistent over the past decade as indicated by the National Drug Control Strategy goals shown in Table 4-3. The goals continue to reflect an emphasis on safety and control. The symbols of war and battle were invoked through the use of such terms as “shield,” “threat,” “attack,” “stopping,” “disrupting,” and “attacking.” As to who and what is being protected, the goals reference “frontiers,” “America’s citizens,” and “America’s youth” – with patriotic overtones to the need to address U.S. borders. While the Strategies for 2002 through 2004 implied victims or a need for help referring to “healing” drug users, the goals for 1996 through 2002 focused less on helping users and more on increasing the safety for others and reducing the costs to society by addressing users and by referencing drug-related crime, violence, and drug dealers. The drug control budgets over this period emphasized controlling drugs, with the bulk of the funds allocated to law enforcement

and addiction. The use of “healing” suggested a moral failing and included the George W. Bush administration’s focus on faith-based alternatives for treatment. President Bush characterized his own past substance use as a moral failing, crediting the strength of his faith in “saving” him. This suggests that those who continue to use drugs or who have a drug problem lack strong morals, which is implicit in the use of the term “healing.”

Table 4-3. National Drug Control Strategy Goals, 1996-2004
<p>1996-2001 Goal 1: Educate and enable America’s youth to reject illegal drugs as well as alcohol and tobacco. (In 1996 the goal varied slightly using “motivate” rather than “educate and enable”.) Goal 2: Increase the safety of America’s citizens by substantially reducing drug-related crime and violence. Goal 3: Reduce health and social costs to the public of illegal drug use by reducing the treatment gap. Goal 4: Shield America’s air, land, and sea frontiers from the drug threat. Goal 5: Break foreign and domestic drug sources of supply.</p>
<p>2002-2004 Goal 1. Stopping Use Before It Starts: Education and Community Action Goal 2. Healing America’s Drug Users: Getting Treatment Resources Where They Are Needed Goal 3. Disrupting the Market: Attacking the Economic Basis of the Drug Trade</p>
<p>Sources: White House, The. National Drug Control Strategy, various years: February 1996-February 2004 (whitehousedrugpolicy.gov)</p>

In the early 1990s, Ethan Nadelmann began advising billionaire George Soros on the drug issue. In 1996, a loose group of similar-minded organizations and citizens came together under the leadership of a small group of policy entrepreneurs, notably billionaire and Open Society founder Soros; John Sperling, founder of the for-profit University of Phoenix; and Progressive Insurance founder Peter Lewis. The three quickly began funding an infrastructure to challenge the national approach to illegal drugs and to try to reframe the drug policy debate. 1996 is recognized by MPP (2004b), DPA (2003), and others as a critical year for challenging the status quo approach to illegal drugs--a year in which state officials and the voting public undertook a wide range of drug policy reforms through citizen ballot initiatives, legislative action, and gubernatorial approval. Between 1996 and 2002, more than 150 different changes to drug laws were enacted by voters and legislators in 46 states (DPA 2003).

4.2 The Drug Problem as Defined by the Rhetoric of Legalization and the Status Quo

In 1988, Baltimore Mayor Kurt Schmoke began openly challenging national drug policy and supporting decriminalization of drug use. Accompanying the mayor in calling for drastic change was Ethan Nadelmann, a Princeton University assistant professor, who argued that the harms associated with drug use would decline under legalization and are only made worse under the current national approach to psychoactive substances. Boyum (2001:865) says that partly due to the “exposure given to legalizers and drug warriors, drug policy is often seen as a choice between prohibition and legalization--a classic false dichotomy.” Indeed, there is no agreement as to exactly what legalization means as there are a tremendous range of policy proposals labeled “legalization.” Nadelmann (2000: 87) summarizes the views as “legalization has always meant different things to different people”....legalization also implies a set of policy objectives at odds with the government’s proclaimed objectives of fighting a war against drugs and creating a drug-free society.” “Drug policy reform” often is used to refer to the various legalization proposals. Boyum (2001) suggests that the focus on these extremes— legalization of all illicit drugs or the status quo--prevents a more practical discussion of drug policy. MacCoun and Reuter (1997) view the drug issue as a values debate, with legalizers focusing on the need to protect civil liberties and those supporting the status quo stressing the self-centeredness of drug use and the need for real and symbolic barriers to initiation of use. This section describes the rhetoric related to illegal drugs used by those who support the status quo and those who seek to redefine the drug problem.

4.2.1 Drug Policy Rhetoric from Supporters of the Status Quo

Presidential rhetoric on illegal drugs over the past few decades reflects the main arguments used by supporters of the federal government’s approach to drug policy. President Richard Nixon campaigned on a “law and order” platform that reflected increased public concern about the prevalence of illegal drug use (Sharp 1994). President Nixon is widely credited with first characterizing the drug problem as a “war.” The Nixon administration was successful in weaving narrative horror stories of addicted

military personnel returning from Vietnam and endangering children and families, leading to unprecedented funding for treatment efforts. Increasing rhetoric on reducing and preventing drug use can be found in speeches by President Reagan and First Lady Nancy Reagan related to the “Just Say No” effort. However, these speeches were largely rhetorical and symbolic gestures that led to no major shift in public policy during the Reagan administration. Since the Nixon presidency, the drug problem largely has been characterized as a threat or war to be fought and controlled. The federal government continues to serve as the primary policy maker regarding illegal drugs in the United States and to strike a moral tone.

President George W. Bush in a signing ceremony for legislation to extend the Drug-Free Communities Program stated on December 14, 2001, “Above all, we must reduce drug use for one great moral reason: over time, drugs rob men and women and children of their dignity and their character. Illegal drugs are the enemies of ambition and hope. And when we fight against drugs, we fight for the souls of our fellow Americans” (The White House 2001). A similar tone has been struck in the President’s letters included in the National Drug Control Strategies over the past decade.

National Drug Control Strategies and the President’s transmittal letters accompanying the strategies reinforce the prevailing characterization of and rationale for current drug policy. A cursory review of congressional testimonies by federal executive branch officials, principally by the Director of the White House Drug Policy Office, finds illegal drugs are consistently defined as a destructive threat necessitating a policy emphasis on safety. In the Clinton administration, the metaphor of drugs as a cancer increasingly was used. Following September 11, 2001, the Bush administration re-defined the drug problem as an issue of national security, naming drug traffickers narco-terrorists. The metaphor of war has hit a high point since September 11, 2001, with the current drug policy director John Walters comparing drug traffickers to terrorists in national media campaign ads (see www.mediacampaign.org to view ads). A memorable ad from the National Youth Anti-Drug Media Campaign stigmatized drug users as supporting terrorists, featuring images of cars being blown up and suggesting it was as a result of U.S. purchases of illegal drugs.

In February 2005, the Bush administration moved from the metaphor of drugs as a cancer to drugs as a poison. Drugs as a “cancer” suggests a disease over which one does not have control, whereas “poison” suggests something that must be controlled and contained. In a personal interview, Director Walters said that it is important to appreciate the disease character of drug abuse, that it is not a moral failing, and that one can use drug testing and other means to make people more widely appreciate this. He acknowledged that some are concerned that the characterization of drug abuse as a disease may inaccurately suggest addiction cannot be avoided or prevented (Walters 2005). In an interview with Hope Taft (2005), the wife of Ohio Governor Robert Taft who was active in opposing the 2002 Ohio treatment ballot measure, I learned that some law enforcement professionals opposed the characterization of the drug problem as a cancer as it deemphasized the public safety issues associated with the drug problem.

The presidential rhetoric on the drug issue over the past decade has focused on illegal drugs and addiction as destructive and threatening to health, safety, and society in general (see Table 4-4). Illegal drugs also have been defined as an issue of morality in which everyone has an obligation to protect the nation’s youth. Drugs are viewed as something to be fought, attacked, and broken—implicitly suggesting a war against drugs. Interestingly, none of the Strategies or presidential letters actually uses the term “war.” In addition to invoking the idea of a moral crusade, the presidential rhetoric uses narrative stories of suffering, death, and casualties as the policy rationale.

Table 4-4. Presidential Rhetoric in Strategy Transmittal Letters, 1996-2004*

2004: “addiction destroys”; need to “face down lie of addiction, offering hope of recovery”
2003: “illegal drugs damage”; “addicts suffer as do their family, friends,” etc.; “drug trade is business and need to break it”; “we have moral obligation to our children”
2002: illegal drugs “threaten, break family bonds, turn productive citizens into addicts, transform schools into violence and chaos”; “moral reason” [to address illegal drugs]: “robs of dignity and character”; “we’ve lost ground and need to return to fight”
2000: “drugs continue to exact tremendous toll...”need to break cycle...safeguard dreams of our children...increased sense of security and combat threat”
1999: “threat of drugs: costs lives and billions of dollars” [lists strategy goals]; “common obligation to build and leave stronger America”
1998: drugs: “destructive consequences”; “threat”; “dangerous and wrong”; “our children and our Nation deserve no less”
1997: drugs: “scourge”; “destructive”; “terrible risks associated with use”; “must increase safety of citizens”; “uses testing and sanctions”; “drug threat”; “we will continue to oppose all calls for legalization...legalization movement sends wrong message to our children”; “kills”; “fuels crime, AIDS”; “for our children’s sake and the sake of this nation”
1996: “fight against drug abuse”; “must oppose calls for legalization”; “must prevent drug use epidemic”; “attack drug use”; “oppose resolutely calls for legalization”; “tragedy of drug use affects us all...each of us must do our part”

Sources: White House, The. National Drug Control Strategy, various years: February 1996-February 2004 (whitehousedrugpolicy.gov)

* The 2001 Strategy did not include a transmittal letter; the Office had an acting Director at the time the Strategy was produced.

4.2.2 Drug Policy Rhetoric from Supporters of Legalization

Massing (1999:2) called for the development of a strategy that is “humane, accordable, and sellable” to replace the status quo approach to the drug problem. He argues that the concept of legalization is unpopular and sure to be a “long-term loser,” suggesting that variants that emphasize such aspects as reducing harm to users and expanding treatment may be more effective. There appears to be no clear consensus on just what legalization means despite the high level of rhetoric. Sharp (1994) summarizes the arguments for legalization put forth by Ethan Nadelmann as: (1) current policy is a failure; (2) the status quo is costly and counterproductive; and (3) changing the law would not increase drug use. She characterizes these arguments as “failure-of-control,” “costs and unintended consequences,” and “safety of legalization.” NORML distinguishes decriminalization from legalization (various publications on NORML’s website and interviews with Stroup, e.g., Suellentrop 2001): “Legalization, as opposed to decriminalization, would create a legal, regulated market for marijuana, presumably with age limits and quality controls similar to those placed on alcohol. Decriminalizing possession is also different from the decriminalization of ‘medical marijuana,’ which

allows patients to use and sometimes cultivate marijuana for therapeutic purposes, with the permission of a doctor.”

Asked to identify the most important thing that people should know about legalization, Nadelmann said “The most important objective now—rhetorically, intellectually, and conceptually—is getting people to focus on prohibition as the problem, in the way people saw alcohol prohibition as the problem...to say damn that prohibition not damn drugs” (Sullum 2005). In the same interview, Nadelmann expressed concern that the “public health approach to drugs has totalitarian implications in that it infringes on individual autonomy and is a slippery slope.” He also emphasized the importance of identifying privacy, freedom, and tolerance as issues for drug policy.

Nadelmann ultimately expresses the need for “an individual adult right of consumption, legally protected right to obtain drugs of a known purity, potency, and quality...that guts the criminal side of things” (Sullum 2005). Nadelmann (2004a) acknowledges that “debate over medical marijuana colors the broader debate over marijuana prohibition.” He states that the broader question is whether marijuana prohibition, like alcohol prohibition, will be replaced with state and local regulation and taxes, reducing the federal government’s role. Supporters appear to frame legalization primarily as an individual rights issue rather than as a drug issue.

4.3 Characterization of the Goals of State Ballot Measures Related to Illegal Drugs

In an interview with the *Wall Street Journal*, Soros spokesperson Ethan Nadelmann stated that the “core vision is that people shouldn’t be punished for what they put in their bodies, absent harm to others” (Bank 2001:A3). This section describes how those supporting and opposing state ballot measures related to illegal drugs characterized the goals of such efforts.

4.3.1 Characterization of State Ballot Measures by Supporters of the Status Quo

Opponents have characterized the efforts of Soros and his colleagues John Sperling and Peter Lewis in a variety of ways, ranging from a crusade, to harm reduction, to legalization of all illicit drugs. Bank (2001) uses the metaphor of a “crusade—getting

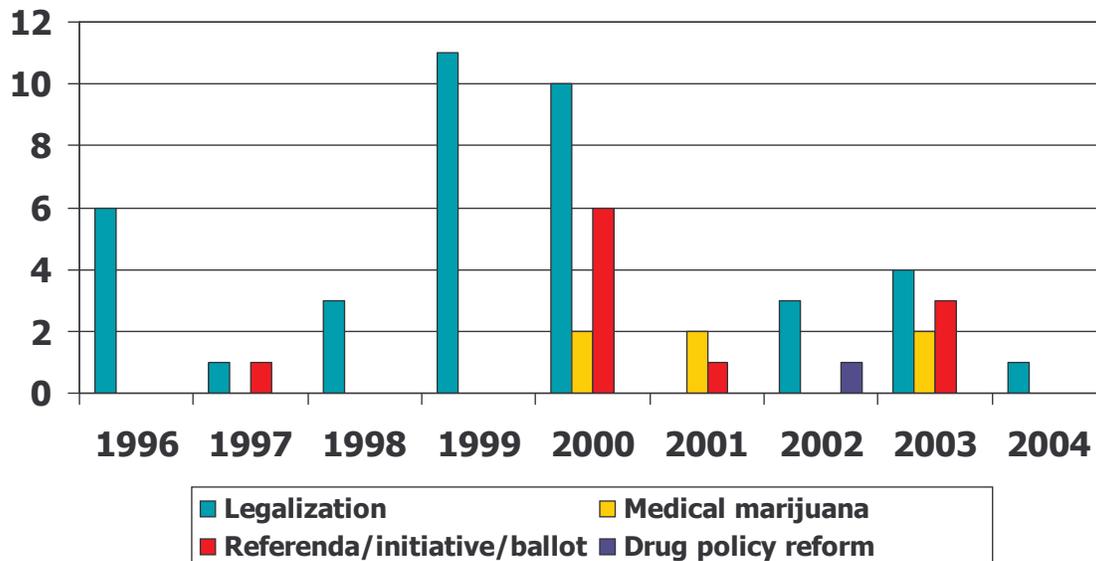
softer on the possession of marijuana and other illegal drugs...they are moving to expand the war on the war on drugs by backing new initiatives elsewhere under the banner of treatment not jail.” The range of reforms launched since 1996 in the U.S. also have been described as “harm reduction” due to their emphasis on reducing or eliminating jail and prison sentences for drug offenders, on promoting needle exchanges, and on legalizing or allowing the “medical use” of previously controlled substances such as marijuana, heroin, and methadone. Campaigns for these measures often highlight the potential cost savings for financially strapped states. In a personal interview, Deputy Director of the White House Drug Policy Office MaryAnn Solberg (2005) said the term “harm reduction” was offensive as such efforts are a direct assault on children. She also expressed opposition to legalizers co-opting the term “drug policy reform” when what they really seek is to nullify existing drug policy (Solberg 2005).

In order to get a fuller sense of the extent to which national drug policy addressed or considered legalization or ballot measures, the texts of the National Drug Control Strategies between 1996 and 2004 were searched for any references to legalization or ballot measures. Search terms included legalization, legal, ballot measure, medical marijuana, reform, and ballot, and the unit of analysis was all paragraphs where a mention occurred. The paragraphs then were reviewed to ensure they referred to the topic of interest. (The paragraphs analyzed are included in Appendix D.) Figure 4-1 indicates the attention given to the various topics over time, suggesting that following the success of the 1996 and 1998 measures, the Clinton administration shifted additional attention to legalization through ballot measures in 1999 and 2000. The lack of success at the ballot box in 2002 may account for the decline in mentions in the following two years.

In three of the Strategies, the White House Drug Policy Office reported providing information to the state and/or local levels opposing legalization. The 1996 and 1997 Strategies list as agency consultation activities a 1996 briefing for state, local, and community leaders on ballot measures passed in 1996 and the federal response, and a 1995 “American Cities Against Drugs” conference where dozens of American cities “signed a declaration of resolute opposition to the legalization of illicit drugs.” In 2001,

the Strategy reported the administration informed the states of how ballot measures contradicted federal law and served as “potential vehicles for legalization.” In the 1998 and 1999 Strategies, the Office reported participating in congressional hearings on legalization.

Figure 4-1. Number of National Drug Control Strategy Mentions by Topic, 1996-2004



The 2001 through 2004 Strategies directly addressed efforts to alter drug policy through ballot measures. The Strategies characterized the legalization movement and ballot measure sponsors’ goals in various ways, as Table 4-5 demonstrates.

Table 4-5. Characterization of Legalization and Counterarguments, National Drug Control Strategies, 1996-2004
<p>2004: “legalization proponents minimize harms drug users inflict”; “focus on supposed harm inflicted by government, particularly law enforcement”</p> <p>Counterarguments: “ignore costs to spouses, parents, society, and taxpayers”; “users pay high price”; implicit that such efforts will result in more drugs in neighborhoods</p>
<p>2003: “well-funded legalization groups spread misinformation about the effects of drugs”; insinuate drug use is a “rite of passage”</p> <p>Counterarguments: “misinformation has taken force of law through misrepresentation”</p>
<p>2003: “legalization lobbyists portray agenda as representation of popular will”; “operate with slick ad campaigns and virtually no opposition”; “make outlandish claims that deceive”</p> <p>Counterarguments: “will bring more drugs into schools and homes”; “prevention is our first line of defense”; “comprehensive failure [of legalization efforts]impressive”</p>
<p>2003: “small band of wealthy backers/ drug legalization advocates”</p> <p>Counterarguments: “citizens on to their deceptions”; U.S. is less open to “self-indulgent</p>

social engineering”; drug use “not victimless”
2002: “proponents of legalization sowing cynicism”; “critics whose mantra is nothing works”; “hide behind bland management critique that drug control efforts are unworkable” Counterarguments: “reality is in their world drugs are ubiquitous”; “use and addiction would skyrocket”
2002: “deliberate efforts of legalization proponents and well-intentioned advocates of various schools of thought concerning drug control” Counterarguments: “[they are] frustrating progress”; “don’t always appreciate complexity...or ways...drug control efforts reinforce one another”
2002: “armchair theorists who want to define the problem away” Counterarguments: proponents even acknowledge increase in drug use [as consequence] [seek] to normalize drug use; outright legalization...rests on flawed premise because some people will...make bad choices...[and society pay for consequences]; whether in their undiluted form or in other guises, such as “harm reduction”...represent ultimate in disastrous social policy; Administration [no change...] will oppose them”
2002: “self-styled drug policy ‘reformers’...people who use. once or twice do not graduate to drug addiction” Counterarguments: :large percentage remain drug users [states facts to back up claim]”
2001-2000 Counterarguments: “undermine scientific process for establishing safe and effective medicines; contradict federal law; are potential vehicles for legalization; have not limited use of marijuana to a small number of terminally ill patients, as most voters envisioned: “allow marijuana to be obtained without a prescription and used indefinitely without evaluation by physicians”; “research must not become a pretext for legalizing cannabis”; “political initiatives and public votes can easily be misused by groups promoting legalization...under guise of medical dispensation”
2000-1999: “small elements at either end of political spectrum argue prohibition”...“creates problems”; “offer solutions in various guises: eliminating prohibition...would reduce harms present legalization proposals under euphemism of harm reduction; real intent of harm reduction supporters is legalization; drug use would be against the law but treated like jay walking; other defenders emphasize therapeutic value or economic viability;[suggest] by making drug use more acceptable, society would reduce harm associated with drug use” Counterarguments: “majority of Americans reject illegal drug use”; “approach by some who say they favor harm reduction...when actually support drug legalization would hurt Americans overlooks dangers of soft drugs”; “[government concerned] hemp cultivation stalking horse for legalization”
1999-1998: “encroaching efforts to justify legalization of harmful psychoactive substances” Counterarguments: “legalizing hemp would result in de facto legalization of marijuana cultivation” 1999 outlines steps to take, including “informing state and local government about techniques associated with drug legalization movement” and “ensuring rule of law”; Strategy “counters drug legalization at home and abroad”
1997 Counterarguments: “to reduce rate of teenage drug use...must continue to oppose efforts to legalize marijuana”; [states why a Schedule I drug]; “Strategy leaves room for logical rejection of well-intentioned but counterproductive activities” [suggests argumentation good but federal government to channel into policy]”; “government has an obligation to protect American people by ensuring that science not ideology is basis of policy”...“obligation to protect from unsafe, ineffective medicines”
1996: “calls for legalization are one of reasons why young continue to do drugs” Counterarguments: [government will] “oppose resolutely calls for legalization of illicit drugs”
Sources: White House, The. National Drug Control Strategy, various years: February 1996-February 2004 (whitehousedrugpolicy.gov)

As the table suggests, the national executive branch characterized those opposing current policy as seeking legalization, providing misinformation, and trying to define the problem away. The Strategies highlight harm reduction as the primary argument used by those promoting ballot measures. Interestingly, although harm reduction is considered by some to be “code for legalization” (e.g., Chairman Souder, February 2005 congressional hearing on the Fiscal Year 2006 Drug Budget), the ballot measures considered between 1996 and 2004 rarely used the term “harm reduction.” The primary rebuttals in the Strategies often were repeated verbatim in voter statement arguments opposing particular ballot measures. The 1998 through 2000 Strategies opposed hemp measures as “de facto legalization” and as “a stalking horse for legalization,” phrases used verbatim in arguments opposing state hemp measures. The other rebuttals that frequently appeared in the voter statements included arguments that drug use, particularly by youth, would increase; that the measures supported legalization; and that passage would undermine scientific processes for establishing safe and effective medicines as well as contradict federal law. Implicitly and explicitly expressed was the view that the federal government is the legitimate authority for determining drug policy.

4.3.2 Characterization of State Ballot Measure Actors, Strategies, and Effectiveness by Officials of the White House Drug Policy Office

To explore the perceptions of administration officials about the context in which the state ballot measures were considered and whether they considered such efforts to be strategic attempts to change the drug policy debate, I conducted several interviews with staff in the White House Drug Policy Office. I asked them what they perceived to be the most effective communication vehicles for the status quo and for those seeking legalization. They all agreed that both visits to the states considering initiatives by national political leaders and local op-eds were important, particularly due to the heavy use of paid, professionally developed ad campaigns by the sponsors of the ballot measures. The Director of the White House Drug Policy Office, John Walters, credited Soros, Sperling, and Lewis for grabbing onto an institutional structure—the initiative process—that would allow them to promote their views (Walters 2005). Director Walters recognized that some sincerely believe the suppositions about the ballot measures, but

he thought from the beginning that the intent was legalization of all drugs. Walters characterized the debates in the state ballot measure campaigns as “verbal mud wrestling” and stated that Nadelmann thinks he is morally right but does not appear to be bound by consistency and the truth. In a personal interview, former Chief of Press Relations in the Drug Policy Office Robert Weiner criticized the media for not questioning any of the claims made by the ballot measure sponsors (Weiner 2005). Director Walters also raised this as a concern.

In personal interviews, Walters and Weiner indicated emotional appeals were a key strategy in the ballot measure campaigns about medical use. The Director shared that at a speaking engagement he was confronted by a person who said he used medical marijuana and asked how he could deprive him of his medicine. Walters responded that issues of medicine are based on safety and efficacy and should be assessed by medical experts, not citizens and political officials. Director Walters also said that the anti-drug side has not faced a well-organized opposition to the state ballot measure efforts. This view was reinforced by Deputy Director of the White House Drug Policy Office, Mary Ann Solberg, who observed that community anti-drug coalitions have been active but have had to be increasingly cautious about their activities to avoid lawsuits by initiative sponsor groups that have accused them of lobbying against the ballot measures. In personal interviews, Director Walters and his two deputies, Mary Ann Solberg and Scott Burns, all credited judges and law enforcement as extremely dedicated and hardworking in opposing legalization efforts. Walters (2005) recommended that opposition efforts continue to get treatment and prevention professionals to work together with law enforcement in state initiative campaigns.

Director Walters said for the anti-drug side it was important for state officials to take the lead in opposing the ballot measures but that the White House Drug Policy Office had been happy if asked to visit and discuss the public health dimension of the drug issue. He believes that the Office’s provision of education materials to states was helpful (Walters 2005). Deputy Director Solberg (2005) said that not as many state and local prevention professionals were involved in initiative campaigns. She recommended an increase in grassroots efforts that “hits back” at those who bankroll the legalization efforts. As an example she cited the founder of the Men’s Warehouse support of ballot

measures and the potential benefit of picketing his stores. She believes that the most important strategy that has to be employed is educating community leaders about the relevance of the issue to them and providing them with the facts on marijuana's harmful effects (Solberg 2005). She also recommended that local leaders debate the legalizers on television at the state level, because unlike the professional polished leaders of the legalization movement the local supporters often defeat themselves with their own arguments and represent the stereotypical drug user that concerns parents (Solberg 2005).

In terms of effective issue framing strategies, Solberg (2005) cited physicians used in efforts to legalize marijuana for medical use, law enforcement in opposing asset seizure and forfeiture, and for the general anti-drug side, expressions of the concern for children's future. The last strategy was echoed by Deputy Director Scott Burns; in a personal interview (2005) he said it was naïve to characterize legalization as drug policy reform or harm reduction. He added that no one cares about a 45-year-old smoking marijuana in his cabin; the issue is about the consequences for "our children." He characterized the state ballot measure campaigns as focusing on symbolic images, including disdain for control, pity, and pathos (Burns 2005). He further commented that those supporting legalization have been disingenuous regarding hemp, that the term was being used instead of cannabis or marijuana to camouflage the issue. He also expressed concern that voters may overlook the policy and law enforcement challenges of legalizing hemp in terms of enforcement and removing the ability to drug test those in safety-sensitive positions. Finally, Burns (2005) said he was concerned that in some cases the initiative process had been "hijacked" by proponents who were better organized, better financed, and had better vehicles, such as professional ads with well-researched messages designed to hide the real purpose and meaning but appeal to voters' emotions.

When asked to comment on the strategies in the initiative process, Deputy Director Burns said the sponsors were "masters of obfuscation" who expertly pitched and phrased initiatives, leaving voters and state officials uncertain sometimes until weeks after an election that they were allowing use and possession of marijuana. He also observed that the initiative process, at least at the state level, had engaged a more diverse group of individuals compared to other policy venues where the players were more likely to be of one type (Burns 2005).

Deputy Director Solberg (2005) concurred that the venue was not appropriate for such a complicated issue about which the average voter does not do research or know the facts. She was surprised that more concern had not been expressed among voters about how inappropriate it is for the public rather than the scientific and medical communities to determine what substances are of medical benefit and to establish dosage amounts.

Solberg (2005) identified the following as strategies legalizers used:

- Employing intimidation against local anti-drug coalitions and others opposing legalization, including the threat of lawsuits challenging nonprofit status and eligibility for federal grants for advocacy against legalization efforts.
- Using the “smokescreen” of medical marijuana and “telling outrageous lies often enough that to them it becomes the truth.”
- Creating alliances with legitimate groups, particularly patient and pain management organizations.
- Using media savvy professionals to develop “slick” ad campaigns and purchasing a lot of air time for the ads.

She argued that legalizers were limited by the ineffectiveness of state NORML chapters, which she contended took a sophisticated national strategy and “dumbed it down” (Solberg 2005).

Director Walters (2005) viewed the ballot measures as just one part of the legalization framework, which he perceived as a threat that is gaining momentum. In terms of strategies for protecting the status quo, Director Walters argued that “the best thing we can do is our job—we can make the drug problem smaller and create consensus that we are making a difference” (Walters 2005). When asked for his perspective on the U.S. Supreme Court cases, Director Walters stated that they reflect the lack of consensus on the drug issue. Walters (2005) also said the drug problem was very sensitive to cultural attitudes and that this was a “critical moment” for youth. His view was that determining what reasonable people think is appropriate but that the division reflected by various court rulings and state ballot measures was of concern because youth drug use usually reflects social mores (Walters 2005).

4.3.3 Characterization of the State Ballot Measures by Legalization Supporters

Soros's goal is "to invigorate and support a broader debate on drug policy and to encourage a shift from drug war to drug peace" (Sullum 2005). The use of marijuana for medical purposes is credited with helping broader legalization efforts by transforming the image of a marijuana user in the media from a "pothead" to someone suffering from AIDS or cancer. Passage of Proposition 215 and Proposition 200 in California and Arizona, respectively, in 1996, are credited as "the successful models of medical-marijuana control likely to boost public confidence in the possibilities and virtue in regulating non-medical use as well" (Nadelmann 2004a). Nadelmann (2004a) states that "more and more Americans are apt to describe some or all of their marijuana use as medical as the definition of that term evolves and broadens...with the potential that marijuana will become the 'aspirin of the 21st century.'" Nadelmann (2004a) goes on to suggest that the expansion of the use of marijuana for medical purposes is analogous to certain prescription drugs moving to over-the-counter use, contending that it is an "incrementalist approach to reform that can provide both the control and the reassurance that cautious politicians and voters desire."

The founder of NORML, Keith Stroup, has been quoted as saying "We are trying to get marijuana reclassified medically. If we do that, we'll do it in at least 20 states this year for chemotherapy patients; we'll be using the issue as a red herring to give marijuana a good name. That's our way of getting to them [the New Right] indirectly, just like the paraphernalia laws are their way at getting to us" (Emory University 1979). Although Stroup subsequently tried to retract the statement, it often is used as evidence of the "deceptiveness" of the legalization movement by those opposing marijuana measures, and it appeared in several voter statements.

Nadelmann views the term "legalize" as divisive and misleading, a way to be "ghettoized by drug warriors and portray as extreme," because it conjures images of vending machines or supermarkets with drug aisles (Baker 1999). Those working for Soros (Baker 1999) characterize the mid-1990s as emphasizing criticizing the current approach, with the initiatives on use of marijuana for medical purposes demonstrating

that the status quo could be overcome and the need to focus more on a long-term agenda and turn it into a movement. In an article in *The Nation* (a periodical heavily funded by George Soros), Carol Bergman, a former director of legislative affairs in the White House Drug Policy Office and a Soros employee, assessed the lack of success of legalization efforts to date as being due in part to their fixation on the drug czar's office; she argued that there was a need to provide an alternative vision or strategy, and a need to shift the focus away from Washington, D.C., to the states where "state-level attempts often enjoy much better prospects" (Bergman 1999).

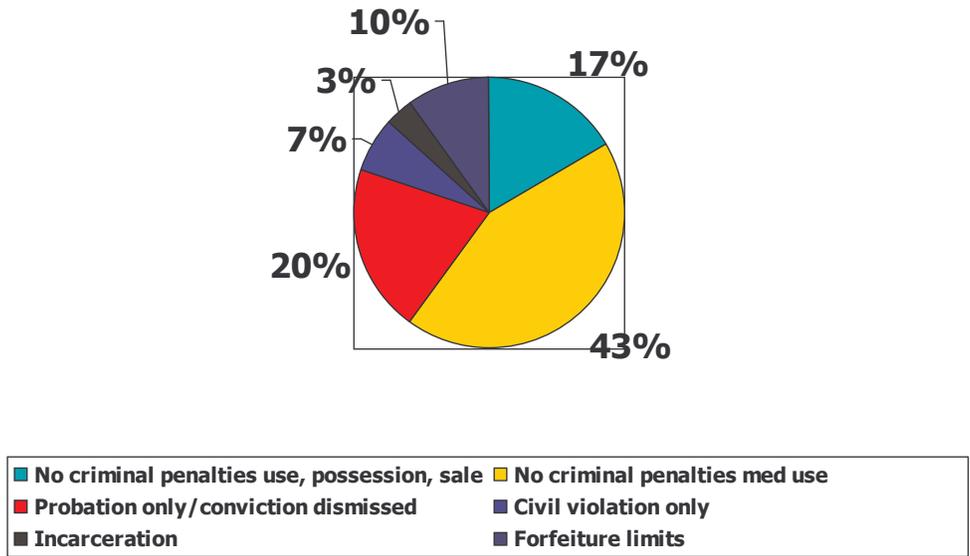
4.4 The Emergence of State Ballot Measures as a Strategy

Between 1996 and 2004, 28 state ballot measures addressed illegal drugs in 13 states. As discussed previously, various actors have characterized the measures as addressing legalization. However, discussions about legalization usually employ abstract rhetoric, with little or no attention to what the term means or what specific proposals seek. The primary spokespersons for the "new" legalization movement that emerged in the early 1990s have been contradictory in their goal statements. Many supporting legalization characterized their efforts as "drug policy reform." The DPA (1998; 2003) defined the ballot measures as a rejection of the federal "get-tough war on drugs" that is punitive in nature, that promotes zero tolerance and arrest and incarceration as deterrents and punishment. Here, the term "reform" will not be used, just as "medical marijuana" will not be; rather, I will refer to "legalization of marijuana for medical purposes," since representatives of the status quo object to marijuana being defined as medicine. Moreover, formative interviews with representatives of two grassroots organizations supporting legalization of marijuana indicated resentment over the federal government's negative characterization and co-opting of the term "legalization." Further, they criticized the primary funders of state ballot measures on illegal drugs over the past decade for avoiding the term "legalization" and "mischaracterizing particular measures as not legalization as if something were wrong with the term." These representatives believed that such efforts undermined grassroots efforts to gain legitimacy for the legalization cause and disapproved of what they

considered to be the “deceptive” nature of such efforts, stating that their organizations always were upfront about their mission, objectives, and definition of the drug problem.

Rather than assess the various definitions of legalization in the drug policy debate, I returned to the dictionary definitions, which generally agree legalization means to make lawful or legitimate. I applied “lawful” to ballot measures’ references to criminal and civil penalties and to provisions related to incarceration, probation, and parole. To obtain a better sense of the extent to which the ballot measures can appropriately be considered as legalization measures, I reviewed each one for such references; the results appear in Figure 4-2. Only one (or three percent) of the measures included incarceration as an option—a “counter-measure” in Oregon in 1998 that sought to recriminalize marijuana at the same time that voters were considering an initiative to expand access to marijuana. The remaining ballot measures can all be characterized as seeking to change civil or criminal penalties related to illegal drugs. Seventy percent of the ballot measures removed criminal penalties related to illegal drug use, with half limiting removal of penalties only for those using marijuana or Schedule I drugs for medical purposes. Ten percent limited and sometimes prohibited forfeiture of property for drug offenses. Of these, three provided amnesty and/or parole for previous offenses. Twenty percent established probation as the penalty for nonviolent drug offenses and allowed convictions and arrests to be dismissed if probation conditions were met. Thus, virtually all of the measures either reduced existing criminal or civil penalties or made previously illegal behavior legal. That is, the measures represent a continuum of legalization: to varying degrees they seek to make possession, use, and even sale of substances that are currently illegal at the federal level legal.

Figure 4-2. Criminal and Civil Penalty Provisions Across State Drug Policy Ballot Measures, 1996-2004



4.5 Drug Ballot Measures on Illegal Drugs by State, 1996-2004

The maps appearing as Figure 4-3 after this page indicate the geographic distribution, passage, and failure by year. As the maps indicate, in the seven years that ballot measures on illegal drugs were on the ballot at the state level, it was primarily in western states. This is not surprising given widespread use of the initiative process in the west. As Table 4-6 indicates, the process is used most frequently in Oregon, California, and Colorado, ranging from 178 to 318 measures, compared to Utah, Alaska, and Maine, which have the lowest reported frequency of the 13 states with 18, 31, and 38, respectively. The passage rates by state range from less than one-fourth in Utah to almost two-thirds in Nevada. Only five states have passage rates of 50 percent or more: Alaska, Massachusetts, Montana, Nevada, and Washington. The mean rate of success is 42 percent. In terms of successful state measures on drugs, voters in five states approved all of the drug measures they considered: California, Colorado, Maine, Montana, and Utah. Three additional states—Oregon, Nevada, and Washington—approved 50 percent or more. This likely was due in part to a strategy by the primary funders—Soros, Sperling, and Lewis—who usually required poll data indicating at least 60 percent approval of measure topics before funding initiative campaigns.

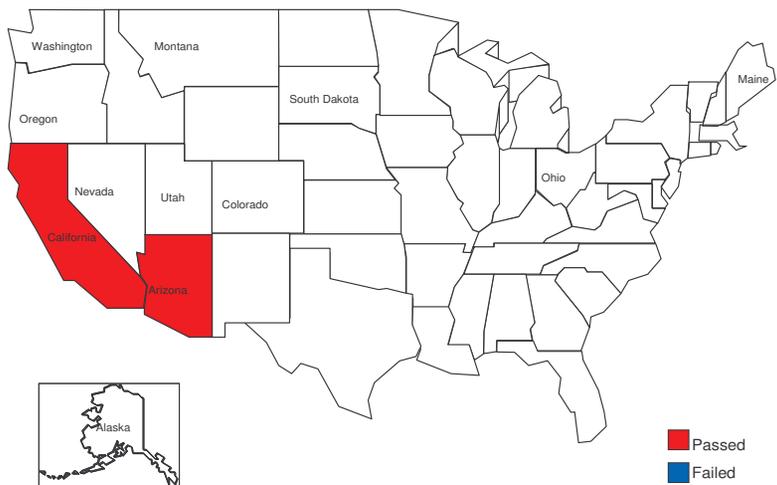
Table 4-6. Use and Success of the Initiative by State as of 2000 and Use and Success of Drug Measures by State for 1996-2004

State	No. of Initiatives	No. Passed	Passage Rate	No. Drug Initiatives 1996-2004	No. Passed	Passage Rate
AK	31	17	54%	3	1	33%
AZ	150	63	42%	5	2	40%
CA	275	96	35%	2	2	100%
CO	178	64	35%	2	2	100%
ME	38	17	44%	1	1	100%
MA	60	31	52%	1	0	0
MT	65	34	52%	1	1	100%
NV	39	25	64%	3	2	66%
OH	65	16	25%	1	0	0
OR	318	112	35%	4	2	50%
SD	48	17	35%	2	0	0
UT	18	4	22%	1	1	100%
WA	136	68	50%	2	1	50%

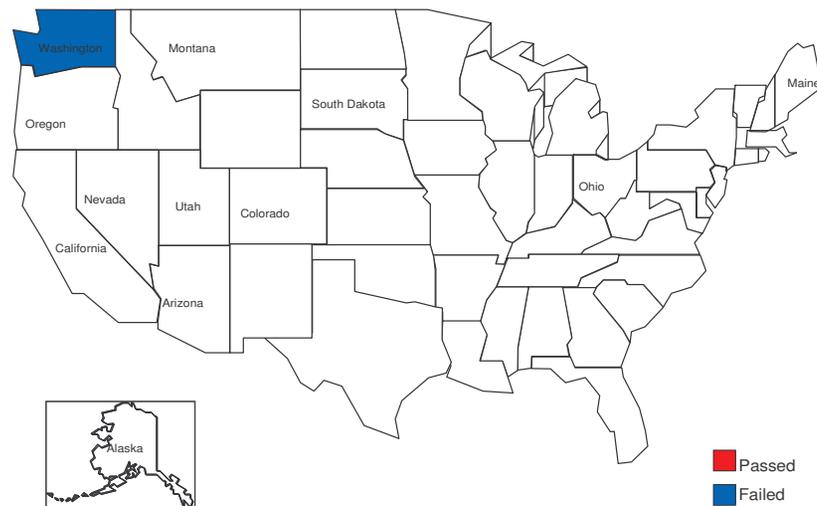
Sources: Waters 2003 and state election websites

Figure 4-3. State Drug Policy Ballot Measures by Year, 1996-2004

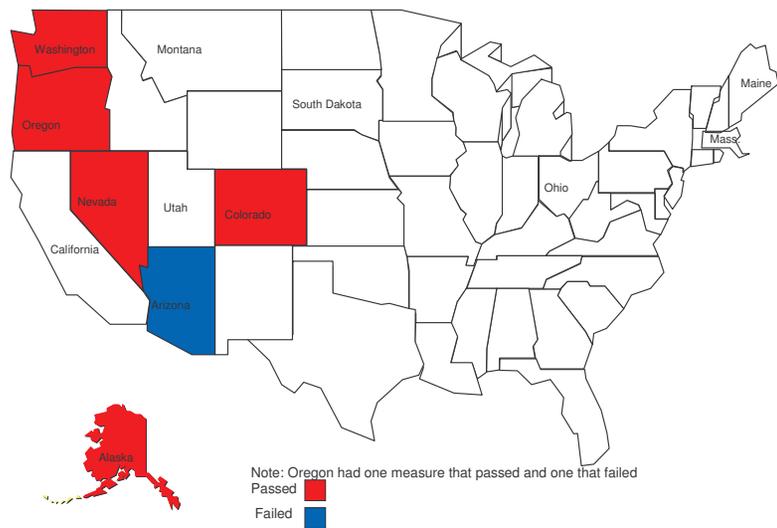
States With State Drug Policy Ballot Initiatives, 1996



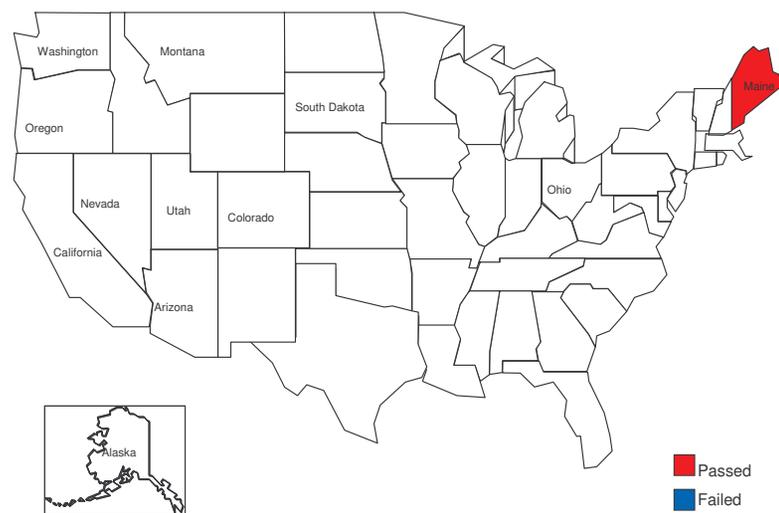
States With State Drug Policy Ballot Initiatives, 1997



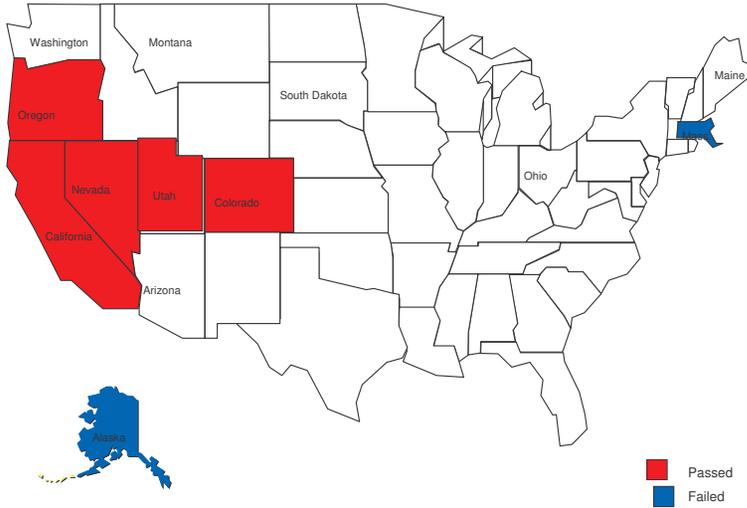
States With State Drug Policy Ballot Initiatives, 1998



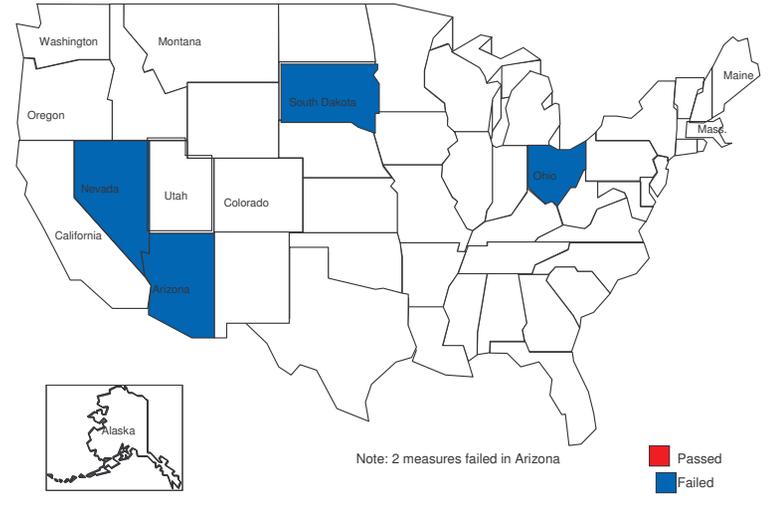
States With State Drug Policy Ballot Initiatives, 1999



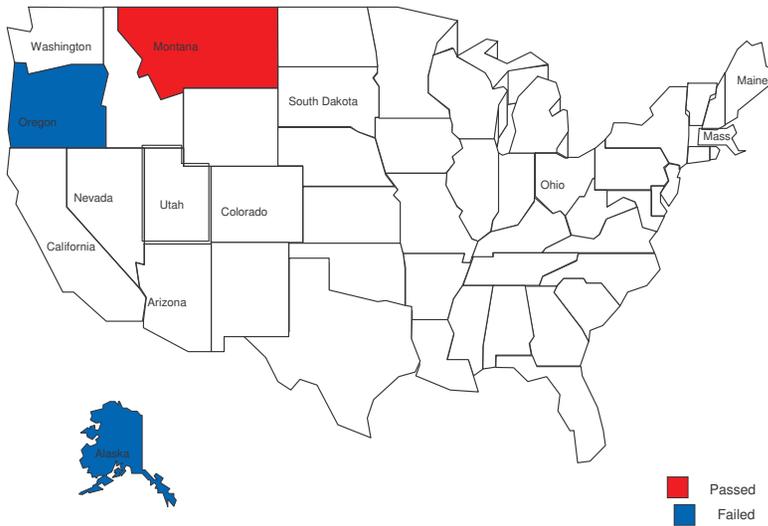
States With State Drug Policy Ballot Initiatives, 2000



States With State Drug Policy Ballot Initiatives, 2002



States With State Drug Policy Ballot Initiatives, 2004



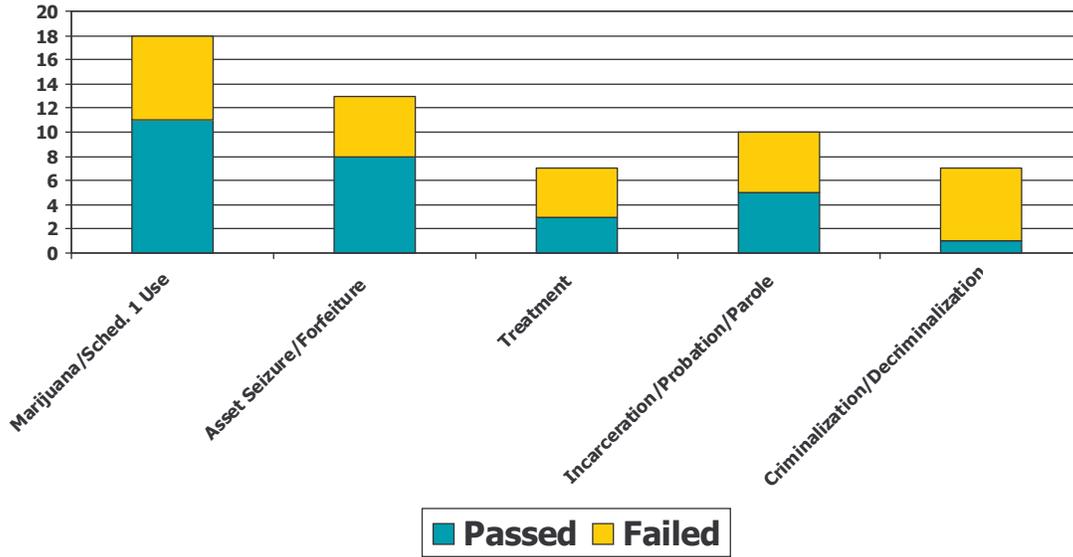
Arizona considered the most ballot measures during the period with five, followed by Oregon with four. Arizona and Oregon are the only two states that also considered “counter-measures.” In 1998, Oregon voters considered a measure to allow medical use of marijuana at the same time as a counter-measure that sought to decriminalize marijuana, making possession of one ounce or less a misdemeanor. Since approving its first drug policy ballot measure in 1996, Arizona considered four measures related to the 1996 initiative, including two initiatives seeking to limit the 1996 measure. Two states, Alaska and Nevada, considered three measures (Nevada requires two votes before initiatives become law), while four states considered two measures: California, Colorado, South Dakota, and Washington. Five states considered one measure: Maine, Massachusetts, Montana, Ohio, and Utah. The 1998 Colorado measure was challenged and the vote was not considered. Subsequently, a Colorado court verified the signatures, resulting in automatic placement on the 2000 ballot.

4.6 State Ballot Measures by Topic

The general topics the ballot measures addressed include allowing the use of marijuana and/or other Schedule I drugs, permitting use of drugs for medical purposes, expanding eligibility for drug treatment, restraining or abolishing asset forfeiture and/or seizure, considering criminalization or decriminalization of drugs, and addressing various aspects of incarceration, probation, and/or parole. To obtain a better understanding of the ballot measures, rather than relying solely on the rhetoric employed by those in the policy debate, I reviewed the full ballot text of each measure to identify and describe the primary actors and topics as well as the explicit and implicit problems, purpose, solutions, and tools. Table 4-7 identifies the key elements and topics based on this review.

The success and failure by ballot topic appears in Figure 4-4. While the figure indicates that marijuana and Schedule I drugs have been addressed by 18 ballot measures, a large subset has focused on legalizing drugs for medical use. Although “treatment vs. incarceration” is the category used by both sides of the drug policy debate, several

Figure 4-4. Passage and Failure of State Drug Policy Ballot Measures by Topic, 1996-2004



ballot measures not only focused on treatment but also included incarceration as the table above shows. Finally, because the drug treatment initiatives do not address treatment alone but rather as an alternative to traditional penalties, the various treatment ballot measures could have been assigned to the category of incarceration,

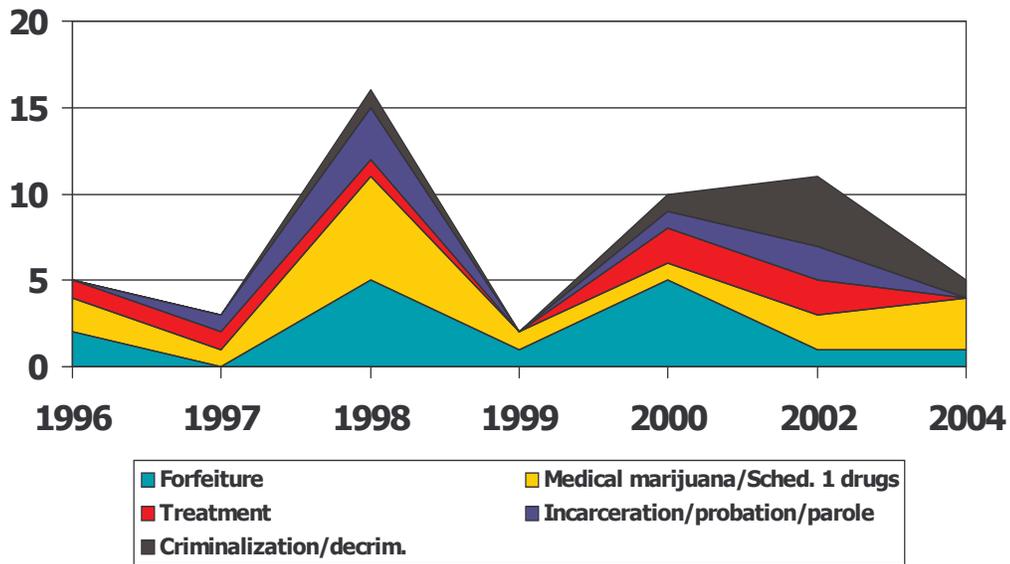
Table 4-7. Topics Addressed by State Ballot Measures on Illegal Drugs, 1996-2004

State, Year, Ballot Measure		Medical use	Asset Forfeiture	Treatment	Incarceration probation	Crim./decrim.
AZ96	Prop. 200: Drug, Med., Prev., and Control	x		x	x	
CA96	Prop. 215: Compassionate Use	x				
WA97	Init. 685: Drug Med., Prev., and Control	x		x	x	
AK98	Meas. 8: Medical Use of Marijuana	x	x			
AZ98	Prop. 300: Medical Use of Sched. I Drugs	x				
AZ98	Prop. 301: Probation Eligibility		x	x	x	
CO98	Amend. 19: Medical Use of Marijuana	x				
NV98	Meas. 9: Marijuana for Med. Purposes	x	x			
OR98	Meas. 57: Marijuana Class C Misdemeanor				x	x
OR98	Meas. 67: Medical Use of Marijuana	x	x		x	
WA98	Init. 692: Medical Use of Marijuana	x				
ME99	Ques. 9: Permit Medical Marijuana	x	x		x	

Table 4-7. Topics Addressed by State Ballot Measures on Illegal Drugs, 1996-2004						
State, Year, Ballot Measure		Medical use	Asset Forfeiture	Treatment	Incarceration probation	Crim./decrim.
AK00	Meas. 5: Uses of Hemp, Marijuana	x				x
CA00	Prop. 36: Drugs Probation/Treatment			x	x	
CO00	Amend. 30: Medical Use of Marijuana	x				
MA00	Ques. 8: Drug Treatment/Forfeiture		x	x		
NV00	Ques. 9: Cannabis for Med. Purposes	x	x			
OR00	Meas. 3: Conviction Before Forfeiture		x			
UT00	Init. B: Utah Property Protection Act		x			
AZ02	Prop. 203: Drug Med., Prev., and Control	x	x		x	x
AZ02	Prop. 302: Drug Probation			x	x	
NV02	Ques. 9: Use/possession of up to 3 oz.		x			x
OH02	Issue 1: Ohio Drug Treatment Init.			x	x	
SD02	Criminal Defendant Rights					x
SD02	M1: Industrial Hemp	x				x
AK04	Cannabis Decriminalization	x				x
MT04	Init. B: Montana Medical Marijuana	x				
OR04	Meas. 33: Oregon Medical Marijuana	x	x			

probation, and parole. As discussed above, all of the measures could have been broken down into simpler categories, but the ones used here generally capture the nuanced way in which the ballot measures defined the drug problem. The most notable finding is that while most states have single subject rules for ballot measures, the initiatives more often than not focused on more than one aspect of the drug issue. The broadest range of topics was addressed in 1998. Figure 4-5 indicates the introduction of treatment measures and an increase in measures on the criminal status of marijuana in the latter part of the decade. These topic areas are discussed in more detail in the rest of this section.

Figure 4-5. Topics Addressed by Number of Ballot Measures by Year, 1996-2004



4.6.1 Medical Use of Marijuana and/or Schedule I Drugs

A total of 18 ballot measures addressed marijuana or Schedule I drugs and mentioned medical use, with 15 addressing legalizing marijuana for medical purposes as the primary topic (see Table 4-8). Measures focusing solely on decriminalization or criminalization are excluded from this category. Omitting the 1998 Arizona counter-measure which sought to restrict access, only one measure focusing on medical use failed. Oregon’s 2004 measure focused on medical marijuana but only on amounts and supply rather than allowing use. Of the 18 measures, Arizona’s 1996 Proposition 200 and Washington State’s 1997 Initiative 685 were the only two to seek the legal use of marijuana and Schedule I drugs. Measures that addressed additional aspects were more likely to fail.

As the table indicates, in 1998 Arizona voters considered a measure that would in effect have nullified part of Arizona’s 1996 Proposition 200 by only allowing use of marijuana and other Schedule I drugs if the FDA or Congress declared them appropriate for medical use. Voters defeated the measure 57 percent to 43 percent. The 1998 Arizona measure and California’s 1996 Proposition 215 were the only measures to specifically call on the federal government, with the California measure recommending that the state and federal governments develop a distribution plan for marijuana. Four

Table 4-8. State Ballot Measures Addressing Use of Marijuana and/or Schedule I Drugs for Medical Purposes

<p>AZ96/WA97: Prop. 200/Init. 685: medical use CA96: Prop. 215: medical use; recommend government develop plan for distribution AK98: Meas. 8: medical use; not guilty of a crime; limits forfeiture AZ98: Prop. 300: limits Prop. 200; allows prescription of sched 1 only if [federal agency? or Congress – Congress is part of the federal government!] approves CO98/15CO00: Amend. 19/30: medical use; creates registry WA98:Init. 692: medical use; exempt from criminal laws OR98:Meas. 67: medical use; state permit system; limits forfeiture laws NV98/NV00:Ques. 9: possession allowed; protect from forfeiture; authorizes method for supply ME99:Ques. 9: makes possession a civil violation; allows growth and use AK00: Meas. 5: includes decrim. of hemp; medical and any use and growth not covered; amnesty for past crimes MT04: Init. 148: registry system; medical use and growth OR04: Meas. 33: establishes licensing program for medical marijuana dispensaries; exempt from criminal laws; increases marijuana amount; limits forfeiture</p>
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measures sponsored by Americans for Medical Rights established registries or distribution systems for medical marijuana, including Oregon’s 2004 measure which would have licensed the sale of marijuana through authorized dispensaries. The measures vary as to whether a physician may prescribe, recommend, or advise marijuana use for patients. The ambiguity regarding recommending and advising has led to numerous legal challenges as to the sponsors’ intent of the ballot measure.

Only four measures addressing the use of marijuana for medical purposes were defeated by voters. The 1998 Arizona measure restricting marijuana use and the 1997 Washington state measure allowing use of marijuana and Schedule I drugs (a 1998 measure limited to marijuana and based on California’s Proposition 215 was approved by voters) were defeated. In addition, Alaska’s 2000 hemp and marijuana legalization measure and Oregon’s 2004 measure that increased the amount of marijuana were defeated. (Of the medical use measures specifying the amount of marijuana, these latter two included the largest amounts, with the 2000 Alaska measure establishing equivalencies for hemp and alcohol and the 2004 Oregon measure setting amounts two to three times that of other measures. The 1998 Washington state medical marijuana measure allowed “no more than a 60-day supply,” leaving the determination of

appropriateness to patients and their physicians.) (Table 4-9 indicates the amount of marijuana specified in the measures.) Ohio First Lady Hope Taft said that most voters were unaware of what one much less three ounces of marijuana looks like. She said that initiative sponsors tried unsuccessfully to place a marijuana measure on the ballot in 2002. She said that she and others placed three ounces of dried oregano in a mayonnaise jar to illustrate for voters the amount of marijuana that people would be allowed to possess. Mrs. Taft considered this an effective graphic to dissuade support for the proposed measure (Taft 2005).

State, Yr.	Short Title	Marijuana Amounts Specified	Vote: Y/N
AK98	Meas. 8: Medical Use of Marijuana	1 oz.; no more than 6 plants; no more than 3 mature; if larger, must medically justify	Y
CO98/ CO00	Amend. 19/20: Medical Use	2 oz.; or 6 plants; with 3 or less mature	Y
OR98	Meas. 67: Medical Use	1 oz. usable; 3 mature plants; 4 immature plants	Y
WA98	Init. 692: Medical Use	no more than a 60-day supply	Y
ME99	Ques. 9: Medical Use	usable amount: 1 ¼ oz or less harvested; 6 plants; 3 or less mature, flowering	Y
AK00	Meas. 5: Use of Hemp/Marijuana	½ oz. cured hemp flowers = 1 gal. of dry wine for regulation like alcohol	N
AZ02	Prop. 203: Drug Prev., Medical Use, Control	2 oz.; 2 marijuana plants for medical; 2 oz. for possession	N
OR04	Meas. 33: Medical use	1 lb. usable (6 lbs if grow own crop annually); 10 mature plants; any no. immature	N

Ten ballot measures included provisions for establishment of a registry or permit system for marijuana users, with six approved by voters. It should be noted that of these 10, the 2000 Colorado and Nevada measures were second votes on the same measures considered in 1998. Measures that included registries or permit systems were only slightly more likely than those without to be approved by voters.

Poll data collected between 1995 and the present indicate increasing public support for legalization of marijuana for medical purposes (Table 4-10). Support dipped after the passage of the 1996 ballot measures in Arizona and California but by 1999 had increased to more than 70 percent approving of legal use of marijuana for medical purposes. The table includes an item from the 1995 ACLU poll funded by millionaire

Peter Lewis, which informed the development of Arizona’s Proposition 200. The ACLU asked voters about their views on arguments used to oppose use of marijuana for medical purposes: almost half of respondents were very or somewhat convinced that marijuana should remain illegal because “legalizing marijuana for medical uses will make it too easy for other people to get it and abuse it.”

A CNN/Time poll conducted in October 2002 by Harris Interactive provides further insight into public opinion as Table 4-11 shows. The poll found that public support for legalization was highest in 1986 at almost 80 percent and declined to 60 percent prior to the 2002 elections. Interestingly, the poll found that the public generally opposed legalization of marijuana but felt that civil rather than criminal penalties were appropriate for marijuana possession. Thus, the poll can be interpreted as an indicator of the degree of legalization the public will accept.

Table 4-10. Poll Data on Legalization of Marijuana for Medical Purposes, 1995-2004
85 percent of respondents favored "making marijuana legally available for medical uses where it has been proven effective for treating a problem." POLL: ACLU Topline Poll DATE: November 1995 Sample size: 1,001
69 percent of respondents favored "legalizing [the] medical use of marijuana." POLL: ABC News/Discovery News Poll DATE: May 1997 Sample size: 517
62 percent of respondents favored legalizing marijuana "strictly for medical use." POLL: Luntz Research Poll DATE: September 1997 Sample size: 1,444
60 percent of respondents supported allowing physicians to prescribe medical marijuana. POLL: Journal of the American Medical Association (JAMA) DATE: March 1998 Sample size: N/A
73 percent of respondents said they "would vote for making marijuana legally available for doctors to prescribe." POLL: Gallup DATE: March 1999 Sample size: 1,018
73 percent of respondents supported allowing doctors "to prescribe marijuana." POLL: Pew Research Center Poll DATE: March 2001 Sample Size: 1,513
80 percent of respondents supported allowing adults to "legally use marijuana for medical purposes." POLL: Time Magazine/CNN Poll DATE: October 2002 Sample Size: 1,007
72 percent of respondents agreed with the statement, "Adults should be allowed to legally use marijuana for medical purposes if a physician recommends it." POLL: AARP DATE: November 2004 Sample Size: 1,706
Source: www.norml.org

Table 4-11. CNN/Time Poll on Aspects of Legalization

Do you favor or oppose the legalization of marijuana?			
	Oct 23-24, 2002	Apr 15-17, 1986	Mar 1-3, 1983
Favor	34%	18%	24%
Oppose	59%	78%	73%
Not sure	7%	4%	4%

Do you favor or oppose the legalization of marijuana? What about in small amounts, for example three ounces or less? Do you favor or oppose the legalization of marijuana in small amounts?

	Oct 23-24, 2002
Favor	34%
Favor, but only in small amounts	6%
Oppose	51%
Not sure	9%

Assuming marijuana is not legalized, do you think people arrested for possession of small amounts of marijuana should be put in jail, or just have to pay a fine but without serving any jail time?

	Oct 23-24, 2002
Put in jail	19%
Fine without jail time	72%
Both*	2%
Neither*	4%
Not sure	3%

*Volunteered response

Do you think adults should be allowed to legally use marijuana for medical purposes if their doctor prescribes it or do you think that marijuana should remain illegal even for medical purposes?

	Oct 23-24, 2002
Yes, should be allowed to use marijuana	80%
No, marijuana should remain illegal	17%
Not sure	3%

Source: http://www.norml.org/index.cfm?Group_ID=5550

4.6.2 Treatment and Incarceration/Parole/Probation

Since the 1980s, mandatory minimum sentences and other penalties for drug law violations have increased at both the state and federal levels. The policy rationale behind such measures is to punish dangerous drug dealers and disrupt the drug market, deterring future dealers. The idea was that tougher penalties would increase the disincentives for drug dealers, reduce drug availability, and ultimately reduce drug use. Every state now

has criminal laws that provide some kind of mandatory minimums. However, many states' budgets also reflect dramatic increases for state prisons due to the resulting prison population boom. As states began feeling an increased budget crunch that many attributed to the zero tolerance approach to illegal drugs, state and voter receptiveness to less costly alternatives to the drug problem may have increased. In addition to the treatment measures that sought to replace the threat of incarceration with treatment, several others tried to alter probation and parole requirements. (The measures, their relevant provisions, and passage or failure appear in Table 4-12.)

All of the treatment measures addressed incarceration, probation, or parole, as they focused on treatment as an alternative to traditional sentencing options. Of 10 measures, half were approved by voters. No clear patterns emerge by year or by topic, but examining measures by state yields interesting findings. Following passage of the wide-ranging Proposition 200 in Arizona in 1996, voters defeated a 1998 measure that would have reinstated the more liberal drug sentencing provisions of the 1996 initiative that the state legislature had subsequently changed. In 2002, Arizona voters again voted to increase the potential for incarceration by increasing state courts' discretion to incarcerate. In contrast, voters in Oregon opposed reinstating criminal penalties and against allowing incarceration as a sentencing option for the courts in 1998.

Table 4-12. State Ballot Measures Addressing Treatment and/or Incarceration, Probation, or Parole		
State, Yr., Short Title	Relevant provision	Vote: Y/N
1996 AZ Prop. 200	probation for possession/use possession eligible for parole	Y
1997 WA Init. 685	probation for possession/use possession eligible for parole	N
1998 AZ Prop. 301	reinstate probation eligibility for 1st and 2nd drug offenses	N
1998 OR Meas. 57	would reinstitute criminal penalties	N
1998 OR Meas. 67	would remove incarceration as an option	Y
1999 ME Ques. 9	makes possession a civil violation; removes incarceration as an option	Y
2000 CA Prop. 36	probation and treatment rather than incarceration for drug offenses; if complete treatment no conviction	Y
2000 Mass. Ques. 8	Funds drug treatment; allows treatment rather than incarceration	N
2002 Arizona Prop. 302	would require jail time revoke probation if refuse or fail treatment	Y
2002 Ohio State Issue 1.	Offenders eligible for treatment rather than incarceration for use and possession	N

The 2002 treatment vs. incarceration measures appeared to represent a new trend in drug policy reform efforts and reflected the first concerted effort to pass such measures beyond the West Coast. Only two previous state initiatives that sought to mandate treatment rather than incarceration (in Arizona and California) were approved by voters, serving as the basis for three state initiatives in 2002 (Michigan, Florida, and Ohio). Despite well-planned, financed, and professional campaigns, State Issue 1: the Ohio Drug Treatment Initiative, was the only measure to make it to the ballot in 2002. The initiative ultimately was defeated at the ballot box by a two to one margin. (At the local level, Washington, D.C., voters approved a similar initiative.) A similar Michigan drug treatment initiative was removed from the ballot by the Michigan Supreme Court due to technical errors in the proposal's wording, and a Florida ballot initiative promoted as a “right to treatment” failed to obtain the signatures needed to place it on the ballot. Important to note is that these measures represented a deliberate move east.

Ohio’s 2002 measure was based on California’s 2000 measure Proposition 36, which also mandated probation and treatment rather than incarceration. If treatment was completed, the criminal record would be cleared. Arizona’s 1996 measure, Proposition 200, provided probation and parole for possession of Schedule I drugs with treatment as the alternative to incarceration. Washington’s 1997 measure was identical to the Arizona measure and also was defeated. In 1998, Arizona considered Proposition 301, which would have mandated treatment and extended eligibility for probation to two offenses. However, the measure also allowed for incarceration as a sanction alternative if probation were violated, which was considered to limit Arizona’s Proposition 200 at the same time that it reinstated some elements that the legislature had changed. In Massachusetts, Question 8 (2000) sought unsuccessfully to broaden the scope of drug treatment by increasing eligibility for treatment and raising treatment funding. In 2002, Arizona considered a drug probation measure that again imposed incarceration if probation were violated. The same year, Arizona voters considered a measure that reinforced and extended the provisions of Proposition 200, including reinforcing probation as an appropriate sanction for possession and use. The 2002 drug treatment initiatives were widely expected to pass according to most media analyses, in part because the measures

and states were based on extensive research and polling in the state to ensure that public opinion polls favored treatment instead of incarceration for nonviolent offenders.

4.6.3 Criminalization/Decriminalization

Nadelmann (2004b) says “decriminalization” means people should not be incarcerated. A spokesperson for Soros defined criminalization as “a strategy that buys into the notion that if you lock up enough young black males—for whatever reason—you will promote public safety” (Baker 1999). Seven ballot measures addressed criminalization and decriminalization directly (see Table 4-13), all of which were defeated by voters. In 1998, Oregon voters defeated a ballot measure that would have made possession of one ounce or less of marijuana a Class C misdemeanor. The Oregon measure was introduced to counter a measure that sought to allow persons with debilitating conditions to possess up to an ounce of usable marijuana for medical purposes. The latter measure would have allowed marijuana users who were not registered to use marijuana to employ the “affirmative defense of medical necessity” if criminally charged, which the counter-measure sought to prevent. Alaska, which had decriminalized marijuana in the 1970s and recriminalized marijuana in the 1980s, considered and defeated decriminalization measures in 2000 and 2004. The 2000 initiative petition--allowing the use of hemp

1998 OR Meas 57 (N)	Possession of 1 oz. or less of marijuana punishable by up to 30 days imprisonment plus \$500 to \$1,000 fine
2000 AK Meas. 5 (N)	Persons 18 yrs. or older not prosecuted, denied any right or privilege, nor subject to criminal or civil penalties for the possession, cultivation, distribution, or consumption of hemp stuff (includes marijuana)
2002 AZ Prop. 203 (N)	Decriminalized possession of 2 oz. or less of marijuana and paraphernalia
2002 NV Ques. 9 (N)	Allowed use and/or possession of marijuana without subject to arrest, civil or criminal penalty, seizure, or forfeiture of assets
2002 SD M1 (N)	Legal under state law to plant, cultivate, harvest, possess, process, transport, sell, or buy industrial hemp (cannabis) or any of its byproducts with a THC content of 1% or less
2002 SD (N)	Accused shall have right to argue the merits, validity, and applicability of the law, including the sentencing laws.
2004 AK (N)	Removed civil and criminal penalties under state law for persons 21 years or older who grow, use, sell, or give away marijuana or hemp products

including marijuana-- not only sought to decriminalize up to three ounces of marijuana but also to provide amnesty for prior convictions for those 18 years of age and older. The 2004 Cannabis Decriminalization and Regulation Act called for industrial hemp products, including marijuana, to be regulated like alcohol and tobacco, this time raising the age limit to age 21. In 2002, 80 percent of South Dakota residents opposed a measure to permit the legal arguments that drug laws are unfair--in essence, the measure promoted a form of jury nullification leading to no criminal and potentially no civil penalties for drug-related crimes. In 2000, South Dakota voters had defeated by a two-to-one margin a hemp legalization measure similar to the measures considered in Alaska. In 2002, Nevada voters defeated decriminalizing possession of up to three ounces of marijuana in a measure that also established a marijuana distribution system.

4.6.4 Asset Seizure/Forfeiture Reform

Federal forfeiture laws were enacted more than 25 years ago as a tool to discourage illegal drugs. However, some such as Congressman Henry Hyde (R-IL) and the ACLU argue that such doctrines have been abused, allowing confiscation of money and property from citizens without due process. Forfeiture laws permit seizure of money, property and other assets that are suspected as coming from illegal profits, particularly from illegal drugs. Such laws often allow seized assets or proceeds from the sale of those assets to be used for law enforcement purposes, and sometimes they specifically authorize assets to be used to address illegal drugs. The \$1 billion National Youth Anti-Drug Media Campaign, for example, is funded from the forfeiture fund.

Three state ballot measures had forfeiture as a primary focus, all of which were considered in 2000. Soros, Sperling, and Lewis donated \$1.25 million to the three initiative campaigns, which characterized the problem as a human rights issue.

Massachusetts voters defeated a measure that would have created a treatment program from assets seized and forfeited, prohibited forfeiture of land and buildings if used in a manner “merely incidental to a drug crime” and if the property owner could “prove by a preponderance of evidence that the money or property was legally exempt from forfeiture,” prohibited funds from being used for law enforcement, and required records of forfeiture activities be made public. Utah voters approved an amendment to the state

constitution forbidding forfeiture of property in a drug crime where the innocent owner neither knew of nor consented to the crime, created uniform procedures, further restricted forfeiture, required forfeiture proceeds be allocated to a school fund; clarified valuation methods for property; and enhanced reporting requirements for law enforcement. In Oregon voters approved a measure that required conviction before forfeiture; restricted the usage of proceeds; and increased law enforcement reporting requirements and penalties for failure to adhere to forfeiture regulations.

In addition, nine other measures sought to prevent or limit the forfeiture of property from those who were found to be using marijuana for medical purposes:

- Alaska 1998: Voters approved a measure that prevented harm to property unless convicted of criminal offense.
- Arizona 1998: Voters did not approve loosening of forfeiture laws or exemptions from forfeiture.
- Nevada 1998 and 2000: Twice voters approved to protect property from forfeiture if drug use was approved medical use.
- Oregon 1998: Voters approved a measure that prevented harm of property unless convicted of a criminal offense.
- Maine 1999: Voters approved more lenient forfeiture limits for possession of marijuana.
- Arizona 2002: Voters approved limiting forfeiture to those convicted and required the proof that the property was instrumental in committing offense or resulted from proceeds of an offense.
- Nevada 2002: Voters approved the use of marijuana without fear of forfeiture or seizure of assets.
- Oregon 2004: Voters did not approve a measure that sought to prevent harm of property unless convicted of a criminal offense.

4.7 State Drug Policy Ballot Measures by State

The ballot measures considered by each state are briefly described below.

4.7.1 Alaska

Alaska considered three ballot measures on illegal drugs between 1996 and 2004. In 1998, with 58 percent of the vote, the use of marijuana was approved for certain medical purposes. The act tasked the state with establishing and maintaining a confidential registry of patients. Under this law, patients had to provide to the state written documentation from their physician of both the diagnosis of a debilitating medical condition and the conclusion that the patient could benefit from medical use. Physicians were exempted from any penalty for advising of the risks and benefits of marijuana and care givers and patients were also not penalized or found guilty with patient use deemed “privileged.” The physician and patient had to have a “bona fide physician-patient relationship.” The measure required the state to issue a card within 35 days of receipt of an application or the application would be deemed approved. The state collected administrative fees and by January 1999 had to “promulgate regulations for considering adding other medical conditions by petition.” Patient eligibility and requirements were established and limits were set for the amount of marijuana a patient may possess. The measure also prohibited the seizure of property in relation to claimed medical use, requiring that the state keep any property free from harm.

In 2000 and 2004, Alaska voters defeated measures sponsored by NORML and the MPP seeking to legalize hemp and related products, including marijuana. Both sought to remove criminal and civil penalties under state law and to require that marijuana be regulated like alcohol and tobacco. The 2000 measure allowed use among those 18 years of age and older, and the 2004 measure restricted access to those 21 and older. The 2000 measure may have been too large of a jump for voters, who had only passed the use of marijuana for medical purposes by a 60 percent to 40 percent margin two years earlier. The 2000 measure equated one-half ounce of hemp flowers or leaves to one gallon of dry wine and would have granted amnesty to persons convicted of past marijuana crimes. The state was tasked with providing applications to all city and district attorneys within 60 days of passage to allow those convicted previously to pay a \$15 fee for their records to be destroyed, allowing them to “truthfully say they have never been convicted.” The 2000 measure called on the state legislature, the governor, and the attorney general to challenge federal government prohibitions conflicting with the

initiative within 120 days of passage and to establish a panel to examine the feasibility of making restitution to those previously convicted of marijuana acts. Interestingly, while the measure “authorized” the legislature to determine whether it needed to regulate or prohibit persons using marijuana from endangering public safety, such as driving under the influence, it prohibited the use of drug testing for determining impairment or being used for employment or insurance purposes. Finally, the act prohibited state law enforcement funds from being used to enforce federal laws no longer legal in the state, placing Alaska in direct opposition with federal law.

The 2004 measure was a simpler and less ambitious measure that also failed by about the same margin as the 2000 initiative. The 2004 measure removed the registry and permit requirements of the 1998 measure and removed all restrictions on the access, use, sale, growth, and giving away of all marijuana or hemp products. Like the 2000 measure, it would have allowed the state government to enact laws limiting use in public and to protect public safety. John Walters, the Director of the White House Drug Policy Office, discussed the lack of an organized opposition to the legalization efforts in the state but credited Alaska voters with defeating the 2000 measure that sought to “rollback” drug laws in the state (Walter 2005). Walters believes that Alaska’s experience in 2004 is a positive indicator that ultimately, citizens are “unwilling to say let’s decriminalize.”

4.7.2 Arizona

Arizona’s landmark 1996 Drug Medicalization, Prevention, and Control Act was funded primarily by Sperling and like California’s 1996 measure, it served as the model for subsequent measures. This wide-ranging measure, considered by DPA (2003) to have been one of the “most sweeping drug policy reforms,” sought to establish a parent commission on drug education, made those convicted of drug possession eligible for parole, allowed the use of Schedule I drugs for medical purposes, required probation for possession or use, established a drug treatment fund, required violent offenders to serve 100 percent of their time, established parole for those previously convicted of possession, required treatment rather than incarceration for nonviolent drug offenses, and mandated annual reporting by the state supreme court on the cost savings from diversion to treatment to the governor and legislature. Washington state voters defeated an identical measure in 1997.

Voters approved the 1996 Arizona measure, Proposition 200, with 65 percent of the vote. However, the state legislature and governor approved amendments to the law in 1997 through two House bills and one Senate bill that restricted parole eligibility, eliminated the provision prohibiting incarceration for first and second offenses, and prevented prescriptions for Schedule I drugs from being filled until FDA approval was obtained. Media coverage and legislative updates indicate that lawmakers justified their actions based on their belief that post-election polls indicated that voters were not fully aware of all of the elements of Proposition 200 and would not have supported the measure if they had been fully aware. In 1997, the People Have Spoken (previously named Arizonans for Drug Policy Reform when it sponsored Proposition 200) unsuccessfully challenged the amendments in court and vowed that voters would revolt in 1998. In 1998, the organization, which had funded the 1996 measure, backed Proposition 302; this initiative defeated by voters specified that those convicted of first or second offenses involving possession of marijuana would be eligible for probation, overturning the action taken by the legislature in 1997. At the same time, a countermeasure was defeated which sought to reinforce the legislature's requirement for FDA or U.S. Congress approval of Schedule I drugs before they can be prescribed.

In 2002, Arizona voters again faced two propositions. The first, the Prevention and Control Act of 2002, sought to reinforce and expand Proposition 200 by decriminalizing marijuana, repealing mandatory minimum sentences for drug offenses, establishing a medical marijuana distribution program, and making first and second time drug offenses civil violations (removing them from criminal court supervision). This measure failed 57 percent to 43 percent. In contrast, the second, Proposition 302, which was approved by more than two-thirds of voters, reinstated a provision of Proposition 200 that incarceration could be imposed as a sanction if probation requirements were not met. This measure was approved despite an almost \$2 million opposition campaign funded by the People Have Spoken. Of note, the People Have Spoken sponsored Proposition 200 and the subsequent attempts to reinstate and extend the measure, and it funded efforts to oppose the propositions and legislative efforts that sought to define the drug issue as a problem to be controlled.

4.7.3 California

California, which has been on the forefront of many groundbreaking policy issues -- from tax revolts, to recalling elected officials, to instituting English as the official language--also served as a catalyst for efforts to challenge status quo drug policy through the initiative process. Billionaire George Soros and his initiative campaign experts engineered California's 1996 Proposition 215, which they named the Compassionate Use Act. In contrast to Arizona's Proposition 200, which covered many different aspects of illegal drugs and was not limited to marijuana but included all Schedule I drugs, California's Proposition 215 focused on the use of marijuana for medical purposes. The target was patients who were "suffering" and subject to "punishment" for having or using marijuana. The measure was aimed at serving "patients with serious illnesses for whom medical marijuana could benefit." Proposition 215 cast physicians, not government, as the legitimate authority for assessing marijuana's benefits and determining whether it should be recommended. The measure specified neither the qualifying medical conditions nor the personal amount of marijuana allowed. It did not propose a plan of distribution, but it recommended that the state and federal governments develop a plan for distribution. Patients, caregivers, and physicians were protected from punishment for recommending marijuana, patients for cultivating, possessing, and using marijuana, and caregivers for cultivating and possessing marijuana. The ambiguity regarding what a physician's recommendation constituted led to legal challenges considered by the U.S. Supreme Court. Proposition 215, which was approved by voters, served as the model for ballot measures in other states.

In 2000, voters also approved Proposition 36, known as the Drugs Probation and Treatment Act or the Substance Abuse and Crime Prevention Act, with 60 percent of the vote. It required probation and treatment, not incarceration, for the possession, use, and transportation of controlled substances and similar parole violations, except the sale or manufacture of illegal drugs. The measure allowed charges to be dismissed upon treatment completion. Reporting requirements were established for treatment providers who must report quarterly to the probation department and alert the department if treatment was not successful. The measure also established a substance abuse treatment trust fund, allocating \$60 million for the first fiscal year and subsequent fiscal years. In

addition, Proposition 36 required counties to submit annual reports on the use of treatment and the number of treatment participants; other requirements included annual audits of expenditures, an annual effectiveness and financial impact report by the state department of health and human services, and a long-term study of treatment by a California public university.

4.7.4 Colorado

In Colorado, voters approved the same measure in 1998 and 2000. In 1998, the ballot issue before voters was a constitutional amendment authorizing medical use of marijuana for persons suffering from debilitating conditions and giving patients and caregivers an affirmative defense. The measure allowed an affirmative defense if a patient were diagnosed by a physician as having a debilitating medical condition and was “advised by” a physician in the context of a bonafide physician-patient relationship. The physician would not be subject to criminal laws for advising the patient of the risks and benefits or for providing the patient with written documentation of the need for marijuana as medicine. The state health agency was required to create and maintain a confidential registry of patients. The patient had to provide documentation in order to obtain a registry card, which authorized possession of no more than two ounces of marijuana or six plants with three or fewer mature plants. If approval was not provided within a reasonable time, it was automatic. However, the measure also stated that the state health agency’s denial of a registry identification card was the final decision. The governor was to be responsible for ensuring state health agency compliance. The measure addressed liability, stating that the government and any other health insurance provider would not be liable for any claim for reimbursement for medical use of marijuana. There also was no requirement to accommodate medical use of marijuana in the workplace. While almost 60 percent of voters approved the measure in 1998, legal challenges resulted in invalidation of the measure and the vote was not counted. Subsequently, the state supreme court found the measure should not have been invalidated, and it was automatically placed on the ballot in 2000 and again approved by voters.

4.7.5 Maine

In 1999, Maine voters approved an Act to Permit the Medical Use of Marijuana. Voters were asked: “Do you want to allow patients with specific illnesses to grow and use small amounts of marijuana for treatment, as long as such use is approved by a doctor?” The measure made possession of a “usable amount of marijuana” a civil violation not subject to forfeiture. An eligible patient was defined as a person authorized to possess marijuana for medical purposes based on an authenticated copy of the patient’s medical record or other written documentation from a physician that the person suffered from one of a number of conditions. For those under 18 years of age, signed authorization was needed from his or her parent or legal guardian. Use was prohibited in public and within the workplace. Physician authorization was characterized as discussion of the possible risks and benefits of use and the professional opinion that marijuana use could benefit a patient based on information from other clinical studies and research.

4.7.6 Massachusetts

In 2000, Massachusetts voters failed to approve “An Act to Expand the Scope of the Commonwealth’s Drug Treatment Program and Provide Funding through Fines for Drug Violations and the Forfeiture of Assets Used in Connection with Drug Offenses.” The ballot text defined a “yes” vote as changing “state laws governing drug dependency treatment and fines paid and money and property forfeited in connection with drug crimes.” The Proposition directed the state legislature to appropriate monies for a state drug treatment fund, with the money derived from fines paid under criminal drug laws, money forfeited in connection with drug crimes, and the proceeds from selling property forfeited because of a connection to drug crimes. The state rehabilitation director was tasked with administering the program, which was prohibited from supplanting existing programs. Offenders charged with drug crimes would have been eligible for treatment rather than incarceration, and if they completed treatment the charges would have been dismissed. The state inspector general was allowed to audit and investigate “these activities” and to “punish or imprison” any official who conceals or diverts any forfeited money or property. State authority was further limited in terms of forfeiture and a requirement to make records of forfeiture activities public to increase accountability.

4.7.7 Montana

In 2004, Montana voters approved almost two-to-one an initiative allowing use of marijuana for medical purposes, after a campaign funded heavily by the Marijuana Policy Project. The initiative allowed “the production, possession, and use of marijuana by patients with debilitating medical conditions.” Written certification is now required from the patient’s physician. A number of conditions are specified with discretion given to the state for identifying other eligible conditions. Patients are authorized to produce, possess, and use marijuana and their caregivers to grow and possess limited amounts, although the amounts are not specified.

4.7.8 Nevada

In Nevada, if an initiative petition seeks to amend the state constitution, and it is approved by a majority of voters, the “Secretary of State shall publish and resubmit the question of approval or disapproval” during the next general election in exactly the same form (Waters 2003: 297). If a majority of voters approve and their vote is validated by the state supreme court, the constitution is amended.

In both 1998 and 2000, Nevada voters approved a measure authorizing use of marijuana for medical purposes upon a physician’s advice and reducing possession of marijuana to a misdemeanor. Both years, the measure was sponsored by Americans for Medical Rights, which is heavily funded by Soros, Sperling, and Lewis. The constitutional amendment allows use of marijuana upon “advice” of a physician for “treatment and alleviation of cancer, glaucoma, AIDS, severe, persistent nausea of cachexia resulting from these and other chronic or debilitating medical conditions; epilepsy and other disorders characterized by seizure, multiple sclerosis, and other disorders characterized by muscular spasticity; or other conditions pursuant to law for such treatment.” Marijuana plants and other property were protected from forfeiture unless a guilty or nolo contendere plea was entered for use or possession not medically authorized. A patient registry was established and law enforcement authorized to verify claims to use marijuana. The 1998 and 2000 measure also authorized but did not specify “appropriate methods” for ensuring the supply for authorized patients. Use was prohibited for non-medical purposes or use in public, and no reimbursement was required by insurers or the state. Additional requirements were established for medical

use by youth under age 18, including parental control of acquisition and use of marijuana plants. In 2001, the Nevada legislature passed implementation legislation as well as decriminalized small amounts of marijuana (DPA 2003). The bill was subsequently signed into law by the Governor but lacked funds for implementation.

In 2002, Nevada voters defeated 61 percent to 39 percent another ballot measure on the use and possession of three ounces or less of marijuana. The measure directed the legislature to “provide or maintain penalties for using, distributing, selling, or possessing marijuana under certain circumstances, and to provide a system of regulation for the cultivation, taxation, sale, and distribution of marijuana.” In essence, the constitutional amendment would have provided a legal source of marijuana for patients advised to use it to treat medical conditions under the law signed in 2001. The amendment also would have removed criminal and civil penalties for up to three ounces of marijuana but allowed the legislature to set or maintain penalties for driving or operating heavy machinery while under the influence of marijuana and for selling or providing to those under age 21. The state would have been required to establish a system of regulation for cultivation, taxation, sale, and distribution of marijuana that included low cost distribution to those with authorization for medical use. A retail sales tax and licensing would have been established “the same as for tobacco products.” Transportation of marijuana out of state was prohibited unless authorized by federal law, and advertising of marijuana was prohibited.

4.7.9 Ohio

In 2002, voters defeated the Ohio Drug Treatment Initiative (State Issue No. 1), which would have made offenders charged with or convicted of illegal possession or use of a controlled substance eligible for drug treatment instead of incarceration. First and second offenders would have been eligible if they had not been convicted or previously imprisoned for a felony within five years of the current offense. If the felony did not involve violence and the offense resulted from drug abuse or addiction, the offender could have received treatment if it were considered in the best interests of the public and the offender. The court would have been required to stay criminal proceedings once treatment was requested, determine treatment eligibility, grant a treatment plan, obtain written commitment from the offender, and designate a treatment professional. The

initiative would have transferred authority for the offender from law enforcement to the treatment professional who served as an independent monitor. The initiative directed the state treasury to establish a substance abuse treatment fund and tasked the single state agency for alcohol and drug addiction treatment services with responsibility for implementing the program. The ballot measure also directed the General Assembly to provide \$19 million from general revenues to the treatment fund, to annually transfer \$38 million to the treatment fund, to maintain prior efforts for treatment and rehabilitation for the first six fiscal years, and to determine county-level funding allocations.

Additional insight into the Ohio ballot measure was obtained through a personal interview with the First Lady of Ohio Hope Taft (Taft 2005). The Governor and Ms. Taft heard rumors that Soros and his colleagues were targeting Ohio. In response, they began talking to opponents in other states to gain insights into how they addressed similar measures. A key lesson shared was that the ballot measure sponsors used “intimidation” as a tactic, making open records requests to try to “catch” community coalitions and others engaged in inappropriate activities, such as lobbying. The initiative sponsors recruited a well-respected law firm and former state representative as a spokesperson making overtures to treatment professionals. Once the ballot measure language was made available, Ms. Taft and others reviewed the language and raised issues that made it easier to rally opposition. Drug courts and law enforcement officials were credited as key allies in getting the word out and in organizing press conferences in counties across the state.

That Governor Taft was running for re-election made it easy to drop in mentions of the ballot measure in speeches. Ms. Taft and others were even able to successfully raise money to fund an ad and purchase air time to oppose the ballot measure. The key message centered on the measure being a “wolf in sheep’s clothing.” Those who had gone through drug courts were among the most effective speakers in opposition to the ballot measure, and the personal stories of drug court graduates or prosecutors were deemed most effective by the professional campaign strategists hired by the coalition of organizations and individuals opposing State Issue 1. The single ad developed to air against the measure focused on someone leaving jail and having the handcuffs removed,

with the tagline of not letting someone get out of jail free. Those in the treatment field did not like the ad, which they saw as stigmatizing users (Taft 2005). Yet, focus groups found it to be effective. Because the ballot measure sponsors had money on their side, email “blasts,” the internet, op-eds, and letters to the editor served as primary communication vehicles for the opponents. Ms. Taft also indicated that national support in the form of letters to the editor and visits by members of the executive branch such as representatives of the DEA and White House Drug Policy Office were important but most critical was keeping the message simple. Sometimes those from the federal government served as “lightning rods” for the legalizers, detracting from the opponents’ main messages developed in consultation with paid campaign strategists.

4.7.10 Oregon

Between 1996 and 2004, Oregon voters considered four different ballot measures. In 1998, voters approved the use of marijuana for medical purposes with passage of Measure 67 (the Oregon Medical Marijuana Act), while rejecting a measure that would have made possession of one ounce or less of marijuana a Class C misdemeanor punishable by up to 30 days in jail and a fine of \$500 to \$1,000.

In 2000, Oregon voters approved a forfeiture measure by a margin of almost two to one. The initiative evidently was a response to myriad local forfeiture laws. According to a review of Oregon’s forfeiture laws, by the early 1990s, “several Oregon cities and counties had adopted forfeiture ordinances relating to driving under the influence of intoxicants (DUI), gambling and drug law violations” (Oregon Criminal Justice Commission 2000). The forfeiture initiative was challenged almost immediately in court. A lower court decision that it violated the single subject rule was appealed to the state supreme court but failed. The 2004 state legislature subsequently approved changes to the state forfeiture law, making it essentially inoperable.

In 2004, voters defeated Measure 33, which was advertised as amending the 1998 Oregon Medical Marijuana Act. The 2004 measure would have increased the authorized amounts of marijuana patients and their caregivers could possess to the largest quantity permitted in any state: 10 mature plants, no limits on the number of immature plants, and one pound of usable marijuana or six pounds if only one crop was grown annually. The measure also would have created a licensing program within the state health division for

medical dispensaries to provide up to six pounds of marijuana per patient a year and to provide marijuana free to indigent patients. County health departments would have been tasked with providing marijuana to patients in counties where no commercial marijuana dispensaries existed. The state health division would have been responsible for auditing and reporting on the dispensaries as well as for establishing a system under which people could have petitioned to expand the list of eligible medical conditions. The measure reinforced that physicians would be exempt from “advising qualifying patients about the risks and benefits of marijuana use.” In addition, the measure would have established an advisory commission to oversee management and required state employees to follow the direction of the commission. Property could not have been seized from those meeting the medical use criteria, and those seizing property would have been directed to protect property from harm. Finally, the measure added that “if provisions are declared unconstitutional, then enforcing laws against delivery of marijuana for consideration to cardholding patients shall be the lowest priority for law enforcement.”

4.7.11 South Dakota

South Dakota voters considered two measures in 2002 related to illegal drug laws. By a wide margin, they defeated a constitutional amendment that would have allowed defendants to argue in court that drug laws were unfair. Voters also defeated “an initiative related to industrial hemp” that would have legalized hemp and related products including marijuana. This measure would have legalized the planting, cultivation, harvesting, processing, transport, and buying of hemp products. Both measures were sponsored by an individual, South Dakota native Bob Newland.

4.7.12 Utah

In 2000, both Oregon and Utah considered Property Protection Acts. Funded by Soros, Sperling, and Lewis, the Utah measure passed with 70 percent of the vote. The measure asked “whether law should be amended to forbid forfeiture of property in crimes in which the innocent property owner neither knew of nor consented to crime; create uniform forfeiture procedures; require additional government proof for forfeiture; require forfeiture proceeds go to schools; clarify the valuation methods for property; and require tracking and reporting of money from its sale.” Basically, the measure sought to further

restrict the state's ability to forfeit property. As a Utah prosecutor, later White House Drug Policy Office Deputy Director for State and Local Affairs Scott Burns was involved in opposing Utah's Initiative B. Burns said in an interview that it was not until six months prior to the election that law enforcement and others focused on the initiative as it had gained momentum (Burns 2005). Funding from actors such as Soros and others facilitated the media coverage of potential horror stories of drug use by a grandson resulting in the grandfather's ranch being seized by the government. Although state political leaders tried to highlight Soros's substantial backing of the initiative, most Utahans were not familiar with him and did not accept the characterization of the ballot measure as an effort to legalize illegal drugs (Burns 2005).

The problem the measure defined was property owners being punished when they were not guilty. Law enforcement was characterized in the measure as not being held accountable. The measure required the state agency seizing property to provide a detailed inventory within 30 days of seizure, to transfer the property to the appropriate authority to hold pending a court order, to notify the prosecuting attorney of pertinent details, and to notify the property owners. If the seizing agency does not follow the notice procedures, the forfeiture can be voided. All proceeds from legal forfeitures must be given to the Uniform School Fund. The measure approved by voters as Utah Code 24-1-16 allowed the court in civil or criminal forfeiture proceedings discretion to void the forfeiture if the procedures are not followed. The courts also may appoint counsel for indigent claimants in civil and criminal forfeiture proceedings. The law shifted the burden of proof from the property owner to the prosecuting attorney. In addition, property owners can request release of their property under certain conditions, including if they are unable to travel to work without a car.

4.7.13 Washington

Washington's 1997 Drug Medicalization and Control Act is a word-for-word duplication of the Arizona measure (with the exception of replacing references to Arizona with references to Washington, leading to an almost identical word count of more than 500 words). Yet, the Arizona measure was approved by voters, while the Washington measure failed. Both were funded heavily by Soros, Sperling, and Lewis. Following the failure of the far-reaching drug policy measure in 1997, Washington voters approved a

measure focused on allowing use of marijuana for medical purposes in 1998. Current state law in 1998 authorized research into the therapeutic value of marijuana and allowed patients in the research program to receive marijuana from the state board of pharmacy. While the law authorized the research, the program was not operational. Washington Initiative 692 established that patients with “certain terminal and debilitating conditions” approved by the state medical quality assurance board were eligible to use marijuana. Qualified patients and their caregivers were authorized to possess “no more than a 60-day supply” based on valid documentation and authorization from a physician. The law maintained as a misdemeanor use of marijuana in public, at schools, in places of employment, or in other locations and situations where someone could be endangered. Licensed physicians were allowed to provide documentation of a qualifying patient’s medical history and that the medical condition and benefits outweigh the risks of marijuana use. The measure that became law exempts such physicians from criminal laws and penalties for “advising qualifying patients about the risks and benefits of marijuana use.”

4.8 Conclusions

As the review of state and national drug laws and rhetoric indicates, the prevailing approach to illegal drugs defines psychoactive substances as harmful and a threat to public safety and implicitly defines those who use or sell illegal drugs as immoral enemies. While some states have sought to reframe the issue in part as a medical issue for a particular constituency, the federal government has remained steadfast. Over the past decade the level of rhetoric related to illegal drugs has increased as the often ambiguously defined legalization movement has expanded to the venue of state ballot initiatives. The rhetoric related to legalization and the ballot measures frequently frames the debate as one of freedom and rights rather than of public safety. This chapter also provided an overview of the various aspects or concepts related to legalization found in the state ballot measures over the past decade. The next chapter focuses on the issue framing strategies in various ballot measure materials.

5 How the Drug Problem is Defined in the Full Text of Ballot Measures, Official Ballot Language, and Political Preambles to Ballot Measures

This chapter first seeks to obtain insight into how ballot measures framed and defined the drug problem by examining the full text of the 28 ballot measures. Next, the chapter examines the policy solutions in the wording of the official question or statement appearing on the ballot and compares the solutions to those in the 12 available political preambles, using Stone (2002). The final section employs Stone to analyze how the political preambles framed the drug problem, solutions, and goals.

5.1 Conceptualization of the Drug Problem in the Full Text of the Ballot Measures

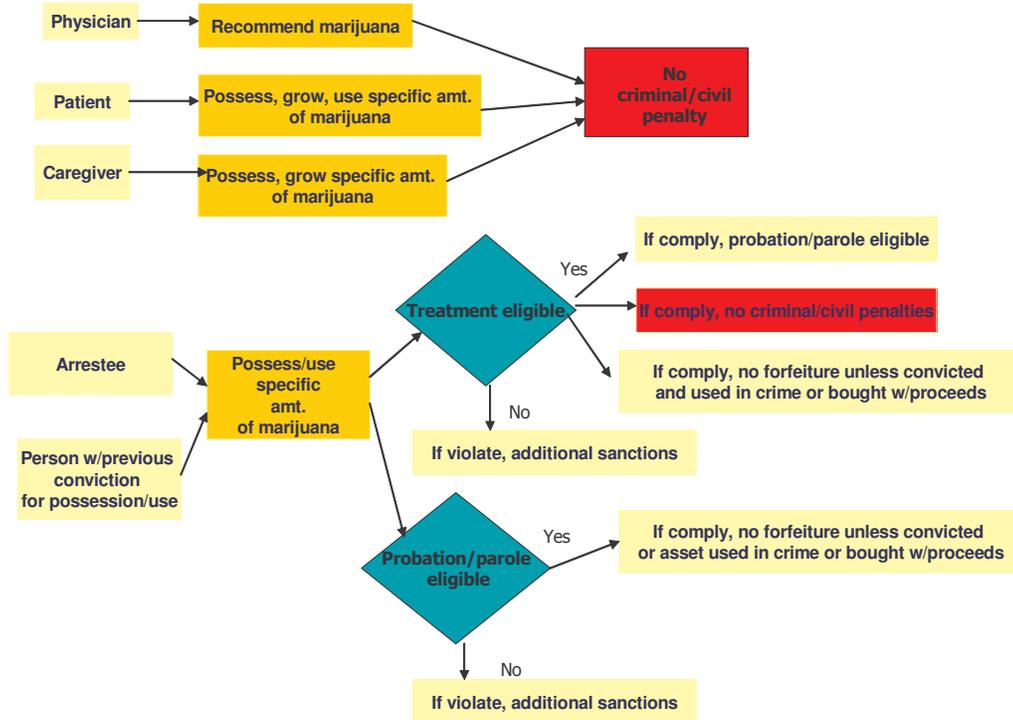
To identify patterns by year in terms of specific legalization concepts approved by voters, I reviewed the ballot measure topics and year and examined which aspects were approved by voters and which were defeated. Figure 5-1 shows the concepts that were approved by at least half of the ballot measures. As Figure 5-1 indicates, voters generally accepted legalization of marijuana under the following conditions:

- If a physician documents there is a medical need, it should be legal for people to grow, possess, and use marijuana.
- If someone is arrested for possessing or using a specified amount of marijuana, the person should not receive criminal or civil punishment if he or she agrees to participate in drug treatment or he or she should be subject to probation only, including for previous convictions.
- Those possessing or using small amounts of marijuana should not be subject to seizure and forfeiture of private property.

Voters also retained current laws related to violent offenders and drug trafficking, suggesting voters may be “comfortable” with addressing possession and personal use but not the manufacture and sale of illegal drugs. Arizona’s Proposition 200 in 1996 was the only one to include all Schedule I drugs and be approved by voters. With the exception

of Arizona, Washington was the only other state to specify Schedule I drugs. As discussed further by ballot topic below, voters remain adverse to legalization of large amounts of marijuana.

Figure 5-1. Concepts from the Full Text of Ballot Measures Approved by Voters, 1996-2004



5.1.1 Medical Use

The specific proposals related to medical use are listed in Table 5-1. Arizona’s Proposition 200 and Washington’s Initiative 685 included all Schedule I drugs. Arizona voters also considered measures in 1998 and 2002 to extend the 1996 ballot measure. As indicated in the table, whether a physician could prescribe marijuana as medicine varied by year. In 1996, two measures (California’s Proposition 215 and Arizona’s Proposition 200) were approved allowing prescription, but measures with the same element were defeated in Washington in 1997 and Alaska in 2000 and 2004. Nine measures allowed a physician to recommend marijuana. Measures passed in Alaska in 1998, Colorado in 1998 and 2000, Nevada in 1998 and 2000, Washington in 1998, Oregon in 1998, Maine

in 1999, and Montana in 2004, but were defeated in Arizona in 2002 Oregon in 2004. The term “recommend” was rather ambiguous versus the term “prescription” which defined marijuana as a medicine and implies controls. Voters approved not only prescription but also the more vague recommendation of marijuana. Three measures-- Arizona’s Proposition 200, Washington Initiative 685, and Arizona’s Proposition 300-- required written documentation of a physician’s second opinion; the latter two were not approved by voters. Ten measures approved by voters authorized caregivers to possess marijuana and patients to possess and use marijuana. Voters approved measures with such provisions in Arizona and California in 1996, Alaska in 1998; the same measures were approved by Colorado and Nevada voters in 1998 and 2000. In addition, Washington and Oregon in 1998 and Montana in 2004 approved measures with such a provision. Measures with the provision were defeated in Washington in 1997, Alaska in 2000, and Oregon in 2004. The latter three measures represent more extreme ballot measures in that they were the most at variance with current federal drug policy.

Measures that did not specify the amount of marijuana were as likely to pass as fail. Six measures that sought to create a registry for marijuana users were spread across states and years with only one measure with such a provision failing. Five measures discussed a distribution or supply system with measures in Alaska in 2000 and Arizona in 2002 failing. Voters in Montana in 2004 and in Nevada in 1998 and 2000 approved such provisions. The amount of marijuana was specified in only one ballot measure prior to 2000, which may suggest that the need emerged based on those early states’ experience. Protection from forfeiture was provided and approved in three ballot measures but defeated in Alaska in 2000 and Oregon in 2004. Only a 1998 Arizona countermeasure sought to reinforce federal drug control laws by requiring FDA approval prior to allowing physicians to prescribe marijuana or other Schedule I drugs. Only a Maine medical use measure that was approved by voters in 1999 and a 1998 Oregon and 2002 Arizona measure that were defeated by voters in 1998 sought to make marijuana possession a civil violation. The remaining measures addressing medical use removed criminal and civil penalties effectively legalizing use.

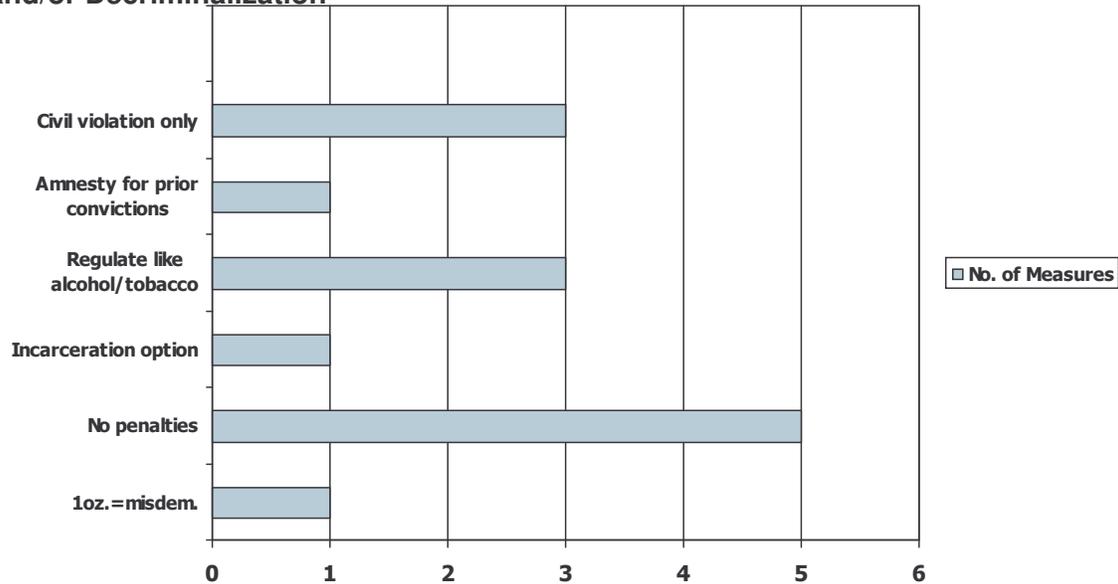
Table 5-1. Specific Medical Use Provisions by Ballot Measure, Year, and Passage and Failure																
	Approved by Voters								Not Approved by Voters							
	AZ96-Prop. 200	CA96-Prop. 36	AK98-Meas. 8	CO 98 Amend. 19/CO00-Amend. 20	NV 98 Meas.	OR98-meas. 67	WA98- Init. 692	ME99-Q. 9	MT04-Init. 148	WA97-zInit. 685	AZ98-Prop. 300	AZ98-Prop. 301	AK00-Meas. 5	AZ02-Prop. 203	AK04-Decrim.	OR04-Meas. 33
Physician prescription	x	x								x			x		x	
Physician recommendation			x	x	x	x	x	x	x					x		x
Requirement of written opinion from second physician	x									x	x					
Possession by caregiver/patient	x	x	x	x		x	x	x	x	x			x			x
Use by a patient	x	x	x	x		x	x	x	x	x			x			x
Cultivation by a caregiver/patient		x			x	x			x				x			x
Specification of personal amount			x	x		x		x	x							x
No specification of personal amount		x							x							
Patient registry	x				x	x			x	x	x					
Distribution						x		x					x			x
Protection from forfeiture			x			x		x					x			

5.1.2 Criminalization/Decriminalization

All seven of the measures with criminalization or decriminalization as a primary focus failed at the ballot. The concepts or provisions of these measures are outlined in Figure 5-2. 1998 was only the first year to feature a measure seeking to recriminalize marijuana in Oregon. Alaska considered decriminalization measures in 2000 and 2004. 2002 had the most decriminalization measures with four in western states: Arizona, Nevada, and two in South Dakota. In addition to these seven measures, Maine’s 1999 medical use act, which was approved by voters, defined marijuana possession or use as a civil rather than a criminal violation. The 2000 and 2004 Alaska measures and the 2002 Nevada and both South Dakota measures sought to get rid of all penalties in essence

legalizing marijuana. Two Alaska measures and one Nevada measure framed marijuana as like alcohol or tobacco proposing that marijuana be regulated like alcohol or tobacco.

Figure 5-2. Number of Measures with Provisions Related to Recriminalization and/or Decriminalization



5.1.3 Treatment, Incarceration, Probation, and/or Parole

Table 5-2 shows the provisions and passage and failure by year of provisions about treatment and punishment for drug use or possession. Three measures addressing treatment and eligibility for probation and/or parole were approved by voters in 1996, 2000, and 2002. All three made personal possession or use eligible for probation. Three measures with the same provision were considered across the time frame and failed (i.e., Washington’s Initiative 685 in 1997, Massachusetts Question 8 in 2000, and Ohio’s State Issue 1 in 2002). Three measures made incarceration an option, one of which was approved (Arizona’s 2002 measure), while voters defeated such measures in Ohio in 2002 and Arizona in 1998. California voters approved a 2000 measure specifying incarceration would not be an option for drug offenses, while Arizona voters defeated such a provision in 2002. Four measures featuring six of the provisions were considered over the past decade: Arizona’s Proposition 200 in 1996, Washington’s Initiative 685 in

1997, California’s Proposition 215 in 2000, and Arizona’s Proposition 203 in 2002, which reinforced and extended the provisions of Proposition 200. Only Arizona’s Proposition 200 and California’s Proposition 215 were approved by voters.

5.1.4 Asset Seizure and Forfeiture

Three measures had more than three elements related to asset seizure and forfeiture. Oregon and Utah voters in 2000 considered and approved Property Protection Acts with the provisions outlined in Table 5-3. Massachusetts Question 8, which failed, included three of the same provisions as the two measures that passed: enhancing forfeiting agency reporting requirements, requiring proceeds from forfeiture be used for drug treatment, and limiting forfeiture to property used in a crime or bought with the proceeds of a drug-related crime. All three measures were considered in 2000 with none in previous or subsequent years. However, previously three measures in 1998 and one in 2000 addressing marijuana use prohibited forfeiture if the use was validated as medical use. All but one of the measures was approved by voters. Perhaps the 2000 measures sought to build on the success of such provisions in earlier measures. It is not clear why measures in 2002 and 2004 did not include such provisions based on the successes of 2000.

Table 5-2. Provisions of Measures Focusing on Treatment and/or Incarceration, Probation, and Parole by Ballot Measure, Year, and Passage and Failure									
	Measures Approved by Voters				Measures Failing at the Ballot				
	AZ Prop. 200, 1996	CA Prop. 36, 2000	AZ Prop. 302, 2002	WA Init. 685, 1997	AZ Prop. 301, 1998	OR Meas. 57, 1998	MA Ques. 8, 2000	AZ Prop. 203, 2002	OH Issue 1, 2002
Violent criminals to serve 100% of sentence	x			x				x	
Offenders eligible for parole if previously convicted of personal possession or use	x	x		x				x	
Monies designated for drug treatment	x			x				x	

Personal possession/ use is eligible for probation	x	x	x	x	x			x	x
Charges dropped if comply with treatment	x	x		x			x		
Additional sanctions allowed for probation violators	x	x		x	x			x	
Incarceration prohibited as a sanction		x						x	
Incarceration specifically allowed as a sanction			x		x				x

Table 5-3. Provisions of Asset Seizure and Forfeiture Ballot Measures			
Provisions	2000 Oregon Property Protection Act	2000 Utah Property Protection Act	2000 Massachusetts Drug Treatment /Forfeiture Act
Forfeiture prohibited unless convicted	X	X	
Forfeiture proceeds not transferred unless required by law	x		
Forfeiting agency report requirements enhanced	x	x	x
Proceeds earmarked for drug treatment	x		x
Proceeds earmarked for school fund		x	
Forfeiture limited to assets used in crime or bought with proceeds of crime	x		x
Hardship exemption to avoid forfeiture allowed		x	

5.1.5 Summary of Propositions Approved by Voters

Voters across the states appeared comfortable with legalizing marijuana for a particular interest group—persons suffering from terminal or debilitating illnesses and disease. Most states considering multiple ballot measures over the past decade first considered a medical use measure. South Dakota stands out as the only state to first consider legalization for all purposes, which may have been too great of a shift in policy

for voters. The ballot measures in Oregon showed voters were comfortable with the use of marijuana for medical purposes but with limits—and between 1998 and 2004 voters did not change their perspective on the drug issue. A majority of Oregon voters felt possession of less than one ounce of marijuana should not be punished severely and that possession of a similar amount for medical purposes was reasonable. Over the past decade, ballot measures considered across states were more likely to be modeled on California’s ballot measures than Arizona’s ballot measure.

Several states considered only one ballot measure on illegal drugs between 1996 and 2004: Maine, Massachusetts, Montana, Ohio, and Utah. Voters in Maine and Montana redefined marijuana as medicine for patients for whom physicians determined marijuana had a benefit. Massachusetts and Ohio voters both defeated measures that sought to reassign authority for drug offenders from the criminal justice system to drug treatment professionals. Utah voters approved limits to law enforcement’s ability to seize and forfeit assets suspected of being used in drug-related crimes, while Massachusetts voters defeated such a provision. In the states considering only one ballot measure over the past decade, the efforts to mandate treatment versus incarceration were not well received by voters in Ohio and Massachusetts, while Maine and Montana voters approved medical use measures. Interestingly, the 1996 and 2000 California measures collectively reflect the topics addressed by the 1996 Arizona measure. While Arizona’s measure was approved it was very controversial, leading to much debate regarding whether voters really knew what they were approving. Over the past decade, Arizona voters have considered measures that both sought to reinstate, reinforce, and extend Proposition 200 as well as measures to repeal aspects of Proposition 200 at the same time that similar types of legislation were being considered by the state legislature. The examination of propositions approved by voters by state and over time show that most states began with a medical use measure. The states considering multiple measures were the most likely to consider a variety of measures over time and to consider counter-measures. Over the past decade, voters have consistently rejected measures that overtly pursued legalization as a goal.

5.2 Policy Solutions Presented in the Official Ballot Language and Political Preambles

This section discusses the policy solutions presented in the official ballot language and political preambles.

5.2.1 Overview of Relevant State Initiative Requirements

The state requirements regarding who drafts which elements and which elements are required are provided in Table 5-4 below. As Table 5-4 indicates, only Arizona and Ohio allow the proponents or sponsors to draft the language that will appear on the ballot.

State	Who writes official ballot title and summary	Voter pamphlet and contents	Pro/Con*
AK	AG; proponent can negotiate working with Lt. Gov.	title, full text, ballot lang. neutral summary	Y
AZ	Proponent writes caption; Sec. of State drafts summary subject to AG approval	title, full text, form in which it appear on ballot; analysis, fiscal impact statement	Y
CA	AG writes caption and summary	title, summary, full text, fiscal statement	Y
CO	Drafting Bd. prepares caption and summary with input from proponents	title, summary, text	N
ME	Sec. of State drafts question and summary	title, summary, explanatory and fiscal statement	N
MA	Sec. of Commonwealth writes caption and summary subject to AG approval	title, ballot language, text	Y
MT	AG writes ballot title and summary		N
NV	No caption; Sec. of State writes summary, which is subject to approval of a legislative commission	title, text, fiscal statement	N
OH	Proponent writes caption and summary, subject to AG and Sec. of State approval	title, text, fiscal statement	Y
OR	AG drafts preliminary caption and summary, receives public comments, and writes final version	title summary, explanatory statement, fiscal statement	Y
SD	State Board of Elections drafts	explanatory statement	Y
UT	AG writes caption and summary	impartial analysis of all ballot issues, text	Y
WA	AG writes caption and summary	official ballot title and explanatory	Y

		statement, fiscal impact statement, text	
*Whether statements by proponents and opponents are allowed. AG=Attorney General			

Alaska allows for negotiation between the sponsor and the state. Of the 28 ballot measures, 13 measures across the states of Arizona, California, Montana, Oregon, and South Dakota do not state the ballot measures as a question but as statements indicating what a yes and no vote mean. As the 1996 Arizona and 1997 Washington ballot measures are almost identical it is interesting to see the difference in wording. The Washington ballot language was vague simply asking whether penalties should be revised, medical use permitted, and a drug commission established versus Arizona’s ballot language which included a descriptive title outlining all of the major provisions with yes and no explanatory statements. The Arizona measure also included in its yes statement “otherwise illegal” to refer to controlled substances. This was an unnecessary detail that may have been added to influence potential voters by reminding them of the illegality of the substances. The 1997 Washington measure was vague; upon reading the question, it was not clear how the penalties for possession and crime were being “revised”; that is, whether sanctions would be reduced or increased. The Washington measure also omitted “fund” in reference to its proposed commission whereas the Arizona measure was clear that a fund would be created. Washington voters might have been less inclined to vote for the commission if it were clear to voters that it involved additional funding.

The numbering of ballot measures can be purposeful. The author of Proposition 302 in Arizona in 2002 was accused of confusing voters by obtaining the number 302 for his measure which would appear on the same ballot as another drug policy measure, Proposition 203. As the Maricopa County District Attorney Richard Romley, the ballot measure author and sponsor was able to convince the legislature to place Proposition 302 on the ballot. The fact that the numbering mirrors Proposition 203 may have created confusion among voters. If both measures were approved by voters, the one receiving the most votes would have become law.

The format of the language appearing on the actual ballot in each state is shown in Table 5-5 based on a review of the actual ballots.

Table 5-5. Format of Official Ballot Language by State
Alaska, Colorado, Nevada, Washington, and Utah: Asks a brief questions beginning with “shall there be” with an explanation of a yes and no vote. Utah lists the propositions clearly asking “shall a law be amended to...” Alaska includes the ballot name and number and then brief summary of ballot language followed by question of “Should this initiative become law?”
Arizona: The actual ballot includes the official title referencing specific sections of statutes that would be changed, type of measure (e.g., initiative statute: put on ballot by petition signatures), descriptive title, and “yes” and “no” statement for voters to consider.
California: Title followed by brief summary with a statement of fiscal impact. Ballot also includes statement of what a “yes” and “no” vote mean.
Maine: Short sentence asking question of whether “you” want patients to grow marijuana for medical purposes.
Montana: The initiative number and how the law was proposed are followed by a paragraph summary of the initiative and a statement of cost impact. The ballot then includes boxes to be checked “for” and “against” followed by statements of what a vote for and vote against mean.
Massachusetts: The actual ballot includes a brief statement not a complete sentence followed by a question worded as “do you approve of the law worded below” followed by a statement of what a yes vote would mean.
Ohio: The ballot includes the full text of the constitutional amendment proposed by initiative petition followed by the statement “a majority yes vote is necessary for passage” and then asks a yes and no question.
Oregon and South Dakota: The actual ballot includes brief statement (not complete sentence) of the measure and then a statement of what a yes and no vote mean. South Dakota’s statement explains “a vote yes would adopt the state law” and “a vote no would leave state law as is.”

Gafke and Leuthold (1979: 394) conclude the description appearing on the ballot is the “single most important piece of information about the issue, because it is the item that each voter is most likely to see, and it is the last item that the voter sees before voting.” A second key element of the statement or question appearing on voters’ ballots is whether a “yes” or “no” vote is required. Ballot campaign experts employed by those opposing Ohio’s State Issue 1 and Gafke and Leuthold (1979) recommend that those opposing particular ballot measures should try to negotiate wording of a no vote as the general inclination of voters is to vote no. Gafke and Leuthold (1979) cite survey researchers warning against the use of negative or reverse statements as they may create confusion. The vast majority of the measures lead voters to vote against a measure rather than to vote for a measure. The official wording appearing on the ballots is provided as Appendix E.

5.2.2 Solutions Proposed by Language Appearing on Official Ballots

This section focuses on the policy solutions in the official language for all 28 ballot measures. The summary or question appearing on the official ballots is examined to

discern the solution posed using Stone. Stone (2002) outlines a number of solutions or strategies: inducements, rules, facts, rights, and powers. Each ballot question or statement was reviewed to discern the type of solution presented based on Stone (2002). The types of solutions are provided by year and by ballot measure in Table 5-6.

Table 5-6. Types of Policy Solutions Based on Official Ballot Language	
1996 Arizona Prop. 200	Rules: Established sentencing eligibility and requirements Power: Established physicians not law enforcement as determinant of whether illegal substances can be used Rights: Established patient (and caregiver) right to Schedule I drugs
1996 California Prop. 215	Rules/rights: Created exemptions from criminal law and reinforces rules regarding nonmedical use Rights: Established persons with certain illnesses and their caregivers right to grow or possess marijuana for medical use Power: Established physician authority to recommend
1997 Washington Meas. 685	Rights: Requested authority to revise penalties, permit use, and establish commission
1998 Alaska Meas. 8	Power: Created a state registry Rules: Established rules for physician to recommend, eligible conditions, and amount patient can receive Rights: Established patient and caregiver rights
1998 Arizona Prop. 300	Power: Reinforced FDA and Congress as only power to authorize medical use of Sched. I drugs Rights: Provided formal statement right to authorize
1998 Arizona Prop. 301	Power: Set probation eligibility; removed decisionmaking from government purview Rules: Established eligibility for probation
1998 Colorado No. 19/2000 Colorado	Power: Changed constitutional or statutory law authorize medical use; removed power from state to voters Rules: Established eligibility for affirmative defense
1998 Oregon Meas. 57	Rules/power: Provided power to people to set law and change rules regarding marijuana possession
1998/2000 Nevada Meas. 9	Rules: Established rules for possession and use Power: Authorized methods of supply (implicit actor is state)
1998 Oregon Meas. 67	Rules: Changed rules for marijuana and forfeiture Power: Removed discretion from state with regards to forfeiture; assigned power to state to develop state controlled system
1998 Washington Init. 692	Power: Authorized physicians to advise patients about marijuana and persons to use Rules: Allowed “certain terminal or debilitating” conditions to determine eligibility
1999 Maine Ques. 9	Rights/Power: Provided right to patients to grow and use marijuana and power to physician to approve use
2000 Alaska Meas. 5	Rights: Backed up right to use marijuana or other products; provided new rights to those previously convicted by providing amnesty. Power: Specified types of limits that the state can establish; established and provided power to an advisory group
2000 California Prop. 36	Rules: Established rules for possession, use, transportation of controlled substances and similar parole violations, except sale or manufacture

	<p>Power: Limited state decisionmaking through establishment of requirements; delegated power to dismiss charges after completion of treatment</p> <p>Rights: Provided new rights to offenders</p>
2000 Massachusetts Ques. 8	<p>Power/rules: Changed existing rules regarding treatment, fines, and forfeiture and implicit is limits</p>
2000 Oregon Meas. 3	<p>Rights: Expanded property owner rights</p> <p>Power: Limited state power to seize and forfeit and restricts use of proceeds</p> <p>Rules: Expanded rules regarding forfeiture limiting state</p>
2000 Utah Init. B	<p>Rights: Expanded property owner rights</p> <p>Rules: Expanded rules regarding forfeiture; set new procedures and requirements for government</p> <p>Power: Expanded property owner rights</p>
2002 Arizona Prop. 203	<p>Rules: Reduced rules for possession of marijuana; set rules for addressing those convicted of personal possession</p> <p>Power: Assigned power/responsibility to Dept. of Public Safety to distribute marijuana; reduced sentencing discretion by specifying sentence lengths for violent offenders</p> <p>Rights: Reinforced physician's rights and authority to recommend marijuana and person's right to use marijuana</p>
2002 Arizona Prop. 302	<p>Power: Provided court with authority to impose incarceration</p> <p>Rules: Established rules for under what circumstances incarceration can be imposed</p>
2002 Nevada Ques.9	<p>Power: Assigned legislature authority for providing or maintaining penalties related to marijuana and provide regulations system</p> <p>Rights: Established right to marijuana</p> <p>Rules: Changed rules/law related to marijuana</p>
2002 Ohio Ques.1	<p>Power: Limited and prescribed courts authority/power</p> <p>Rules: Changed rules for treatment eligibility and sentencing; established a treatment fund and set state role; established rules for treatment</p> <p>Rights: Provided those charged or convicted with option of choosing treatment vs. incarceration; created a treatment fund</p>
2002 South Dakota Meas. 1	<p>Power/rights: Provided power to the people and right to plant, cultivate, harvest, possess, process, transport, sell, or buy hemp or any of its byproducts</p>
2002 South Dakota	<p>Power/rights: Provided defendants with right to defend in person and by counsel including to argue merits, validity, and applicability of the law and power to</p>
2004 Alaska Cannabis Decrim. Act	<p>Power: Removed from state law all criminal and civil penalties; prohibited government from requiring a permit or license</p> <p>Rules: Allowed state to regulate marijuana like alcohol or tobacco; allowed for rules limiting use in public and to protect public safety</p>
2004 Montana Init. 148	<p>Power: Empowered patients and caregivers to grow and possession marijuana; established physician power to certify to state patient would benefit from marijuana use; gave the state power to add conditions</p> <p>Rules: Provided list of conditions</p> <p>Right: Established patients right to use marijuana</p>
2004 Oregon Meas. 33	<p>Rules: Amended OMMA to create requirements and change rules, e.g., created dispensaries, increased amount to be possessed</p> <p>Power/rights: Provided patients with power to possess increased amounts; allowed sale of marijuana</p>

The explicit intention of all of the measures was to transfer decisionmaking power from the state legislature to the voters in determining drug policy. Sixteen of the measures addressed power as a solution, 20 rights, and 18 rules. The patterns in the use of these solution types is discussed further below.

5.2.2.1 Power

In terms of power, the measures focusing on medical use generally made physicians the authority for determining whether marijuana and other illegal drugs have a medical benefit, reengineering the decisionmaking process to remove authority from the purview of law enforcement and implicitly shifting the locus of decisionmaking from the federal government. Power was allocated to the state to establish registries and/or distribution systems in Alaska's measure 685 in 1998, Nevada's 1998 and 2000 medical use measures, in Arizona's Proposition 203, and Nevada's 2002 Question 9. In a few cases, the measures viewed limiting the power and discretion of the courts or the state as the solution: the 1998 Oregon Measure 67 limited the state's forfeiture authority as did the 2000 Oregon and Utah Property Protection Acts. Several measures sought to limit the court's authority and discretion in sentencing, such as California's 2000 Proposition 215. Ohio's 2002 State Issue 1 sought to prescribe court authority. Arizona's 2003 Proposition 203 limited judges' sentencing discretion. In 1998, Arizona's Proposition 300 sought to reinforce the power of the federal government and Congress by establishing them as the authority for authorizing medical use of Schedule I drugs. In terms of the brief descriptions and questions included in ballot measures, 70 percent sought to realign decisionmaking processes related to illegal drugs by reducing or removing the courts as a decisionmaking authority, limiting state authority related to enforcing drug laws, and shifting decisionmaking authority from the federal and state governments to physicians in determining whether marijuana and other Schedule I drugs could be used legally.

5.2.2.2 Rights

The 1996 Arizona measure Proposition 200 established patient and caregiver rights as did Alaska's 1998 Measure 8, and Montana's Initiative 148. South Dakota's 2002 Measure 1 decriminalized marijuana and hemp, empowering people to use them at

their own discretion. At the same time, another South Dakota measure sought to provide defendants with the right to defend themselves in person and by counsel. Colorado's 1998 and 2000 measures empowered users by establishing an affirmative defense. The 2000 Oregon and Utah Property Protection Acts expanded property owner's rights. The measures addressing treatment, which also address sentencing, expanded the rights of drug offenders to demand treatment and for those previously convicted to have their records expunged. For example, California's Proposition 36 created eligibility rules for probation and at the same time delegated to the courts the power to dismiss charges after completion of treatment. Ohio's State Issue 1 established the right of offenders to choose treatment or incarceration. Arizona's 1998 "countermeasure" Proposition 300 provided a formal statement of the federal government's and Congress' right to authorize medical use of controlled substances. In contrast, Washington's 1997 Measure 685 requested the right to revise current drug laws. Maine's 1999 Question 9 specifically asked voters if they wanted to provide patients with the right to grow and use marijuana. The right to use drugs was explicit in all of the measures addressing use of marijuana for medical purposes and expanding people's rights to use, possess, and even sell drugs was implicitly and sometimes explicitly stated in the measures.

5.2.2.3 Rules

The rules established in the short ballot questions and statements fell under the following categories:

- Conditions for probation, parole, sentencing, amnesty, and dropping of charges.
- Rules for asset seizure and forfeiture, including reporting and accountability rules.
- Rules establishing conditions for medical use of marijuana for patients and caregivers.
- Guidelines for physician approval of medical use.
- Laws related to drug use (removing civil and criminal penalties).
- Guidelines related to funding and authorized use of funds and related reporting.

A few of the measures such as the 2004 Alaska decriminalization act gave the states discretion to create rules to protect public safety. Oregon's Measure 33 in 2004 directed

the state to create dispensaries and related regulations. Implicit in the language for Alaska Measure 8 was the need for the state to create a registry and related regulations. Again, the brief statements implicitly suggested that the full ballot measures provided more detailed rules or guidelines for the state's role. In 2002, Arizona's Proposition 302 allowed the state to use incarceration as a sanction if deemed appropriate in contrast to the other measures that addressed probation, parole, or incarceration.

The short ballot text reassigned or shifted rights and authority away from state government explicitly and federal government implicitly. Rarely was the state given authority and directed to establish rules, the measures instead focused on prescribing and limiting state authority. By using the initiative process and asking voters to decide, the measures implicitly suggested that the state and federal governments were not appropriate decisionmakers and that their roles and powers should be more limited. With the exception of Oregon's Measure 57 in 1998 and Arizona's Proposition 302 considered in 2002, the remaining measures in one way or another limited the authority of government related to illegal drugs. According to Forbes (2002), the initiative sponsors accused the Ohio Elections Board of promulgating outrageous ballot language. He suggested before the election that the measure might be defeated because of the summary at the top of the ballot, which he pointed out was often all that many voters read (Forbes 2002). Forbes (2002) reported that it was not until ballot measure sponsors threatened a lawsuit that the sponsor's language regarding the costs over 7 years was included.

In terms of language used, most of the measures addressing medical use of marijuana and/or other Schedule I drugs used the terms patients, caregivers, and physicians in the ballot language similar to the full text of the measures. The Massachusetts 2000 measure asked "do you approve of a law summarized below, on which a no vote was taken by the Senate or House of Representatives before May 3, 2000?" The latter information pointing out that the legislature previously disapproved the measure, which may have been an important information cue for voters. Similarly, the 2004 Alaska measure used the term "children" rather than "minors." The use of the term children, rather than minors, was likely purposeful to bring attention to youth having access to marijuana among parents. The longest measure by far was the Ohio measure.

Of course, the lengthier the ballot measure the less likely that voters will read it and with increased length, the more language there is to challenge legally.

5.2.2.4 Summary of Findings in Official Ballot Language

There were no distinct variations by year in the official ballot language. Instead, the vast majority of measures across years focused on limiting the power of government and restricting or prescribing its rulemaking authority and expanding the rights of patients and others who used drugs and expanding physicians' authority while restricting the rights of government—regardless of the actual legalization provisions promoted. The review of the solutions presented in the ballot language as suggested by Stone (2003) is instructive as it reinforces the conclusion that the intent of the majority of ballot measure sponsors is to substantively change drug laws. The prevailing themes remained the same: implicit was moving decisionmaking from the state and federal government to citizens, explicit was increasing and reinforcing the decisionmaking role of physicians and treatment professionals, while implicitly and explicitly reducing the power and rulemaking discretion of the courts and law enforcement. Among the solution themes was an emphasis on individual rights and the need to reinforce rights related to the right to decide whether to use illegal drugs, the right to privacy, and property rights. Implicitly and explicitly the problem was defined as the state and federal government failing to recognize these rights rather than as dangers posed by the use and abuse of illicit drugs.

5.2.3 Examination of Policy Solutions in Official Ballot Language and Political Preambles

This section examines policy solutions in ballot measures with political preambles and compares them with the solutions presented in the official ballot language. As shown in Table 5-7, the solutions presented on the official ballots that voters see when they enter the voting booth differ somewhat from the more detailed language used by ballot measure authors in the political preambles. This is likely due in part to most of the ballot language being authored by the Secretary of State or the State Attorney General's office, while the political preambles are written by those who drafted the initiative petition and reflect their summarization of the purpose and intent of the ballot measure.

The preambles to Arizona Proposition 200 and Washington’s Initiative 685 expressed the same solutions as in the official ballot language and included a parent corps. In contrast the preambles explicitly focused on reducing court’s authority. The political preamble to Arizona’s Proposition 203 sought to redress prior legislative actions, which were not discussed in the official ballot language. The political preamble solutions for these measures focused on shifting power and decisionmaking authority, while the official ballot language also emphasized individual rights in terms of access to marijuana. The political preambles to the Utah and Oregon Property Protection Acts did not provide additional insight into the solutions proposed as the emphasis on rights was consistent across the two information sources.

Two ballot measures focusing on treatment included political preambles-- California’s Proposition 36 and Ohio’s State Issue No. 1. The political preamble to Proposition 36 provided an implicit story of decriminalizing drug use and related offenses. The explicit story expressed in the official ballot language was to set rules to ensure that people are treated equitably—to establish new rights to offenders. The Ohio measure was consistent across the two information sources in terms of empowering drug offenders to be diverted to treatment rather than incarceration.

The remaining measures with political preambles focused on medical use of marijuana: Maine’s Question 9, Oregon’s Measures 67 and 33, and Washington’s Initiative 692. The political preambles to the measures emphasized that only the most essential changes in drug laws were being made to ensure patients’ access to marijuana, while the official ballot language placed more emphasis on the rights of persons with particular illnesses or conditions to have access to marijuana.

Table 5-7. Solutions Presented in Official Ballot Language and the Full Ballot Measure Text for Twelve State Ballot Measures on Illegal Drugs, 1996-2004		
Year and Measure	Language on Ballot	Political Preamble
1996 Arizona’s Prop. 200	<p>Rules: Established sentencing eligibility and requirements</p> <p>Power: Established physicians not law enforcement as determinant of whether illegal substances can be used</p> <p>Rights: Set patient (and caregiver) right to</p>	<p>Rules: Outlined rules for violent offenders outlined and specified treatment eligibility</p> <p>Power: Established physicians to prescribe</p>

	Schedule I drugs	
1996 California's Prop. 215	Rules/rights: Created exemptions from criminal law and reinforced rules regarding non-medical use Rights: Established right to grow and/or persons with certain illnesses and their caregivers right to grow or possess marijuana for medical use Power: Established physician authority to recommend	Rights: Established right to use for medical purposes Rules: Established rules for physicians Power: Made physicians exempt from penalties Limits: Non-medical use prohibited
1997 Washington Meas. 685	Rights: Requested authority to revise penalties, permit use, and establish commission	Rules: Outlined eligibility for violent offenders and treatment Power: Established physicians prescription authority
1998 Oregon Meas. 57	Rules/power: Provided power to people to set law and change rules regarding marijuana possession	Rights: Established right to use marijuana (normative right) Power: Protected physicians and patients from penalties
1998 Washington Init. 692	Power: Authorized physicians to advise patients about marijuana and persons to use Rules: Determined eligibility based on "certain terminal or debilitating" conditions	Rights: Backed up right to use (normative right) Power: Empowered physicians and patients Rules: Set limits and retained non-medical use laws.
1999 Maine Ques. 9	Rights/Power: Asked voters whether they want to provide right to patients to grow and use marijuana and power to physician to approve use	Rights/rules: Allowed free discussion and use and patients to grow a small amount Limits: State set limits
2000 California Prop. 36	Rules: Established rules for possession, use, transportation of controlled substances and similar parole violations, except sale or manufacture Power: Limited state decisionmaking through establishment of requirements; delegated power to dismiss charges after completion of treatment Rights: Provided new rights to offenders	Rules: Established nonviolent defendants, probationers, and parolees diverted from incarceration to treatment
2000 Oregon Meas. 3	Rights: Expanded property owner rights Power: Limited state power to seize and forfeit and restricts use of proceeds Rules: Expanded rules regarding forfeiture	Rights: Resolved problem with legal rights (normative right that should be innocent until proven guilty)
2000 Utah Init. B	Rights: Expanded property owner rights Rules: Expanded rules regarding forfeiture; Established new procedures and requirements for government Power: Expanded property owner rights	Rules: Set rules and standards for criminal and civil forfeiture
2002 Arizona Prop. 203	Rules: Reduced rules for possession of marijuana; set rules for addressing those convicted of personal possession Power: Assigned power/responsibility to Dept. of Public Safety to distribute marijuana; reduced sentencing discretion by specifying sentence lengths for violent offenders Rights: Reinforced physician's rights and authority to recommend marijuana and	Rules/powers/rights: Assigned responsibility for distribution system; changed rules; prevented forfeiture until found guilty

	person's right to use marijuana	
2002 Ohio Ques.1	<p>Power: Limited and prescribed courts authority/power</p> <p>Rules: Changed rules for treatment eligibility and sentencing; established a treatment fund and prescribes state role; set rules for treatment</p> <p>Rights: Provided those charged or convicted with option of choosing treatment vs. incarceration; created a treatment fund</p>	<p>Rules: Established for treatment eligibility</p> <p>Power: Moved decisionmaking authority for offenders to treatment professionals</p>
2004 Oregon Meas. 33	<p>Rules: Amended OMMA to create requirements and change rules, e.g., dispensaries and amount to be possessed</p> <p>Power/rights: Provided patients with power to possess increased amounts and allowed sale of marijuana</p>	<p>Rights: Reinforced "fundamental personal privacy right to use marijuana guaranteed by 9th amendment; reinforced state right to regulate health and safety based on police power under 19th amendment; established citizens right to best available scientific information</p> <p>Rules: Indicated rules needed to ensure adequate marijuana supply</p> <p>Power: Provided patients with power to obtain marijuana as needed and obtain scientific information.</p>

Two overarching themes appeared in these two different information sources. A key theme across the ballot measures and official ballot language was the imperative to reassign decisionmaking authority regarding illegal drugs to physicians and treatment professionals, effectively defining the drug problem as a health and medical problem rather than as a law enforcement or public safety problem. The second theme was to increase and reinforce citizens' rights to use drugs and the right to privacy by reframing the drug problem as a medical problem and as a personal privacy issue.

As Stone (2002) suggests, sometimes the solution comes before the problem but in some cases it is not evident which comes first as is the case with the review of these two information sources. Across the ballot measures for which there were both preambles and official ballot language, the frequency of rights, power, and rules as implicit and explicit solutions was almost the same. Ohio State Issue 1 was an anomaly in that the full text of the ballot measure comprised the official ballot language and accordingly provided the most detail. Power was slightly less prevalent in preambles

with seven references versus 11 in the official ballot language. All of which focused on the need to shift authority from the criminal justice system as a solution implicitly suggesting there was an imbalance of power.

5.3 Examination of Political Preambles in the Full Text of the Ballot Measures

Political preambles stating the purpose and intent of the initiative sponsors were included in 12 of 28 ballots. Stone (2002) is used to describe how they frame the drug problem and goals and solutions to the drug problem. The political preambles usually comprised the first and second sections of the ballot measures. Sometimes these sections included a descriptive title for the ballot measure, which is examined when provided. The language of ballot measures was manipulated and carefully crafted to appeal to voters and contain information cues to various potential constituencies. The purpose and intent statements in the ballot initiatives were used to define the ideals and meanings used to appeal to voters.

The political preambles can be found in Appendix F. The initiative rules and regulations for the respective states did not specifically address this aspect of the ballot measures. Prior to the political preambles, the first section usually provided a short descriptive title that the ballot measure sponsors proposed. These titles are listed in Table 5-8 by state followed by a “Y” or “N” to indicate passage or failure.

Table 5-8. Drug Policy Ballot Measures With Political Preambles by State, 1996-2004		
State	Title	Political Language
Arizona*	Drug Medicalization, Prevention and Control Act of 1996 (Y)	findings and declarations: 410 words; purpose and intent: 112 Total: 522
	Drug Medicalization, Prevention and Control Act of 2002 (N)	findings and declarations: 259 words purpose and intent: 326 Total: 585
California	Compassionate Use Act of 1996 (Y)	purpose declaration: 295 words
	Substance Abuse and Crime Prevention Act of 2000 (Y)	findings and declaration: 167 words purpose and intent: 117 Total: 284 words
Maine	Permit Medical Use of Marijuana Act of 1999 (Y)	preamble: 289 words
Ohio	Ohio Drug Treatment Initiative of 2002 (N)	intents and purposes: 329 words
Oregon	Oregon Medical Marijuana Act of 1998 (Y)	200 words
	Oregon Property Protection Act 2000 (Y)	statement of principles: 114 words
	Oregon Medical Marijuana Act of 2004 (N)	hereby find: 231 words
Utah	Utah Property Protection Act of 2000 (Y)	purpose: 120 words
Washington	Washington Drug Medicalization and Control Act of 1997 (N)	findings and declaration: 378 words; purpose and intent: 192 Total: 570
	Washington State Medical Use of Marijuana Act of 1998 (Y)	purpose and intent: 118 words
*None of the other Arizona measures included such statements.		

5.3.1 Overview of Ballot Measure Descriptive Titles

As the table shows, five of the descriptive measure titles suggested allowing use of marijuana for medical purposes, two addressed treatment vs. incarceration, and two addressed reforms to asset seizure and forfeiture laws. The multi-subject initiatives addressed more than one of these subjects. In terms of descriptive titles, seven redefine the drug problem as a medical issue using “medical” or “medicalization” in the title. Only four of the eight ballot initiatives that addressed marijuana included “marijuana” in the title perhaps in an effort to deemphasize the increased access to the drug. California’s Proposition 215, which allowed use of marijuana for medical conditions, invoked compassion in its title and avoided the terms drugs or marijuana altogether. The strategy was to analogize the act as one of compassion rather than one of drug policy in an effort

to appeal to a broader range of interests. As Stone (2002) suggests, symbols like “compassion” are universal concepts that few would disagree with and are used to create new alliances with interests that may not be involved or interested in drug policy but agree with and support compassion as a value. In addition to Proposition 215 in California which used compassion in its title, Arizona’s Proposition 200 also avoided the terms illegal or marijuana suggesting a public health or medical issue framing the issue through references to compassion and medicalization. Both used the term use rather than abuse; the latter suggests there is no acceptable use whereas use suggested there is an acceptable level of consumption.

Sponsors of Proposition 36 approved by California voters in 2000 included as a descriptive title in the political preamble “the Substance Abuse and Crime Prevention Act,” although how crime would be prevented was not addressed. The use of the term prevention was potentially misleading implying a focus on prevention that was not apparent. Perhaps the implicit story was that by requiring treatment rather than incarceration future crimes would be prevented but it is unclear how substance abuse would be prevented. The language was likely purposeful as few would oppose the concept of prevention. Ohio State Issue 1 considered in 2002 made no mention of the criminal justice system or crime in its political preamble yet the focus of the initiative was diversion from criminal justice to drug treatment or the redefinition of the drug problem from a criminal justice/public safety issue to drug abuse as a disease with treatment as the cure. Maine’s 1999 medical use act was the only one to use the term “permit,” which means to allow rather than mandate allowing marijuana for medical use. Synonyms for permit include authorize, give permission for, license, sanction, and approve. Permit which is more value neutral suggested controls and implied the government allowed rather than mandated use. My interpretation is that the use of this term implies understanding of a need rather than approval of the need for marijuana for medical use.

All three of the multi-subject measures included prevention and control in the titles to emphasize they did not seek to promote drug use and to suggest the measures increased drug controls. The two initiatives focusing on forfeiture reform did not overtly appear to be related to illegal drugs but rather invoked “property protection.” For the

most part, there were not changes in the title language over time but wholesale duplication of titles. The 2002 Arizona measure was almost a duplication of the 1996 Arizona measure title, which was likely intended as a voter cue as it sought to reinforce and extend the 1996 ballot measure provisions. Introducing an alternative descriptive title in the first section of the full text of a ballot measure suggested the sponsors may not have felt that the official title reflected the measure or purposely sought to define the ballot measure in order to appeal to a wide range of interests. The goals, solution, and problems expressed in ballot measure preambles are described below.

5.3.2 Multi-Subject Ballot Measures

Three ballot measures addressed more than one aspect or definition of the drug problem: Arizona's 1996 Proposition 200, the 2002 Proposition 203 reinforcing Proposition 200, and Washington's Initiative 685 in 1997 (which was the same as Proposition 200). While the measures ostensibly met state requirements of one subject they put forth more than one approach or definition of the drug problem. Arizona's Proposition 200 approved in 1996 was subsequently modified by state legislators who were concerned that the ballot title created confusion among voters. Legislators felt that because Schedule I drugs were not explicitly mentioned in the descriptive title that voters were unaware of the full scope of the measure. The goals, solutions, and problems expressed in the political preambles to these measures are discussed below.

5.3.2.1 Goal

Multiple goals were expressed in Arizona's 1996 Proposition 200 and Washington State's Initiative 685, including the following:

- Security: strengthen laws against violent criminals and ensure jail space for violent offenders.
- Efficiency: save millions of dollars and more effectively deal with offenders.
- Liberty: allow those suffering to take the medicine they need.
- Equity: ensure punishment is appropriate for the level of offense and that those suffering get equal access to medicine.

The 2002 Arizona measure included the same goals as well as preserved citizens' autonomy to make laws in the political language. As discussed in Stone (2002:12), the goals do not necessarily refer to specific policy goals but larger goals of the community. In this case, the preambles appealed to community values of cost efficiency, fairness, compassion, and security. The security goal combined the sponsors' self-interest of allowing access to Schedule I drugs for limited use, while appealing to public interest in calling for reinforcement of laws against violent criminals. According to the measures, violent offenders would serve their full sentences (this was a provision of current law but was used to convey symbolically concern about violent crime). The rhetoric on the need to ensure jail space for violent offenders allowed the sponsor to appear "tough on crime" refuting a potential argument by those opposing the measure that it would decrease penalties for offenders.

5.3.2.2 Solution

Arizona's Proposition 200 and Washington's Initiative 685 established rules for various types of offenders and for physicians and patients. Inducements consisted of a parent corps focused on youth prevention to obtain support for the measure by parents and those concerned about youth and drug abuse prevention. The parent corps provision was an incentive to persuade parents and others to vote for the measure. The normative rights were the right to medicine and non-violent drug offenders' right to treatment. Patients and their physicians were empowered to use Schedule I drugs for medical purposes replacing the government as the legitimate authority. Similarly, discretion regarding offenders' sentences was removed from the court. The 2002 Arizona measure altered the authority of the state as the solution. In terms of powers, the measure made the state responsible for marijuana distribution and remedied legislative actions that repealed parole provisions established in Proposition 200. The 2002 Arizona act used the same terminology as the 1996 act but designated additional responsibilities to the broadly identified state: cultivate and distribute marijuana, establish distribution system, regulate and control, apply sanctions, and manage a treatment fund, while specifying prosecutors powers will be limited. The federal government was given discretion to provide marijuana—not "must" or "should" but "can" as a solution for addressing the needed

marijuana supply. The 2002 measure used facts about the 1996 Arizona measure's success and the ability to strengthen it as the rationale for voter approval. The solutions generally reorganized authority shifting authority to physicians and patients and stipulated the right to treatment.

5.3.2.3 Problem

The measures defined drug abuse as a public health problem, drug abuse as a disease, drug policy as needing to be medicalized, and Schedule I drugs, particularly marijuana as medicine. Treatment and education were defined as a prison alternative, better and more appropriate (than the status quo), and effective. The measures invoked law enforcement concepts of control and imagery of prison over-crowding and locking people up in a narrative story that said violent offenders would be released under the status quo so that non-violent offenders could be “locked” up. Violent offenders were not adequately punished due to overcrowding according to the preambles. The current sentences for non-violent offenders were blamed for overcrowding and high costs associated with prisons. Suffering and images of pain and seriously and terminally ill who cannot be helped by other medicines were invoked as the rationale for legalizing Schedule I drugs. The preambles also invoked images of control in describing treatment as mandatory and court-supervised. At the same time, the definition of treatment was expanded to include education and community service and education and counseling. The 2002 Arizona measure blamed the legislature for its “attempt to thwart” the will of the people and the need to “correct any further circumvention of misunderstanding” of Proposition 200.

The preamble also told a story of the potential positive impact of Proposition 200 in terms of costs, making communities safer, and saving money—selling the measure as a better alternative to the status quo. The synecdoche of patients in pain “forced to obtain their medicine on the streets” was used to humanize the measure. The preamble used images of control, stymied progress, helpless victims, and a government out of touch and sometimes purposely defying the “will of the people.” While the measure actually reduced controls on illegal drugs, the language conveyed a sense of limits and controls on marijuana through a state distribution system. The 2002 measure expanded the definition

of medicine from Schedule I drugs to “all legitimate medical alternatives to preserve their health, relieve pain, and alleviate suffering”—rather ambiguous language.

In terms of facts used to demonstrate the need for the measure, the Arizona ballot initiative cited an Arizona criminal justice commission report of marijuana use doubling among elementary students between 1991 and 1993 and four times among middle school students. As discussed by Stone (2002), numbers and what they measure need to be examined. In this case, numbers were used to imply that because drug use had increased among students that the current approach was ineffective or not effective enough. The numbers also implied that the ballot measure was unlikely to make the situation worse. Interestingly, the rest of the preamble did not address youth drug use but focused on how tax dollars saved from eliminating prison time could be used to increase parental involvement. The implicit message being that parent involvement would be the better or more effective approach to reducing youth drug use. Additional facts used included the success rates of Arizona’s pilot treatment programs and cost savings expressed as “millions of dollars over the past decade.” The 2002 Arizona measure preamble suggested that the 2002 act would increase and expand on such successes. The selective use of facts appears to have been used to refute potential arguments that youth drug use would increase and to buttress the policy proposed as a more cost-effective approach than the status quo.

Those eligible for treatment were termed non-violent offenders, non-violent offenders convicted of personal possession or use of drugs, low-level drug offenders, and as drug offenders. The use of the term offender is less value laden than the terms used to refer to those not eligible for treatment, such as violent offenders, criminals, drug dealers, and violent criminals on drugs, which invoke images of prisons, jails, and fear. Those eligible for use of Schedule I drugs were defined as seriously ill and terminally ill patients as well as “Arizonans” or “Washington citizens” suffering from debilitating diseases who cannot have access to the drugs they need in an effort to personalize them and appeal to voters’ compassion. Victims invoked the war metaphor, implicitly suggesting its inappropriateness in the context of patients suffering and in pain. A number of medical conditions were listed as eligible for use of Schedule I drugs. Listing is a strategy often used to imply the legitimacy of the conditions. Listing of various

conditions also served to expand the scope of interest to persons with those conditions as well as to persons who may have known someone with any of the conditions listed. Those eligible to use marijuana were qualified or medical marijuana patients—suggesting that access and eligibility would be regulated and limited to those with a compelling medical need.

The goals, solutions, and problems framed by the ballot measures generally characterized the current approach to illegal drugs as inappropriate, costly, and not compassionate. The political preambles framed the policy alternatives as policies of compassion, public health, and cost savings.

5.3.3 Medical Use

Five of the 28 measures focusing primarily on the use of marijuana for medical purposes included political preambles. The measures were well distributed over the past decade, beginning with California’s Proposition 215 in 1996. Arizona’s Proposition 200 and Washington’s Initiative 685 were discussed previously and are not repeated here. Oregon considered the Oregon Medical Marijuana Act in 1998 and a 2004 measure by the same name to expand the provisions of the 1998 act. Washington State approved the Medical Use of Marijuana Act in 1998, and Maine voters “permitted” medical use of marijuana in 1999. California was the only one of the five not to include marijuana in its descriptive title using the descriptive title “the Compassionate Use Act” to appeal to a broad range of interests. According to state regulations regarding initiatives and referenda, the Attorney General drafts the title or caption in California, Oregon, and Washington, while the Secretary of State drafts the title in Maine. In Oregon there is a public comment period in which citizens can comment on the title and summary wording. California’s descriptive title emphasizing compassionate suggests the state’s official perspective toward marijuana was a public health or medical approach. The goals, solutions, and problems presented in the political preambles for these state ballot initiatives are discussed below.

5.3.3.1 Goal

The ballot measures supporting medical use of marijuana appear to be more straightforward and single-minded than other drug policy initiatives in terms of their goals. The goals explicitly expressed are provided in Table 5-9 below.

Table 5-9. Goals Expressed in Political Preambles to Medical Use Measures
1996 California: Ensure legal use of marijuana for medical purposes
1996 Arizona/1997 Washington: Provide access to necessary drugs (all Schedule I drugs)
1998 Oregon: Treat marijuana like other medicines
1998 Washington: Authorize medical use of marijuana
1999 Maine: "Permit" or allow use of marijuana by medically needy patients
2002 Arizona: Preserve access to marijuana for medical purposes
2004 Oregon: Treat patients using marijuana like patients using other medicines

All of the measures' preambles defined marijuana as medicine, use of marijuana for medical purposes as legal and of benefit, and users of marijuana as the same as users of other medicines. All promoted fairness as a goal and suggested the status quo was unfair to patients. The political preambles established that patients have a normative right to marijuana. Security and liberty were key goals reflected in language to protect physicians or doctors and patients and sometimes their caregivers from liability or prosecution. The California, Oregon, and Washington measures explicitly referred to liberty with statements that marijuana use should be discussed freely and obtained freely. Protect and protection were used repeatedly to emphasize the need to help patients and physicians rather than on the fact that access to illegal drugs would be expanded and use legalized under certain circumstances. The idea of ensuring that the ill have access to needed medicine was likely to have more appeal than the story line of legalizing a particular illegal drug. These goals are universal goals that Stone (2002) recommends using to appeal to the widest number of constituencies. These goals are along the lines of mom and apple pie—no one is going to disagree with them. Rather the question is whether voters recognized these appeals.

The goals listed in Table 5-8 are more nuanced than just legalization in terms of the language employed. Washington's 1997 measure to allow legal access to all Schedule I drugs was refined in 1998 to authorizing use of marijuana only. Authorize suggests control as does treating marijuana like other medicines. The latter invokes

images of a prescription system with attendant controls. The use of the word permit in Maine's title invoked not only the concept of control or authorization but handily captured the idea of users having permits to use marijuana which some might envision as prescriptions.

5.3.3.2 Solution

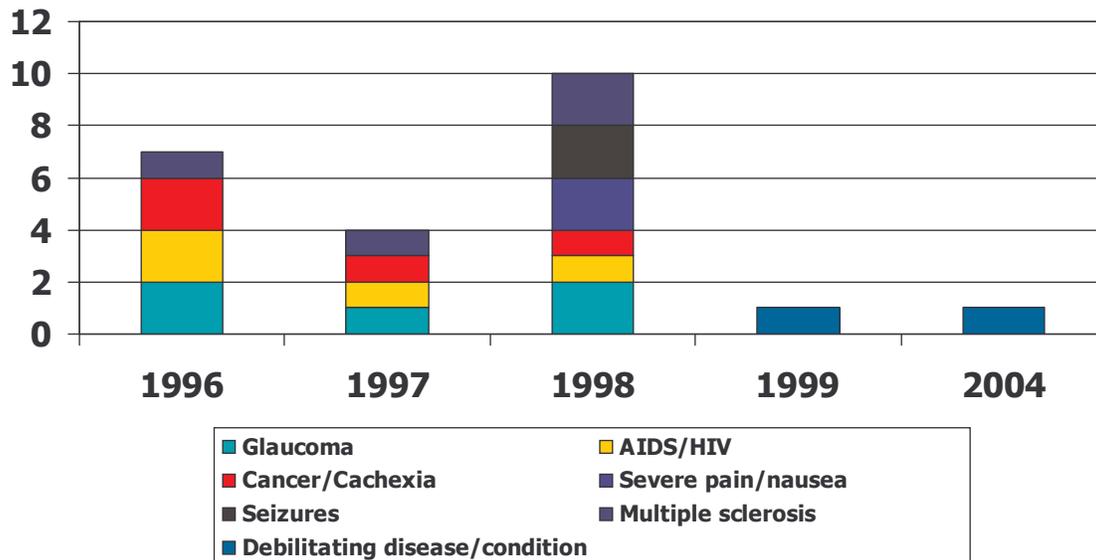
Perhaps the most critical difference between the measures in this category was the level of detail regarding solutions in the political preambles. All the preambles purported to make minimum changes to existing law to protect physicians and patients. The preambles varied in terms of whether they protected the freedom of the physician or doctor to discuss freely marijuana or other drugs with the patient, protected the recommendation, or protected the decision, but all agreed on preventing sanctions. The 1998 Oregon measure assured patients and doctors would be free to discuss but left unclear what would constitute approval to use marijuana. Similarly, the 1998 Washington measure referred to a "decision to authorize" based on "judgment and discretion." Maine's 1999 measure permitted free discussion.

As to who is eligible for the "solution of marijuana," California's Proposition 215 was the most inclusive with a list that included "any other illness for which marijuana provides relief." Other inclusive measures included the 1998 and 2004 Oregon measures and 2002 Arizona measures. Oregon's Measure 2004 stated in its political preamble that marijuana could be used for "any other medical condition or treatment for a medical condition adopted by the division by rule or approved by the division pursuant to a petition submitted." The 2004 Oregon measure did not list specific conditions but said patients should be allowed to use marijuana to "ameliorate pain, prolong life, and/or maintain bodily integrity, and for other medical purposes." Arizona's 2002 measure was not just inclusive of medical conditions eligible for use but inclusive of substances in addition to marijuana that could be used by patients: "all legitimate medical alternatives to preserve their health, relieve pain, and alleviate suffering."

Figure 5-3 lists the specific eligible conditions by year included in the political preambles. In addition to the conditions listed in the figure, California's Proposition 215 in 1996 listed migraine, anorexia, arthritis, and "any other illness for which marijuana

provides relief.” After 1998, Maine and Oregon sought to use more ambiguous terms such as debilitating conditions or diseases rather than to list specific conditions.

Figure 5-3. Specific Medical Conditions Cited in Political Preambles to Medical Use Ballot Measures



As the figure shows, 1998 was the highpoint in terms of the most inclusive listing of conditions across ballots. The Institute of Medicine (IOM) released its report “Marijuana as Medicine: Assessing the Science Base” in March 1999 to widespread national media attention which may have influenced subsequent ballot measures related to marijuana. The IOM report (1999) lists a range of conditions for which cannabinoid drugs may be promising including wasting syndrome in AIDS patients, appetite loss, anxiety, chemotherapy-induced nausea and vomiting, chronic pain, and muscle spasticity. Several of the ballot measure sponsors and supporters used the IOM report as the support for the medical benefits in voter statements related to these measures. This may have led to the use of a more general statement regarding eligible conditions in subsequent measures or conversely, measure sponsors may have chosen ambiguous language in an effort to appeal to more diverse patient and health professional groups and individuals that were not covered by the previous condition categories. Listing specific conditions implicitly suggests there is some scientific evidence substantiating medical benefit, reinforces the idea of marijuana as medicine and as treatment, helps create alliances among a large

number of constituency groups from patient groups to citizens with family members or personal experience with the conditions, and transforms the image of marijuana users from addicts or arrestees to patients suffering and in pain. As in previous cases, it is impossible to discern based strictly on the political preamble whether the solution, problem, or goal came first. However, transforming the image of marijuana users from “dope fiends” and “criminals” to potential family members’ suffering is likely an important step in the reconceptualization of illegal drugs. As discussed previously, voters generally accepted the view of marijuana as medicine—as a help. Defining marijuana as safe rather than as a danger may be a vital step in eventually redefining marijuana as harmless and not addictive.

5.3.3.3 Problem

The measure preambles consistently stated marijuana was or was like medicine and was effective treatment. Several preambles defined marijuana as a privacy issue but none as strongly as Oregon’s Measure 33 in 2004, which said the problem (and solution) was to ensure a “fundamental personal right to use marijuana for medical purposes...as guaranteed by the 9th amendment to the U.S. Constitution and the regulation of public health and safety as guaranteed by the 10th amendment.” The preamble primarily focused on the preservation of constitutional rights as a rationale for approving the ballot measure.

A number of narrative stories—synecdoches—were used of patients suffering, with debilitating medical conditions, the medically needy, and patients with terminal illnesses who may benefit, and the seriously ill. Patient was used to define users in all of the measures as was physician or doctor to define the decisionmakers, painting images of a medical environment in which pain and suffering could be ameliorated by marijuana. Framing marijuana as a medicine and therefore acceptable and justifiable was used to replace the prevailing characterization of marijuana as an illegal drug that threatens public safety.

The preambles for California’s Proposition 215 and Washington’s Initiative 692 defined the drug issue as an issue of compassion. The preamble to Washington’s Initiative 692 stated “humanitarian compassion necessitates” authorizing medical use.

While Initiative 692 defined the problem as a “personal medical decision between a physician and patient”—a medical or public health issue rather than a law enforcement or criminal justice issue. In contrast, Oregon’s Measure 33 defined the problem as one of personal privacy rights. All of the measures said it was undisputed that marijuana had medical benefits and that the physician-patient relationship must be protected. The preambles said the measures were only seeking to do what was reasonable, which suggests a story of stymied progress. The preambles used ambiguous language regarding what physicians would do: recommending, advising, discussing, or authorizing, with no detail. It is this lack of precision in language that led to legal challenges related to Proposition 215. The 2000 Arizona initiative established a state marijuana distribution system and removed all penalties for marijuana. California’s Proposition 215 preamble encouraged state and federal governments to ensure safe and affordable distribution. The preamble to Oregon’s Measure 33 established rules for assuring an adequate medical marijuana supply framing it as an individual right.

5.3.4 Treatment and Incarceration, Parole, and/or Probation Ballot Measures

The two measures presenting treatment as the primary topic that included political preambles were California’s Proposition 36 and Ohio’s State Issue 1. Both measures were backed by Soros, Sperling, and Lewis. The Ohio measure was based on the successful California measure. California’s Proposition 36 was carefully crafted based on numerous focus groups and advice from professional campaign strategists. The intent was to have the measure be successful and serve as a model for other states and the federal government.

5.3.4.1 Goal

The preambles for California’s Proposition 36 and Ohio’s State Issue 1 both emphasized security as a goal in order to preserve “jail and prison cells for violent offenders and improving public health.” Efficiency also was a goal to halt “wasteful expenditures of millions of dollars better spent on those better served by treatment.”

Equity and fairness for non-violent offenders were expressed in establishing eligibility for treatment. Explicit and implicitly incarceration was characterized as inappropriate for those who use or possess illegal drugs. Liberty was an implicit goal throughout with language used to suggest that freedom rather than incarceration was deserved or appropriate for particular drug offenders.

5.3.4.2 Solution

While the California preamble said the solution to the drug problem was to divert drug use offenders, probationers, and parolees charged with simple possession from incarceration to treatment, the Ohio measure guaranteed treatment and rehabilitation to users and abusers whether or not they were involved with the criminal justice system. The Ohio preamble suggested ensuring a right to treatment as the goal whereas California's preamble focused on diversion for those who would otherwise be incarcerated. California's preamble was vague as to the population facing incarceration that would be eligible for treatment but was expansive in addressing probation and parole. Unstated was that such inclusiveness effectively decriminalizes drug use and drug-related offenses, language which likely would not be as attractive to voters. Inducements to gain support were the same across the two preambles with both focusing on cost benefits and treatment as more effective than the status quo approach. They also characterized the measures as implicitly good for society. The Ohio measure's solution of treatment for all deemphasized the criminal justice aspect in order to focus on a right to treatment as the solution. Rules for accessing treatment and decisionmaking authority were set in both measures, effectively transferring decisionmaking authority and discretion from the criminal justice system to treatment professionals. In this way, the drug issue was redefined as a treatment or public health issue rather than as a criminal justice issue.

The preambles empowered drug users by removing incarceration from the options for addressing drug offenses. If any potential learnings can be identified in comparing the solution presented in the Ohio measure versus the California measure, it would be that the Ohio measure focuses on the benefits of treatment in terms of costs and public safety and "breaking the cycle"—more tangible and measurable benefits than the

ambiguous “good for society” inducement of the California measure. While both mandated treatment rather than incarceration, the definition of treatment was ambiguous with references to more effective, cost-effective, appropriate, proven, and professionally supervised. Based on this framing of treatment, it is unclear what types of treatment would be available. Unlike some of the marijuana measures which detailed how marijuana would be distributed and what conditions were eligible, the lack of specificity regarding treatment is notable.

5.3.4.3 Problem

The political preamble to California’s Proposition 36 defined treatment as a public safety measure, challenging the status quo definition of sanctions, most notably the threat of incarceration, as public safety measures. A story of drug use as a medical and public health problem as well as a cost-effectiveness issue was used in the preamble for Ohio’s State Issue 1: “because drug use is being addressed as a criminal justice problem millions of dollars are being wasted and the criminal justice system is so overburdened that violent offenders are either not being punished harshly enough or are potentially being let out due to overcrowding.” The Ohio preamble framed the problem as a need to ensure punishment for violent offenders and to provide treatment for everyone whereas the California measure argued more for “doing the right thing” and better serving the people. The California measure relied on facts from the report card on the impact of Arizona’s Proposition 200 measure stating it “saved state taxpayers millions of dollars,” “more than 75 percent of program participants helped to remain drug free,” and that “treatment better serves.” The narrative story in the Ohio measure focused on benefits to all citizens not just those in need of treatment emphasizing cost savings and making drug users more productive members of society in terms of employability and the overall health and public safety benefits.

In contrast to using numbers to highlight the potential benefits of the measure, Ohio’s preamble also sought to reframe relapse as part of the process and to be expected—not as an indicator of failure. The preamble also defined drug testing as a treatment tool, and treatment as more effective than drug testing. The language emphasized that control was still a key aspect through references to drug testing and downplayed relapse as

natural. “Non-violent” was used repeatedly in both measures to allay any fears about the nature of the offenders eligible for treatment. Both legitimized treatment using such descriptors as “proven,” “qualified,” and “professionally supervised.”

The political preambles provided valuable insight into the issue framing strategies of the ballot measure sponsors. While the political preambles addressed the need for controls on the one hand, they in essence shifted the approach to illegal drugs to a public health context in which drug use was defined as a disease with treatment as the medicine or cure. The primary story line was of stymied progress—the current approach just was not working and that there was a better way in the form of transferring authority for the drug issue from a control or law enforcement approach to a public health approach in which drug users and offenders should be helped not punished.

5.3.5 Asset Seizure and Forfeiture Ballot Measures

Two initiatives focused solely on forfeiture reform: the Oregon and Utah Property Protection Acts of 2000. The political language was about the same length with Oregon’s statement of principles at 114 words and Utah’s purpose at 120 words. The political preambles for these measures were examined to identify goals, solutions, and problems framed.

5.3.5.1 Goal

The two forfeiture measures with political preambles suggested liberty, equity, efficiency, and security, as goals. Liberty and security received the most emphasis. Both focused on the need to protect the innocent implying that current laws do not ensure personal property rights. While the Oregon preamble used the “presumption of innocence” as the rallying symbol, the political preamble for Utah’s measure spoke of the goal of preventing the “wrongful taking of property.” These differences reflect two different issue framing strategies. Oregon’s preamble spoke of protecting larger community values—“fundamental constitutional rights” that most citizens value and agree with, while Utah more narrowly focused on protecting property. While the Oregon measure’s preamble was less explicit in assigning blame, the Utah preamble told a story

of government abuse implying the government purposely took property for its own financial benefit. The goal of both was to protect citizens' rights and ensure that government did not exceed its authority.

5.3.5.2 Solution

Rights were implicit and explicit in the solutions proposed in the political preambles for the two forfeiture ballot measures. Oregon's stated goal, which also served as a solution, was to ensure the right to be free of restraint while Utah's measure focused on protecting the rights of the innocent. The only apparent inducements to generate support were prescriptions as to how lawful proceeds from assets seized and forfeited would be distributed. The Utah measure designated the Uniform School Fund while the Oregon measure earmarked funds for drug treatment, which was the only mention of illegal drugs in the two ballot measures. Both measures were approved by voters and limited government power by establishing controls.

5.3.5.3 Problem

The rhetoric regarding problems with current policy as presented in the political preambles of these two initiatives aligned with arguments outlined by the DPA (1999) as shown in Table 5-10. Both measures, which were approved by voters, were sponsored by the Campaign for New Drug Policies, with substantial funding from the DPA, which is funded by Soros, Sperling, and Lewis.

Table 5-10. Problems Identified in Current Law and Purpose and Intent of Forfeiture Initiatives		
Problem as Defined by DPA	Purpose and Intent Statements of Ballot Initiatives	
Drug Policy Alliance	Oregon Property Protection Act	Utah Property Protection Act
property presumed guilty	“not forfeited...until that person convicted of a crime involving the property”	
innocent owners not adequately protected	“property should not be forfeited in a forfeiture proceeding unless and until convicted”	“protect innocent owners from wrongful taking”
no due process protection	“person is presumed innocent... should not be punished until proven guilty”	provide for “uniform set of procedures and standards”
standard of proof is too low	“should not be punished until proven guilty”	
punishment doesn't fit crime	“value of property forfeited should be proportional to the specific conduct for which.. owner...convicted”	“ensure proportionality of seizures/forfeitures to violation or crime committed”
inadequate oversight of funds	“proceeds should be used for treatment of drug abuse”	“any and all revenues...be contributed to Uniform School Fund;” “ensure direct control and accountability over use and sale”

As shown in the table, the Oregon measure addressed all of the problems identified by the DPA and the Utah measure addressed four out of six of the problems identified in current asset seizure and forfeiture laws. The 2002 Arizona Drug Medicalization, Prevention, and Control Act preamble prevented forfeiture until found guilty establishing legal and procedural rights for property owners. In addition to these measures, the medical use measures considered in Maine in 1999 and Oregon in 1998 and 2004 restricted forfeiture; however, the political preambles did not address this topic. The most notable differences in the language used in the two initiatives were that Utah’s political preamble used phrases associated with control: “uniform...procedures,” “substantive standards,” “lawful seizing,” “ensure not disproportionate,” “direct control and accountability,” and “deter crime.” The Utah political preamble identified the state or government as the target for reform, while Oregon’s political preamble was more softly worded focusing on the property owner and issues of equity or fairness, such as “should be punished until proven guilty,” “not forfeited until convicted,” and “punishment proportionate to the owner’s conduct.” The Oregon political preamble invoked the “basic tenet of democratic society

of presumed innocence” as a rallying cry. Similarly, the preamble for Utah’s measure created an image of the innocent being wronged. The implicit stories were that current laws and by extension the government were unfair and that the people have an obligation to protect and be protected. In laying out the facts, Utah used “private citizens” and “innocent property owners” rather than referencing the accused or those facing criminal charges or civil proceedings to frame the issue as a constitutional rights issue rather than as a criminal justice or law enforcement proceeding. The primary arguments employed were those with universal appeal: protecting the innocent and ensuring the presumption of innocence. The titles of the measures reinforced these arguments with the words “property protection act” as again most Americans would agree that one’s property and constitutional rights must be protected. The forfeiture measures defined the drug problem from the perspective of constitutional rights suggesting that crimes related to drug use did not meet the standards for forfeiture and/or that the punishment was too harsh.

5.4 Conclusions

The full text of the ballot measures was the only information source that explicitly detailed what the proposed law would include. Through an examination of the ballot measure full text I was able to identify the measures’ primary elements and determine which ones were more likely than others to be approved by voters. In contrast, the official ballot language and political preambles rarely provided detail as to the ballot measure specifics but reflected political speech. Because the official language on the ballot is reduced to a short question or statement, the language did not appear to provide much opportunity for analysis, and the analysis was limited to identifying the solution proposed and comparing it with the solutions proposed in measures with political preambles. Politicians usually have both political and policy goals according to Stone (2002:2). I expected the policy goal would be clearer in the official ballot language and the political goal more apparent in the political preambles. However, the two information sources generally mirrored each other and seemed to use the same language and invoked the same underlying value disputes. The solutions emphasized “mandating

rules...stipulating rights and duties and reorganizing authority” (Stone 2002: 13). When I examined the political preambles to identify goals, solutions, and problems, it was clear that as Stone (2002) states there is considerable overlap between and among these categories. Every solution implies a problem just as every problem suggests a solution. The policy goals were generally discernible and the political goal of legalization was implicit. Recognizing that all elements of the ballot measures are carefully crafted, I did not feel that I could rely on the political preambles to necessarily accurately reflect the sponsors’ actual intent. The next chapter examines the voter information statements, which provide more insight into the issue framing strategies employed in this venue.

6 Analysis of Voter Statement Authors and Voter Information Statements

The voter statements that appear on electoral websites, are published in local newspapers, and are made available at polling and other public locations provide valuable insight into how the drug problem is conceptualized, defined, and debated in state ballot measure campaigns. Voter statements also serve as an historical record of the various actors involved in the drug policy network at the state level. This chapter describes the voter statement authors generally, by ballot measure topic, by year, and by state. The chapter then focuses on the primary problem definition strategies employed across voter information statements to frame the debate. The chapter analyzes how the drug problem is defined using Stone (2002) across ballot measures and includes a discussion of patterns by ballot measure topic, opposition versus support statements, as appropriate, and by year. The chapter then discusses the issue framing strategies used across the support and opposition voter statements for each ballot measure by state.

Of the 28 ballot measures, six in the states of Maine, Nevada, and Colorado included impartial summaries of support and opposition arguments. The remaining 22 measures had a total of 186 voter information statements often with multiple authors for each statement (see Table 6-1). Arizona and Oregon lead the way with the most ballot measures, five and four respectively, and the most voter statements, with Arizona topping out at 89 and Oregon with 63. These two states are also notable for considering both measures to alter the status quo and those to maintain or reinforce the status quo or prevailing drug control approach to the drug problem. Eleven ballot measures included only one statement in support and one in opposition.

Table 6-1. Ballot Measures and No. of Support and Opposition Statements, by State and Ballot Measure

State and Ballot Measure	No. support state.(85)	No. opp. state.(101)
Meas. 8, AK 1998, Bill Allowing Medical Use of Marijuana	1	1
Meas.5, AK 2000, Initiative Petition: Allowing Uses of Hemp, including Marijuana	1	1
AK 2004, Cannabis Decriminalization and Regulation Act	1	1
Prop. 200, AZ 1996,Drug Medicalization, Prevention, and Control Act	7	8
Prop. 300, AZ 1998, Referendum Ordered by Petition of the People relating to the Medical Use of Schedule I Drugs (countermeasure to limits Prop. 200)	19 (vote yes)	8
Prop. 301, AZ 1998, Referendum ordered by petition of the people relating to probation eligibility for drug possession or use(countermeasure to limit Prop. 200)	2	8
Prop. 203, AZ 2002, Drug Medicalization, Prevention, and Control Act of 2002, reinforces Prop. 200 (no real title; lang. says can be referred to by title)	8	19
Prop. 302, AZ 2002, Drug Probation (limits Prop. 200)	4	6
Prop. 215, CA 1996,Compassionate Use Act of 1996	2	2
Prop. 36, CA 2000, Drugs Probation and Treatment	2	3
Ques 8., MA 2000, Expand Drug Treatment Program and Provide Funding Through Fines for Drug Violations and the Forfeiture of Assets Used in Connection with Drug Offences	1	1
Init. 148, MT 2004, Montana Medical Marijuana Act	1	1
State Issue 1, OH 2002, Ohio Drug Treatment Initiative	1	1
Meas. 57, OR1998, Makes Possession of Limited Amount of Marijuana Class C Misdemeanor (countermeasure)	3	12
Meas. 67, OR1998, Allows Medical Use of Marijuana Within Limits; Establishes Permit System	7	11
Meas. 3, OR 2000, Amends Constitution: Requires Conviction Before Forfeiture; Restricts Proceeds Usage; Requiring Reporting, Penalty	12	9
Meas. 33, OR 2004, Oregon Medical Marijuana Act	15	4
SD 2002, Constitutional amendment relating to the rights of a criminal defendant argue drug laws unfair	1	1
Meas 1., SD2002		
Init. B, UT 2000, Utah Property Protection Act of 2000	1	1
Init. 685,WA 1997, Drug Medicalization and Prevention Act	1	1
Init. 692, WA 1998, Shall the medical use of marijuana for certain terminal or debilitating conditions be permitted, and physicians authorized to advise patients about medical use of marijuana?	1	1

6.1 Overview of Voter Statement Authors

All of the states require the author(s) of the support and opposition statements to be identified. Appendix G lists the authors of each voter information statement. The voter statement authors were reviewed and placed in the categories introduced in Chapter 3. The top three authors of voter statements were those related to medical or health care followed by political officials and legal/prosecutorial. Libertarian candidates were the only actors to identify themselves by party affiliation and in only two cases did they not support legalization.

The actors in these broad categories represent the policy network for the drug issue in other policymaking venues. It is the actors that do not fall into these categories or that fall into the “other” grouping that provide insight into those interested in the drug issue at the state level. For example, the state organizations formed to sponsor and campaign for or against particular ballot measures did not always prepare voter information statements. For example, the Washington Citizens for Medical Rights, which gathered the signatures for the 1998 Washington measure, is not a voter statement author. This likely was a strategic decision, since the organization is funded by the national organization Americans for Medical Rights and had been involved in the unsuccessful 1997 Washington state initiative that pursued a more wide-ranging legalization agenda. In contrast, the 1998 measure more narrowly focused on use of marijuana for medical purposes.

Table 6-2 lists voter statement authors who served as the principal sponsors of measures to change drug policy and/or which authored statements opposing measures to strengthen or reinforce drug control policy. The organizations the People Have Spoken, the three state medical rights organizations, and two drug policy reform organizations, Coalition for Fair Treatment, Ohio Campaign for New Drug Policies, and No. on 57 Committee are all directly funded by three national policy actors: millionaires John Sperling and Peter Lewis and billionaire George Soros. It should be noted that Arizonans for Drug Policy Reform was renamed following the 1996 election to the People Have Spoken. All of these sponsor organizations were listed as affiliations for voter statement authors or as voter statement authors. For six voter statements the sponsor organization was listed as the author: Alaskans for Medical Rights, Utahans for Property Rights, Ohio

Campaign for New Drug Policies, Alaskans for Rights and Revenues, and Oregon Green Free.

Table 6-2. List of Sponsor Organizations Identified in Voter Information Statements	
Arizonans for Drug Policy Reform Citizens for Drug Policy Reform Alaskans for Medical Rights Alaskans for Rights and Revenues Oregonians for Medical Rights Oregon Green Free Life with Dignity Committee People Have Spoken	No. on 57 Committee Utahans for Property Protection: Oregonians for Property Protection Oregonians in Action Coalition for Fair Treatment Ohio Campaign for New Drug Policies Free Hemp in Alaska

Five individuals who were initiative sponsors or petitioners were also voter information statement authors: John Norton of the People Have Spoken was an initiative sponsor as well as the principal opponent of measures to return to pre-1996 drug policy in Arizona and wrote statements relating to all five Arizona ballot measures; Robert Killian, a Washington state physician, was identified in his voter support statements as the sponsor of both the 1997 and 1998 initiatives; and Oregon’s 2000 asset seizure reform measure author Harry Detwiller created Oregonians for Property Protection and wrote the first voter information statement, which recounted his personal experience with Oregon’s asset seizure and forfeiture laws. One of the most recognizable figures in Oregon’s medical marijuana debate was Stormy Ray, chief petitioner, for Oregonians for Medical Rights. She has multiple sclerosis and told her personal story of suffering until she was able to obtain medical marijuana. She was featured predominantly in advertising efforts associated with Oregon’s marijuana ballot measures. Interestingly, she authored a statement opposing Oregon’s 2004 measure, which would have expanded the use of marijuana and increased the amount of marijuana allowed. Oregon Free is a registered nonprofit that serves medical marijuana patients and their caregivers. John Sperling and Peter Lewis (the two millionaires who are primary sponsors of the national legalization organizations establishing state organizations and as well as direct funders of several ballot measures) also appeared as voter statement authors, although they listed their affiliations as their businesses—the University of Phoenix and the Apollo Group—rather than with the legalization organizations.

The identification of sponsor organizations led to further review of the voter information statement authors and additional categories of actors as shown in Table 6-3.

Table 6-3. Specific Actors Identified in Expanded Categories	
National organizations	Businesses
Intl. Drug Strategy Institute DARE America ACLU League of Women Voters Animal Protection Institute Animal Legal Defense Fund In Defense of Animals MADD, SADD Libertarian Party	Apollo Group (Sperling) Agri-Business council Phoenix Suns AZ Cardinals AZ Diamondbacks Phoenix Coyotes EAP Preferred Peak Insurance Group Paradise Valley Peak Ins Group Click Automotive Horizon Moving and Storage Finley Distributing University of Phoenix (Lewis)
State opposition organizations	Law enforcement
Californians for Drug-Free Youth Arizona Against Heroin AZ for a Drug-Free Workplace Center for AZ Policy Drugs Don't Work in AZ Save Our Society from Drugs (FL) Save Our Society from drugs AZ Christian Coalition Christian Coalition of OR For Our Children's Children Southern Oregon Drug Awareness Oregon Against Legalization of Marijuana	Arizona Chiefs of Police Association Oregon Police Chiefs for Safer Communities Oregon Peace Officers Assn. Sheriffs of OR Committee CA Sexual Assault Investigators Assn. CA DA Assn. MA DA Assn. Probation Officers of CA SD Highway Patrol
Other state organizations	
Oregon Gun Owners Oregon Humane Society	
Health/medical organizations	
Oregon Physicians Resource Council Washington State Medical Assn. Kirk's Medical Services CA Society of Addiction Med. CA Nurses Assn. Oregon Medical Assn. Arizona Pharmacy Assn. Brotman Medical Center, Director	health recovery services, community assessment and treatment services CA Association of Alcoholism and Drug Abuse Counselors Betty Ford Center

Of the 12 state organizations that either represented prevention or classified themselves as “anti-drug,” two -- Save Our Children’s Children and the Christian Coalition -- were state chapters of national organizations. The S.O.S. (Save Our Society) website states that it “actively opposes state ballot initiatives and legislative measures that would legalize marijuana as a so-called medicine and would create new constitutional rights for the

exclusive benefit of illicit drug offenders.” (<http://www.saveoursociety.org>). Notable is a statement from a Florida chapter regarding an Arizona initiative—one of the few instances of an out-of-state actor representing the status quo.

The two Arizona groups—Arizonans for a Drug-Free Workplace and Drugs Don’t Work in Arizona—represent state chapters of groups to help implement drug-free workplace programs. Californians for Drug-Free Youth is a grassroots parents’ organization founded in the 1970s that receives federal drug prevention funding. Arizonans Against Heroin was a coalition specifically formed to oppose Proposition 200 and featured as a spokesperson the author of the 1998 Arizona countermeasure that would have made marijuana possession a misdemeanor. As the 1998 initiatives were qualifying for the ballot, those seeking to allow the medical use of Schedule I drugs filed several lawsuits challenging the state’s impartial summary of the initiative for listing several Schedule I drugs, such as heroin, PCP, and LSD rather than using the more ambiguous term “Schedule I” or listing “marijuana.” To bring further attention to the intent of the act, the coalition formed to oppose the measure named itself Arizonans Against Heroin to bring attention to the fact that heroin would be available if the voters approved the ballot measure.

The national organizations, businesses, and other organization categories are the most intriguing as they reflect diverse groups, some of which have not been previously associated with the drug issue. For example, the asset seizure measure supporters in Oregon were able to find common ground with Oregon gun owners at the same time that opponents of the measure brought in three national organizations and one state organization concerned with the protection and humane treatment of animals. California’s landmark 1996 measure is the only one to feature a statement of opposition by an international drug policy watch group and the national school-based drug prevention organization DARE, which may be interpreted as an indicator of the potential historical significance and concern regarding the measure. The businesses authoring voter statements primarily represent workplace and employee safety and productivity; their arguments did not focus on the moral aspects of the drug issue but rather on the economic impact of drug use in the workplace. Thus, they expand the constituency groups on the measures. Arizona

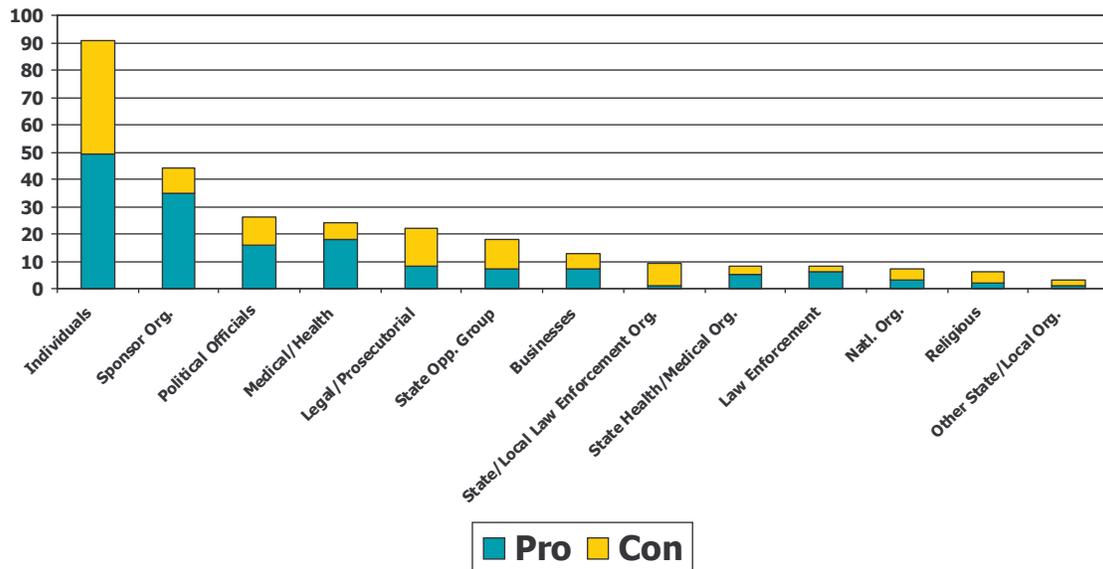
businesses authoring statements opposing changes in current drug laws included professional sports teams—the only state to do so.

Figure 6-1 shows the type and number of author categories and proportion of pro (support) and con (opposition) statements. The figure is based on all of the categories discussed previously including the breakout of author types initially falling under the “other” category. Across the thirteen categories were 156 statements in support and 126 statements in opposition (note that authors may appear in more than one category). As the figure shows, there were more than two times as many authors affiliated with initiative sponsors than with state opposition groups. The figure also shows that those who were legal professionals or prosecutors were more likely to author opposition than support statements, and the ratio of opposition to support statements by state or local law enforcement organizations was eight to one. Of interest is that while media coverage and voter statements referred to national actors and out-of-state backers, national organizations were only cited as an author or affiliation for seven authors. While the figure lists every category and previously I addressed how the categories were developed, it is also instructive to examine other logical combinations of organizations that represent various constituencies. In terms of state- and local-level organizations as authors or author affiliations, initiative sponsor organizations were cited 44 times, state and/or local health organizations 32 times, and other state and local organizations 57 times. The political officials, legal/prosecutorial, businesses, and religious representatives also were primarily local or state based.

While many of the author types are not surprising (such as the representation of those involved in arresting and prosecuting drug-related offenses and medical and health professionals), the infrequent appearance of representatives of the demand side of the drug issue, such as drug abuse prevention and treatment practitioners, community anti-drug coalitions, and parent and school-based groups is surprising. One would have expected that authors of the opposition statements would have fallen under such categories. Only one former educator is cited as a voter statement author. The state opposition groups are primarily coalitions or alliances formed by law enforcement representatives and organizations to oppose ballot measures rather than representing pre-existing organizations focused on the drug issue. In contrast to public statements by the White House Drug Policy

Office and media coverage of the various ballot measures, the sponsor organizations or those affiliated with them were state-based organizations. While many of these were actually state affiliates of national organizations, the connection is not necessarily apparent from a cursory review of the organizations. A review of the organizations across states, however, reveals the similarities in titles of some of the organizations.

Figure 6-1. Number of Voter Information Statement Authors by Category, 1996-2004*



*Note: Authors may have been counted under more than one category. For example, most individuals also identified a secondary affiliation.

6.2 Voter Information Statement Authors by Year

In part it is difficult to identify trends when ballot measures such as those in Oregon may include more than 20 different statements, while 12 of the measures feature less than four statements each. A review of the ballot measure statement authors indicates that beginning in 2000, individuals supporting legalization were more likely to be affiliated with the sponsor organization than in previous years, suggesting the sponsor organizations might either have been trying to establish legitimacy for their organizations or believed that in Arizona’s case, for example, success in 1998 provided them with credibility. In terms of authors opposing legalization measures, the authors in 1996 and 1997 were limited

to the categories of political and law enforcement officials, physicians, and national organizations but in 1998 expanded to additional categories.

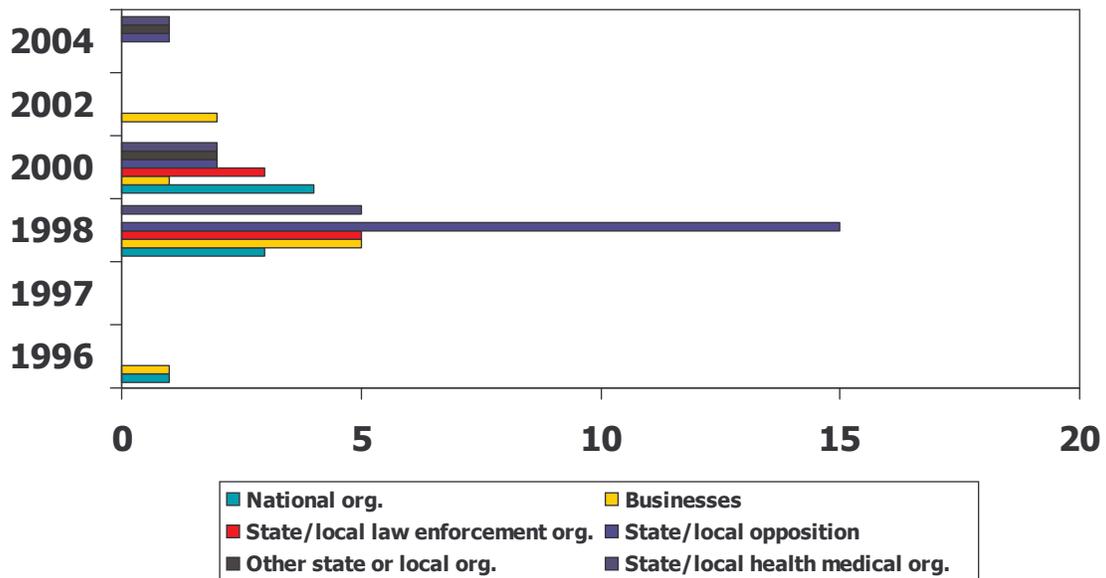
Table 6-4 lists the top five voter statement author categories by year combining authors of statements in support and opposition. Across the years, individuals were one of the most frequent author types. In 1998 through 2004, the organization sponsoring either the initiative or in the case of the countermeasures the counter-campaign were the second most frequent author or author affiliation. However, in 2002 and 2004, few individuals were affiliated with such organizations. This may be in part to the increased rhetoric at the national level linking the ballot measures to the three wealthy philanthropists, John Sperling, George Soros, and Peter Lewis. Medical and health care professionals were the primary authors in 1996 and 1997 and remained one of the top five affiliations in every year except 2000. As shown in Figure 6-1, medical and health care professionals and medical and health care organizations were more likely to write statements in support than in opposition to ballot measures on illegal drugs, with the majority being medical use measures. Their absence in 2000 is likely due in part to the lack of medical use measures.

1996	1997	1998	2000	2002	2004
Med./health: 3	Med./health: 2	Individuals: 39	Individuals: 13	Individuals: 19	Individuals: 15
Individuals: 3	Pol. officials: 2	Sponsor org: 22	Sponsor org: 10	Sponsor org: 7	Sponsor org: 9
Pol. officials: 3	Individuals: 2	State or local opposition group: 15	Pol. officials: 6	Pol. officials: 4	Med./health: 4
Law enforcement: 2	Religious: 1	Medical/health: 11	Natl. org.: 4	Legal/prosecutorial: 4	Pol. officials: 3
Legal/pros.: 2	Initiative sponsor: 1	Pol. official: 8	State/local law enforce/ Legal/ pros.: tied with 3	Medical/health: 3	Law enforcement: 2

To obtain further insight into the involvement of state-level organizations and national organizations, I examined the prevalence of the six author categories. 1998 and 2000 feature the most variation in author types as shown in Figure 6-2. This is likely due to Arizona featuring countermeasures and continuing to be one of the most prolific ballot

measure states. The countermeasures featured a large number of groups characterized as state or local opposition groups, meaning they opposed ballot measures that would change the current law enforcement approach to drug policy and supported maintaining or enhancing existing criminal and civil penalties for drug-related offenses. The year 2000 featured three measures focused on asset seizure/forfeiture, bringing in different author types from those featured in medical use measures. National organizations only appeared in 1996, 1998, and 2000. In 2000, the principal national organizations were national animal rights groups that opposed forfeiture law changes.

Figure 6-2. Frequency of State and Local Organizations Mentioned as Authors or Author Affiliations across Voter Information Statements



The next section identifies authors by ballot topic to identify any patterns.

6.3 Voter Information Statement Authors by Ballot Topic

This section describes the voter statement authors by primary ballot topic, including medical use; treatment, incarceration, probation, and parole; criminalization/ decriminalization; and asset seizure/forfeiture measures. Efforts were made to assign authors to the primary category they represented. In some cases, individuals were considered and counted under more than one category. For example, many individuals had

statements paid for by the sponsoring organizations and may be considered under both categories. Thus, the number of actors in each category may equal more than the number of voter statements.

6.3.1 Medical Use

Eleven measures in six states with a total of 110 voter statements addressed the medical use of marijuana and/or other Schedule I drugs. One of the measures is a countermeasure and will be reviewed separately. The representation of the authors is provided in Table 6-5. Individuals affiliated with the measure sponsors were the authors of the most support statements, totaling 19 of 22 individually authored statements. The second most frequent type of author was medical professionals with 12 (13 if one adds the medical association), followed by legal/prosecutorial actors with six, and political officials with five. It is not surprising that medical professionals, particularly physicians, would have supported the measures. Among the opposition statements, the distribution was more varied across actor types, with political officials authoring the most statements with eight followed by law enforcement organizations with five. Law enforcement officials were as likely to support as oppose use of marijuana for medical purposes. Medical/health care professionals were much more likely to author statements in support rather than opposition. National organizations other than state sponsor organizations linked to national organizations rarely authored statements. Combining legal/prosecutorial, law enforcement, and law enforcement organizations suggests that those responsible for enforcing current drug laws comprise about one-third of opposition statements. As Table 6-5 shows, the opposition statements are spread across 12 categories, while the support statements are primarily limited to three categories of authors.

A 1998 Arizona measure sought to limit the 1996 Arizona measure by requiring FDA approval for lawful prescription of Schedule I drugs. Twice as many statements were written in support of the measure as in opposition. The primary authors writing in support of the measure were state opposition groups with six statements, followed by political leaders with four and individuals and businesses with three apiece. Religious leaders

Table 6-5. Categories of Voter Statement Authors for Medical Use Measures	
Statements supporting measure	Statements opposing measure
Individuals: 22 Sponsor organization affiliation: 19 Medical/health care professional: 12 Legal prosecutorial: 6 Political official: 5 Law enforcement: 2 National organization: 1 State/local health/medical organization: 1 Business: 1	Individuals: 1 Sponsor/opposition org.: 1 National org.: 1 State opposition group: 5 Legal/prosecutorial: 3 Medical/health care professional: 3 Law enforcement: 3 State/local/health/medical org: 2 Other state or local org.: 1 Businesses: 1 Political official: 8 Law enforcement org: 5

authored one statement in support of the measure. The seven statements opposing the measure were rather evenly distributed among legal/prosecutorial, sponsor organizations, and individuals with two apiece and a medical/health care professional with one. In terms of patterns by passage or failure of the measures, of the five measures approved by voters, four featured voter support statements by individuals. In the opposition statements, three out of five were written by political officials or candidates. The patterns did not change by year but did vary by state. Because Arizona and Oregon measures featured the most statements, they also had the most variety in terms of statement authors. By year, though, Arizona’s 1998 and 2002 measures included almost the same number and type of statement authors.

6.3.2 Treatment, Incarceration, Probation and/or Parole Measures

Eight measures addressed treatment and/or incarceration, probation, and/or parole and had a total of 73 author statements. Of the five measures seeking to change the current approach to drug policy, the predominant author types were individuals, with sponsor organization affiliations authoring the majority of support statements with nine compared to 10 individuals authoring opposing statements (see Table 6-6). Political officials and legal/prosecutorial authors wrote three support but no opposition statements. Two statements in opposition were authored by individuals affiliated with state law enforcement organizations. Both statements in support and opposition included religious leaders as authors. Of the measures focusing primarily on treatment, medical/health care

professionals were the second most frequent statement author. Both those in support and opposition featured political or elected officials as statement authors.

Table 6-6. Categories of Voter Statement Authors for Measures Addressing Treatment, Incarceration, Probation, and/or Parole	
Statements supporting measure	Statements opposing measure
Individuals: 9 Sponsor organization affiliation: 10 (incl. all individuals) Medical/health care professional: 6 Legal prosecutorial: Political official: 3 Law enforcement: 2 National organization: 1 State/local health/medical organization: Business: 2 Religious: 1	Individuals: 10 (half affiliated with state opposition group) Legal/prosecutorial: 2 Medical/health care professional: 1 Law enforcement: 1 State/local/health/medical org: 2 Pol. official: 2 Law enforcement org affiliated: 5 Religious: 1
Countermeasures	
Statements supporting measure	Statements opposing measure
Individuals: 1 Sponsor organization affiliation: 1 Political official: 3 Business: 3 State opposition group: 1	Individuals: 11 Sponsor/opposition org.: 8 actors had statements paid by the group opposing the measures National org.: 1 Legal/prosecutorial: 4 Medical/health care professional: 3 Other state or local org.: Businesses: 2

Three of the measures are considered “countermeasures” as they sought to reinforce current drug laws. Individuals were the predominant author type across support and opposition statements. The authors opposing these measures, similar to the authors supporting legalization measures, were most likely to be individuals affiliated with the organization sponsoring the ballot measures or in the case of the countermeasures, existing or newly formed organizations to oppose the measures. Oregon’s measures featured by far the most voter statements. Opposition statements outnumbered support statements consistently across the countermeasures.

6.3.3 Criminalization/Decriminalization Measures

Six measures with a total of 47 voter statements addressed the criminality of drug use. One, Oregon’s 1998 measure, sought to recriminalize marijuana possession and included almost three times as many statements in opposition as in support. The measure was defeated by voters. Arizona’s 2002 measure to reinstate and extend elements of 1996’s Proposition 200 comprised more than half of all voter statements. Statements in

opposition to the measure outnumbered statements in support by a more than two to one margin for Oregon’s 1998 and Arizona’s 2002 measures.

Individuals were the primary statement authors, with authors of statements in support of the measures usually affiliated with the sponsor organization as shown in Table 6-7. The same types of actors authored statements in opposition to the recriminalization measure, with the majority of individual authors affiliated with an organization formed to oppose the measures. After individuals who comprised one-third of voter opposition statements, the political official and legal/prosecutorial categories together comprised one-fifth of such authors. Political or elected officials were as likely to support as oppose criminalization measures. Both statements in opposition and support were authored by businesses. Only one statement—an opposition statement—was authored by a religious leader. There were no distinguishable patterns by year, with the same actor types authoring statements in 1998 as in 2000, 2002, and 2004.

Table 6-7. Categories of Voter Statement Authors for Criminalization/Decriminalization Measures	
Measures to Remove Criminal Penalties for Marijuana	
Statements supporting measure	Statements opposing measure
Individuals: 5 (all but 1 affiliated with sponsor org.) Sponsor organization affiliation: 6 Medical/health care professional: 1 Political official: 2 Business: 2 Legal/prosecutorial: 1	Individuals: 12 State opposition group: 1 Medical/health care professional: 1 Law enforcement: 2 Other state or local org.: 1 Businesses: 1 Pol. official: 3 Law enforcement org: 1 Legal/prosecutorial: 4 Religious:1
Measure Seeking to Recriminalize Marijuana	
Statement supporting measure	Statements opposing measure
Individuals: 1 Sponsor/opposition org.: 1 Pol. official: 1	Individual: 7 Sponsor/opposition org. affiliation: 4 Medical/health care professional: 1 Political official: 2 National organization: 1

6.3.4 Asset Seizure and Forfeiture Measures

For the three measures focusing primarily on asset seizure and/or forfeiture, there were 25 voter information statements, with Oregon’s Property Protection Act comprising 12 of 14 support statements and nine of 11 opposition statements. In comparison, Utah’s Property Protection Act and Massachusetts’ treatment measure featured one statement each in support and opposition. As shown in Table 6-8, individuals and sponsor organizations dominated the support statements, while there were no predominant actors authoring opposition statements which were rather evenly distributed across categories. Of the five additional measures that addressed forfeiture in relation to use of marijuana or Schedule I drugs for medical purposes, individuals were the predominant authors in support and opposition; those in support were more likely to be affiliated with ballot measure sponsors, while individuals opposing the measures were most likely to be affiliated with state opposition groups. For the medical use and forfeiture measures, the three Oregon measures comprised 57 out of the 83 voter statements on the eight measures. As discussed earlier, national organizations representing animal rights were an unexpected author in opposition to restricting current forfeiture laws. While political officials were the authors in three cases, opposition statements included a political official as well as two legal/prosecutorial representatives defending the adequacy of current protections.

Table 6-8. Categories of Voter Statement Authors for the Three Measures With Asset Seizure and/or Forfeiture as Primary Subject	
Statements supporting measure	Statements opposing measure
Individuals: 10 Sponsor organization affiliation: 10 (8 of which were individuals with sponsor org. affiliations) Political official: 3 National organization: 1 Other state or local org.: 1	Individuals: 2 National org.: 2 State opposition group: 1 Legal/prosecutorial: 2 Other state or local org.: 1 Businesses: 1 Pol. official: 1 Law enforcement org: 2

6.3.5 Discussion: Voter Statement Authors Across Ballot Measure Topics

Across the ballot measure topics, individuals were the most frequent statement authors, with a substantial majority of support statement individuals affiliated with sponsor organizations while individual affiliations varied more widely on the opposition side. The top three author types by ballot measure topic are provided in Table 6-9. Medical and health care professionals were predominate in statements supporting medical use of marijuana and other Schedule I drugs and promotion of treatment as a more appropriate alternative than incarceration for drug offenders. Opposition authors for treatment measures were somewhat diverse and not cohesive, suggesting opportunities for reaching out to potentially affected organizations and professional groups. Ballot measure sponsors were one of the three most common authors. Political officials were the third most prevalent author in support of forfeiture law changes and decriminalization. Political officials also were the primary author type opposing medical use measures and the third most prevalent author opposing decriminalization. Law enforcement organizations were the second most frequent author of statements opposing medical use measures and mandating treatment rather than incarceration. The forfeiture measures did not appear to have an organized constituency to oppose changes to forfeiture laws.

Table 6-9. Top Three Author Types by Ballot Measure Topic Support (Pro) and Opposition (Con) Statements			
Medical use (Pro)	Treatment/ incarceration(Pro)	Forfeiture (Pro)	Decriminalization (Pro)
individuals	individuals	sponsor org.	sponsor org.
sponsor org.	sponsor org.	individuals	individuals
med./health professionals	med./health professionals	political officials	political officials/businesses
Medical use (Con)	Treatment/ incarceration(Con)	Forfeiture (Con)	Decriminalization (Con)
pol. officials	individuals	evenly split across categories	individuals
law enforcement org.	law enforcement orgs.		legal/prosecutorial
state opposition group	split across categories		political officials

For purposes of this discussion, the authors of opposition statements for countermeasures are considered as support authors for legalization. Across all the measures with voter statements, individuals were almost two times more likely to support legalization measures, with the vast majority affiliated with sponsor organizations. Medical/health professionals and state medical organizations were almost four times as likely to support legalization measures, particularly those focused on treatment and medical use of marijuana. In contrast, law enforcement officials and organizations were four times more likely to oppose legalization measures. Political officials were equally likely to support as oppose legalization, with libertarian candidates comprising half of the support statements by political officials. Despite the rhetoric on the drug issue at the national level as a moral issue requiring protection of children, religious leaders were the authors for less than five voter statements, and relatively few state-level prevention or youth-oriented organizations opposed measures in comparison to the large percentage of organizations established to support the ballot measures.

The measures focusing on use of marijuana or Schedule I drugs were the most likely to feature medical or health care professionals, with slightly more found in support rather than opposition statements. Not surprisingly, those affiliated with prosecuting and enforcing current drug laws were more likely to author statements in opposition to decriminalization as well as to oppose defining the drug problem as a treatment or public health problem. Asset seizure and forfeiture laws did not have a particular constituency compared to other ballot measure topics. Despite media reports criticizing national actors such as the drug czar for involvement in state ballot initiative campaigns, few national actors wrote statements in support or opposition, and the drug czar did not author any statements. As discussed previously, in terms of the sponsor organizations, a concerted effort was made following the 1996 ballot measures to establish state or local-based affiliates of national sponsor organizations such as the Campaign for New Drug Policies.

6.4 Authors of Voter Statements by State

The specific authors and author affiliations for voter information statements by measures in each state are described below. Arizona and Oregon feature the most variation in terms of authors and author affiliations, which in part is due to the large number of

measures considered compared to other states, the large number of statements in support and opposition, and variation in ballot measure topics.

6.4.1 Alaska

Each of the three Alaska ballot measures on illegal drugs featured one support and one opposition statement. In 1998, two physicians representing the sponsor Alaskans for Medical Rights, a state affiliate of Americans for Medical Rights, authored a support statement. The opposition statement author was an Anchorage resident. A more comprehensive measure to legalize hemp and marijuana in 2000 was supported by the measure sponsor Free Hemp in Alaska. The opposition statement was written by the same Anchorage individual as the 1998 measure. The initiative sponsor, Alaskans for Rights and Revenues, and two political officials (former Alaska state senators) wrote a statement in support of the 2004 measure. The 2004 measure seeking to decriminalize medicine featured an opposition statement by a physician specializing in internal medicine.

6.4.2 Arizona

Arizona considered five ballot measures on illegal drugs between 1996 and 2004 including two countermeasures. Arizona had the most voter information statements. Note that the authors of the statements for the countermeasures were those that opposed legalization, and those arguing against the countermeasures supported legalization. Many of the same actors were the principal authors of the statements in support of legalization and opposing countermeasures between 1996 and 2004, and the same arguments were employed over time. These actors included a former Reagan administration official who represented the sponsor organization the People Have Spoken, a judge, physicians, and state political officials. In addition, groups of pastors and a cancer survivor authored statements for at least two of the measures. The opposition statement in 1996 and 1998 included libertarian candidates who traditionally have supported legalization. For the other measures considered in 1998 and 2002, Maricopa County Attorney Richard Romley was the principal statement author. He also sponsored countermeasure Proposition 302 in 2002. In both 1998 and 2002, opposition statements included a wide range of business owners and former and current political and law enforcement officials. In addition, the opposition statements in Arizona included the highest representation of anti-drug organizations

including Arizonans Against Heroin. As shown in Table 6-10, the 1998 and 2002 legalization measures featured the most support statements with 19, vastly outnumbering the statements in opposition. The actors and actor types remained remarkably consistent over time in Arizona.

Table 6-10. Number of Support and Opposition Statements for Arizona Ballot Measures on Illegal Drugs, 1996-2002				
1996 Prop. 200	1998 Prop. 300	1998 Prop. 301 (countermeasure)	2002 Prop. 203	2002 Prop. 302 (countermeasure)
Support statements: 7	Support statements: 19	Against: 8	Support statements: 19	Against: 6
Opposition statements: 1	Opposition statements: 4	For measure: 2:	Opposition statements: 7	For meas.: 4

6.4.3 California

The 1996 Proposition 215 included two statements in support and two in opposition to the measure. A range of health care professionals including oncologists and nurses advocated for the measure. The first opposition statement was written by a law enforcement official who also was the past president of the California State Sheriffs' Association, a physician representing the International Drug Strategy Institute, and the Executive Director of DARE. The rebuttal to the opposition statements was prepared by local law enforcement, an elected official who wrote a legislative medical marijuana bill, and a local cancer survivor. The rebuttal to the support statement was authored by a state drug prevention organization, a physician and medical director, and a California district attorney.

In 2000, Californians approved Proposition 36, which mandated treatment as an alternative to incarceration. The first statement in support was by state medical and health professionals and a state elected political official. The same medical society representative joined other health care professionals and U.S. Congresswoman Maxine Waters in a second support statement. Interestingly, the first opposition statement was by an out-of-state district attorney for the State of Arizona who sponsored countermeasures in his own state. The second opposition statement was authored by the head of California's Assault Investigators Association. The last opposition statement was prepared by the President of

the Betty Ford Center and representatives of law enforcement organizations. The statement authors for the California measures represented a broad range of authors, including national and international organizations not found in statements in other states.

6.4.4 Massachusetts

Massachusetts' 2000 treatment measure included one statement each in support and opposition. The initiative sponsor, Coalition for Fair Treatment, drafted the 150-word support statement. The opposition statement was prepared by the president of the state district attorneys' association.

6.4.5 Montana

In 2004, Montana voters considered their first legalization measure via the ballot. A committee comprised of state elected officials provided the argument in support. The committee preparing the opposition statement included political officials-- two state representatives.

6.4.6 Ohio

Ohio's 2002 treatment versus incarceration measure featured a support statement by the initiative sponsor, the Ohio Campaign for New Drug Policies, and four individuals. The state sponsor organization was an offshoot of the national legalization organization Campaign for New Drug Policies. The opposition statement was written by a committee comprised of treatment professionals and the state director of MADD.

6.4.7 Oregon

As shown in Table 6-11, Oregon considered four ballot measures related to illegal drugs between 1998 and 2004. 1998's Measure 67 and 2004's Measure 33 shared many of the same actors in the voter support and opposition statements, not surprising given both focused on medical use of marijuana. Both included the same individual physicians and physician groups as authors of support statements. Both also included testimonials from different patients attesting to the benefits of marijuana for their medical conditions. Interestingly, in 1998 one of the chief petitioners in support of medical use was Stormy Ray, who was a principal author of an opposition statement in 2004. Several statements

were authored in support of the measure by an individual associated with the initiative sponsor John Sajo, who had previously served as the caregiver for Stormy Ray. In public statements he attacked Ms. Ray for failing to support Measure 33.

Table 6-11. Ballot Measures and Number of Support and Opposition Statements			
1998 Meas. 57	1998 Meas. 67	2000 Meas. 3	2004 Meas. 33
Support statements: 12	Support statements: 8	Support statements: 12	Support statements: 15
Opposition statements: 3	Opposition statements: 10	Opposition statements: 9	Opposition statements: 4

Support statement authors who were affiliated with Oregonians for Medical Rights in 2004 were the same individuals who opposed the 1998 measure and identified themselves as part of the No on Measure 57 Committee. The 1998 countermeasure was authored by the director of Save Our Children’s Children, who opposed the 1998 Oregon medical use ballot measure. The actors supporting and opposing the 2000 Property Protection Act reflected very different constituency groups. The opposition statement authors included national and state humane and animal rights groups that raised concerns about the proposed law negatively impacting their ability to remove animals from dangerous conditions.

6.4.8 South Dakota

South Dakota considered two ballot measures in 2002, both sponsored by individuals. Freelance writer and South Dakota resident Bob Newland sponsored and wrote the support statement for a law that would have allowed defendants to argue drug laws are unfair in court. The rebuttal was authored by an attorney who was past president of the state bar association and former head of the state department of education. For the second South Dakota measure, two lifelong farmers authored the statement in support of legalizing hemp, while a South Dakota state highway patrol officer wrote the opposition statement.

6.4.9 Utah

Utah’s 2000 Property Protection Act’s voter statement in support was authored by the sponsor organization, Utahans for Property Protection, and former elected officials and

law enforcement. The sponsor organization was established to obtain financial support for the measure, similar to most sponsor organizations listed on voter information statements. The opposition statement was written by a state representative.

6.4.10 Washington

Washington voters defeated a measure to liberalize drug policy in 1997 that duplicated Arizona's Proposition 200. However, voters approved a more restrictive measure allowing use of marijuana for medical purposes in 1998. Both were submitted by a local physician with support from national legalization organizations funded by Soros, Sperling, and Lewis. In 1997, the statement in support of the measure included the sponsor, several physicians, and an Episcopalian minister. They were advised by a committee that included medical and health professionals, a national legalization organization lawyer, and a cancer patient. The opposition statement was written by several physicians advised by elected officials and a state school superintendent. The statement in support of Initiative 692 in 1998 was written by medical and health care professionals and a state senator. The opposing statement was written by law enforcement and elected officials as well as physicians.

6.4.11 Discussion: Voter Information Statement Authors by State

As mentioned previously, Arizona and Oregon had the most variety in terms of statement authors and number of statements both in support and opposition. These two states were also unique in that they considered both ballot measures to legalize as well as measures to restrict previous drug ballot measures and those to reinforce or enhance current drug control laws. Interestingly, the same types of authors wrote voter information statements for the measures as for the counter-measures. Both Oregon and Utah considered Property Protection Acts in 2000, with Oregon being notable for its opposition statement authors. Representatives of state and national animal protection rights and humane societies were a surprising group to see on the voter statements. One would have expected statements from law enforcement in opposition. Utah also did not include statements from law enforcement in opposition but rather an elected official, which was surprising. California's Proposition 200 in 1996 featured national and international

organizations as authors, which suggests the significance of the ballot measure. California has long been considered a testing ground for policy change and is watched by other states and the media, which is likely what drew outside interest. The same types of authors appeared across states with no other notable patterns or trends. The next section shifts focus to the strategies and arguments employed in the voter information statements.

6.5 Issue Framing Strategies Employed Across Voter Statements

In analyzing problems, Stone (2002) says we need to address the various ways in which problems are defined. According to Stone (2002:23), the language of policy is “full of metaphors” as this section demonstrates. The voter information statements used a number of issue framing devices to shape the drug issue, with the predominant approaches discussed in this section: stories, numbers and facts often in combination with stories, and metaphors and symbolic representation. The section then discusses patterns in issue framing strategies by state. Appendix H provides the categorization of issue framing strategies for each statement.

6.5.1 Stories in Voter Information Statements

Stone (2002:134) states that “stories are so useful in politics because their drama is emotionally compelling and sometimes blinding.” Testimonials were the most common type of story across the voter information statements. Policy narratives focusing on decline and helplessness and control were found in both support and opposition statements. Following a discussion of the use of testimonials, which was the primary story strategy, this section focuses on the story strategies used by those supporting and those opposing the drug policy ballot measures considered at the state level over the past decade.

6.5.1.1 Testimonials

The types of testimonials appearing are provided in Table 6-12. There were 28 testimonials in support of legalization, with the majority (16) from patients or cancer survivors and physicians and nurses attesting to the medical benefits of marijuana and appealing to voters’ compassion. These 16 are synecdoches offered as “‘typical instances’ or ‘prototypical cases’ of a larger problem” (Stone 2002: 145). Eleven testimonials by judges, political officials and others involved in law enforcement attacked the status quo as

a costly failure. Testimonials were most likely to be used for ballot measures seeking to legalize marijuana for medical purposes and for measures defining the drug problem as a treatment issue. In addition, the petitioner in Oregon's 2000 Property Protection Act provided a testimonial in support as did the former head of the forfeiture commission in the state. The petitioner shared his personal horror story of how he as an innocent property owner lost his personal life savings. The second testimonial was of firsthand experience with the misuse and abuse of forfeiture laws by law enforcement. Eight testimonials appeared across the opposition statements, with more than half raising concerns about the sponsors' intent to legalize drugs and the dangers inherent in legalization. The remaining testimonials supporting the status quo focused on the benefits of current forfeiture laws. Testimonials opposing legalization and supporting current drug laws were found primarily in statements related to medical use and forfeiture measures.

The types of testimonials varied by ballot measure topic but generally did not change over time. The Oregon Property Protection Act of 2000 featured the most varied testimonials, ranging from neighbors testifying that current forfeiture laws had allowed them to prevent a drug dealer from returning to their neighborhood, to testimonials about how forfeiture laws reduced incidences of driving under the influence, to those from animal welfare organizations attesting to the need to maintain current law to ensure animal safety. Testimonials focusing on efficiency were used to promote treatment vs. incarceration measures, while security claims—the claim that if patients did not receive marijuana they would suffer—and emotional appeals to compassion were used to garner support for medical use measures, and equity and liberty appeals argued against current forfeiture laws. Testimonials in opposition provided a worldview that children and public safety would be at risk if medical use and other measures were supported.

Stone (2002) contends that just as important as what is present is what is not. In the case of the testimonials in opposition, I was surprised by the lack of emotional appeals from parents or local and state prevention groups. There was only one testimonial from a parent and one from an anti-drug activist in opposition. Only one ballot measure featured a statement by a recovering addict and that was a statement in opposition to rather than in support of legalization, which was unexpected. There was no clear pattern in terms of opposition testimonials over time. The testimonials were primarily used to establish the

legitimacy of the arguments and voter statement authors—that is, implicitly because of their firsthand knowledge or experience, they may be perceived as being more credible or having more authority than other voter statement authors. As discussed by Stone (2002:28), the testimonial authors provide information on the groups they belong to in an effort to appeal to a range of interests.

Table 6-12. Types of Testimonials Used in Voter Information Statements, 1996-2004	
Representatives of interests on the dangers of drugs and legalizers intent	
Support	Opposition
20az02:10: mother of four: "...if you want to encourage children to use drugs vote for it."	5az98:5: anti-drug activist knowledge of legalization goal 5az98:10: business leaders testimonial of dangers and costs to workplace 270404:4opp: patient testimonial concerned about dishonest caregivers and legalizers' intent
Patient and former patient testimonials and testimonials by medical providers of medical benefits	
Support	Opposition
10OR98:1,7; 27or04:9: patients/caregivers testimonial of benefits; 27or04:6: quadriplegic 20az02:4, 11; 21az02:4: cancer survivor 2ca961; 10or98:4,5; 11wa98:1; 27or04:5, 7,8, 10: physicians and/or health care professionals testimonial	MS patients; 27or04:1
Recovering addict	Opposition: 10or98:2opp
Judge and former political and law enforcement testimonials of failure of current way and high costs of current approach	
Support	Opposition
1az96: 1,2, 4,5 ,6 20az02:1,2,5,6 9or98:3:former governor who supported earlier decriminalization legislation	
Individuals' personal experience with forfeiture laws	
Support	Opposition
18or00:1 personal story of lost lifesavings; 4: prior chair of forfeiture committee, 6con	18or00:3: testimonial of how current law has helped animals 6: protected neighborhood; 8: reduces drunk driving

6.5.1.2 Stories in Opposition Statements

Causal stories were primarily used by those opposing the ballot measures. Implicit across the vast majority of opposition statements was a story of conspiracy and blame. The story characterized sponsors as deceptive and using the measures to legalize all drugs, endangering youth and public safety. The explicit stories appearing in ballot measure

opposition statements are provided in Table 6-13. The opposition statements rarely addressed specific provisions of the ballot measures but invoked fear regarding the impact of the measures on particular interests. There were 41 explicit stories across the voter opposition statements. One-third of the opposition statements explicitly defined the measures as a conspiracy by legalizers to “open the door” to legalization. These arguments were used to oppose medical use measures and to oppose measures seeking to make possession and personal use eligible for probation, parole, and/or treatment rather than incarceration.

Table 6-13. Types of Stories Used in Voter Opposition Statements
Change-is-only illusion
Won't "magically eliminate crime and make neighborhoods safer but will lead to situation like Amsterdam"; "stumbling over stoned heroin addicts on city's sidewalks": 20az02: 19 Cites research to tell story of valid treatments available and this seeks to replace sound and effective therapies (marinol) with a mythological substitute" 10or98:2opp; 10or98:4; Will not make tough laws but only make current laws unenforceable: 3wa97
Conspiracy
"Sponsors attempting to deceive voters by evoking images of compassion for policy options that are not compassionate": 4ak98opp1, 2ca961,2opp, 10or983,6; 27or041opp, 5az9815opp "Measure not compassionate—deceptive by sponsors":10or98:6 "Fact that 1996 measure supported by drug legalization advocates proves it's a smokescreen—they aren't telling the truth and are mischaracterizing measure": 20az02:4, 9,10 Story of Stroup using medical marijuana as a red herring to get a good name: 10or98: 1opp
Synecdoche:
Threat of drug abuse and how it will destroy lives: 20az02: 17 "Legalization would send wrong message and put safety at risk; can't afford to gamble with kids lives": 20az02:18; 2ca96:2opp; 10or98:10 "Don't want neighbors growing pot for whole family; kids could get street drugs in name of medicine, could lead to increased use, school dropouts": 10or98:5opp; "Possession of street narcotics would be a crime without punishment; will let those convicted of certain rapes out of prison": 3wa97opp "Will lead to guilty drug dealer keeping money and increase wealth of international traffickers"; "will create cottage industry for medical marijuana recommendations" :20az02:1,2,5,6,7,8, 12, 13 opp "Alternative fuels programs cost millions—this will do same; lead to lawsuits, higher tax bills, state sued for supplying marijuana no matter what the cost": 20az02:3 "Dangerous offenders to be set free and can't be sent to jail no matter what": 14ca002opp; "will lead to fly by night halfway houses, send wrong message to kids and lead to high cos": 14ca003opp "Nightmare of drug users thumbing noses at the court and continuing to abuse drugs making drug problem worse": 14ca001opp Drug dealers carrying guns won't be penalized: 16ma00:1opp; Story of how safe, livable communities will be risked, dangerous: 10or981 Would create "tax-hungry government entity: 1az96: 1opp "Would prevent law enforcement from doing their job negatively impact lot of groups: workplace, schools, kids": 10or983opp Law places "sleeper chokehold on forfeiture that would benefit all offenders not just those for marijuana possession": 20az02:13 "Will undermine FDA's system": 10or98:3opp

Five statements explicitly refuted ballot measure arguments that the current situation would change for the better if drug laws were changed. This change-is-only-an-illusion story line included claims that current laws would become unenforceable. In opposing medical use of marijuana in Oregon in 1998, two voter statements said marinol and other medications were already available and defined marijuana as a “mythological substitute.”

Opposition statements often framed the ballot measures as part of a larger conspiracy to legalize or attacked the measures as proposing change that was only an illusion. In opposing Arizona’s 2002 measure to extend and expand Proposition 200 and in opposing Washington’s Initiative 685, statements argued in reality the drug problem would not improve and might worsen. Twenty-four of the opposition statements used synecdoches, emphasizing one aspect of the problem. Horror stories highlighting unintended or intended consequences were a key story strategy. Twelve focused on public safety and youth being placed in danger. Several focused on potential negative consequences: drug dealers carrying guns would not be penalized; the law would create a new “tax-hungry government entity”; the costs would outweigh any benefits; forfeiture for all crimes would be prohibited; law enforcement would be unable to enforce other drug laws; and the state would become a haven for drug traffickers. Stories used in statements opposing Arizona’s 2002 measure to expand Proposition 200 focused on how “murderous organized drug gangs flush with cash,” “drug importers,” “kingpin and cocaine dealers,” “methamphetamine dealers,” and “large, long-time convicted drug dealers” would be attracted to the state and make it a haven for drugs. A story of a hypothetical dealer and how he would benefit was used in one opposition statement, while another provided a horror story of how a chief drug prosecutor for the state had been targeted for assassination.

A statement in opposition to medical use of marijuana in Oregon in 1998 opposed the measure on the grounds the law would undermine FDA authority. Themes across story types included concerns about public safety and intended or unintended consequences to youth and the public as a result of efforts to legalize. The story strategies often overlapped and were used in combination to provide a vivid narrative story. There were no distinctive patterns by year or by state, other than the states with the most ballot measures had the most support statements and employed a broad range of storylines. The stories not found

are also of interest. There were no stories from parents who had lost children to drug abuse; nor were there testimonials from treatment providers or from emergency room physicians or coroners about the addictive nature and negative health consequences of illicit drugs.

6.5.1.3 Stories in Support Statements

Forty-six explicit stories appear across support statements, with the majority being tales of conspiracy on the part of the government with 18, followed by 17 stories of stymied progress, 13 of decline, and eight of helplessness and control (see Table 6-14). Stories of decline, helplessness and control, and stymied progress often were used in combination. Sometimes implicit and explicit stories of government conspiracy were included. In the conspiracy stories, the government was frequently accused of preventing those suffering from obtaining relief and as conspiring to misuse forfeiture laws and funds. Throughout, the government and politicians were portrayed as the intentional or unintentional obstacles to change. The general story line began with the government, which may have had good or bad intentions (conspiracy) in maintaining current drug control policy. The status quo approach was defined as having made some progress but not enough (stymied progress) or making the drug problem worse (decline). The perception portrayed was often that nothing could be done to improve the problem, but now better options were available to control the drug problem (helplessness and control). Several support statements defined the problem as politicians doing wrong, particularly for the Arizona measures seeking to reinstate and enforce aspects of Arizona's Proposition 200 and for Oregon's medical use measure in 1998. As shown in Table 6-14, synecdoches were used to portray innocent property owners as helpless victims, representing the problem in five statements supporting the Oregon Property Protection Act of 2000, the statement supporting Utah's measure by the same name, and Massachusetts' 2000 drug treatment and forfeiture act. However, the ballot measures also were characterized as the solution for regaining control over law enforcement.

Stories of decline were used to explain that prisons and incarceration had worsened the drug problem, resulting in violent offenders and addicted prisoners being released into society unless action was taken. The drug problem was portrayed as no longer improving in tales of stymied progress to advocate for a "better way," just as the pain and suffering of

patients no longer improving was used to advocate for allowing medical use of marijuana as a “better way.”

Not surprisingly, Arizona with a high number of ballot measures and statements had the most voter support statements and variety of story strategies. No changes or patterns were found by year with the argument strategies primarily tied to the ballot topic.

Table 6-14. Types of Stories Used in Voter Support Statements
<p>Conspiracy</p> <p>Current way of more patients suffering will lead to more people on deaths door and only then will people stop making decisions on “reflexive ideology and political correctness not compassion” 10or98:2, 3 (politics/government at fault) Story of marijuana benefits known for decades even federal government prescribed at one point and is now tying hands of doctors for political reasons: 1az96:3;20az02:1,3,4; 10or98:7; 5az98:1,2,4,6 Voters approved measures that legislature changed:20az02:3,4,6 Need to stop politicians: 26mt04 Government is purposely misusing forfeiture laws/funds, need to stop them:18or00:1,2,5</p>
<p>Story of decline</p> <p>Current failed policy gives power to government over medical decisions should be between patients and doctor: 3wa97:1 (government at fault) Story of unjust current law leading to suffering, tragic injustice, need to stand up to status quo as wrong 10or98:4 Drug use in prison leads to addicted prisoners being returned to society; can fix: 1az96:7 Criminalization doesn’t work, there has been no improvement: 1az96:1,2,4,5 More violent criminals are being set free because we have low-level offenders in prison; will get worse unless we act; current way costing too much/does not work: 1az96: 4, 5, 7;3wa97;14ca00:1;23oh02</p>
<p>Stymied progress</p> <p>“Harder drugs already available, we can help people, and we know this will help”: 10or98:3 This story is “simply” about allowing use of a medicine without fear of arrest and incarceration...physician story of seeing vomiting controlled and other conditions described: 10or98:5 “For centuries marijuana allowed as medicine, journals backs it up, government unreasonable, we need to provide reasonable safe harbor”: 10or98:8; 20az02:7 (government at fault) People are in pain and suffering, now we can do something about it by authorizing medical use: 1az96:3;20az02:1;2ca96:1;10or98:4,5 Current policy well-intentioned but unintended consequences; system is broken; needs to be fixed: 20az02:5,7 Prisons overcrowded, this isn’t free ride, but is smart will help them like helps in AZ : 14ca001 Incarceration doesn’t work for all offenses, there’s a better way:1az96:4,5,6;25ak04:1;21az02:3</p>
<p>Helplessness and control</p> <p>Patient wrongly charged w/felony for marijuana would be protected from arrest and prosecution 27or04:15 (hidden story; synecdoche) Innocent property owners are being punished; government is out of control; but now we can change the laws; story of you losing car if son or daughter arrested: 16ma00; 18or00:6,7,9,10,11;19ut00</p>

6.5.2 Numbers and Facts

Numbers and facts also frequently appeared in the voter information statements. They were used as norms and symbols to imply a need for action and to establish a particular level as a norm. Numbers and facts often work like metaphors. Categorizing or analogizing “in metaphors is to select one feature of something, assert a likeness on the basis of the feature, and ignore all other features” (Stone 2002: 165). While ambiguous symbols were found in the voter statements, ambiguity or lack of detail in numbers and facts selected by the voter information statements authors was another issue framing strategy. This discussion focuses on the numerical strategies used by authors of support and opposition statements as they are “a key aspect of manipulation” (Stone 2002: 183). A review of the voter information statements led me to identify the following numerical strategies:

- Use of research, statistics, and facts
- Categorization and number of interests supporting or opposing a measure, including use of voter polls, status of federal and state laws, and organizations’ support or opposition
- Costs, normally a component of the first category, are so predominant that they warranted separate consideration.

6.5.2.1 Research, Statistics, and Facts

As Table 6-15 shows, a range of research findings, statistics, and facts were used both in support and opposition to the various ballot measures related to illegal drugs. In voter information statements for measures proposing drug treatment instead of incarceration, four cited studies showing that treatment was more effective than incarceration, including a 1994 Rand study on treatment effectiveness. Another four statements cited treatment completion statistics and the number of low-level drug offenders in prison as further evidence of the need to replace incarceration with treatment. One of the support statements cited an HBO documentary showing young prisoners making methamphetamine in prison to illustrate the failure of the current approach. Implicit was that prison would not result in less drug use and would not treat or address substance use.

Forfeiture statistics were used in nine support statements for three ballot measures to make the case that policy change was warranted.

Voter information statements related to medical use were the most likely to cite research studies. Studies, facts, and prevalence related to illegal drugs were cited 89 times in voter information statements. Washington and Arizona were the only two states that considered ballot measures that explicitly referenced Schedule I drugs. Ten statements in support of limits to Proposition 200 in 1998 referenced the list of 100 Schedule I drugs and/or listed many of the most dangerous drugs, including heroin, PCP, LSD, and cocaine but omitted references to marijuana. The intent was likely to have been to draw voters' attention to the range of drugs whose use would be allowed by the measure as most voters do not know which drugs are Schedule I drugs. Nineteen voter statements cited studies finding marijuana and/or other Schedule I drugs as harmful, unsafe, or not effective, while 14 cited evidence of documented scientific or medical benefit. Four Oregon opposition statements in 1998 stated marijuana was more potent than previously thought and that access to marijuana would increase (implicit was that non-medical, not just medical access would increase). Twenty-two voter information statements cited youth drug use statistics, projected changes in youth drug use, and statistics on use in other states that have changed their drug policy as the consequence of passing measures allowing medical use of marijuana, treatment instead of incarceration, and decriminalization of marijuana. Ten voter statements considered the FDA responsible for quality assurance of drugs to establish its role as the authority for drug safety to buttress opposing the ballot measures.

Nine statements in support of forfeiture reform used historical data on forfeitures to suggest that too much money was under the purview of law enforcement and the need to apply more controls. Only two opposition statements related to forfeiture relied on statistics, and those were used in Oregon's Property Protection Act to reinforce the need to maintain the status quo by citing statistics on the reduction in DUI's attributed to forfeiture reform.

As has been found previously, due to the high number of ballot measures and voter statements, Arizona is highly represented in the use of data to support claims made in voter information statements, followed by Oregon. Medical use statements made the greatest

use of research and statistics. There were no notable changes over time, since the same types of statistics and studies and in many cases the same data were used.

Table 6-15. Research, Statistics, and Facts Used in Voter Information Statements	
Studies/statistics show treatment more effective	
Support: 1az96:2, 4; 20az02:6	Opposition: 21az02:3; 9or98:7con
Studies/organizations show marijuana/Schedule I drugs not safe, or effective, or show that it is harmful, will make people sicker, smoked marijuana dangerous	
Support: 5az98:1, 5, 15,16; 9or98:1,2,3; 20az02: 4, 5,17	Opposition: 2ca96:1,2; 10or98:1, 4, 6, 9; 11wa981con; 26mt04:1; 27or04:2con; 25ak04:1
List of Schedule I drugs	
Support: 5az98:2,3,4,5,6,7,8,9,10,11 for measure limit	
Marijuana/Schedule I drugs	
Support: Studies show documented scientific/medical benefit 1az96:3; 4ak98:1 ; 10or98:2, 3, 4,8 11wa98:1; 26mto4:1 27or04:5, 7, 8,10; 13ak00:1 25ak04:1	Opposition: Marijuana more potent, access will increase 10or98:3, 7; 9or98:1,2
Youth drug use increased/will increase/use stats; youth in danger/public safety threatened; or not	
Support: 1az96:6 (use increased under status quo); 5az98:6, 7,8,9,12,14; 13ak00:1	Opposition: 10or98:3, 4, 5, 6,8, 11 4ak98:1; 14ca00:1; 26mt04:1; 27or04: 1; 9or98:1, 3;13ak00:1' 25ak04:1;20az02:2
DUI stats	Opposition: 18or00: 7,9 con
Substitute like marinol available	2ca96: 2con;4ak98:1con; 10or98:1, 4 con; 26mt04:1 con; 27or04:2 con
FDA safeguards ensure quality, safety, dosage	
Support:	Opposition: 3wa97:1 con; 4ak98:1con; 10or98:10con 26mt04:1con 27or04: 1 con 5az98:7,8,13, 18 for 6az98:1con
HBO documentary on making meth in prison Support: 1az96:1	
Forfeiture stats Support: 18or00:3,5, 6, 8, 9, 10; 19ut00:1;9or98:1; 2	
1994 rand study on treatment effectiveness Support: 1az96:2	
number and/or % offenders in prison for drug offenses: Support: 1az96:1;23oh021	
treatment completion rates	20az02:2

6.5.2.2 Interests

Numbers are often used to generate support by attempting to stimulate demand for change. Measuring also is used to create alliances. There were 39 specific instances in which the opinion, views, or rulings of groups and institutions were cited across voter information statements (see Table 6-16). Of the 39 mentions, only 15 were not related to Arizona ballot measures. Court rulings were cited in two voter information statements to establish the authority or legitimacy of the ballot measures. The implicit message was that voters should support the court rulings. Two statements in opposition to medical use measures cited similar federal government opposition and the illegality of the proposed ballot measures as the rationale for opposing them. Similarly, two statements cited other states' approval of legalization of medical use. The rationale was likely that if two states had approved such a measure, it must be sound or reasonable.

The 1998 and 2002 Arizona measures, which addressed aspects of the 1996 Proposition 200, primarily cited the 1996 vote and the legislature's subsequent nullification of parts of the measure to persuade voters to uphold the 1996 vote and overturn the actions of the state legislature. The explicit message in the voter statements was that the legislature was wrong to "thwart the will of the people" and that the 1996 vote showed that voters knew what they were doing when they approved the measure; implicit is that any actions taken since then were wrong. Polls were cited in eight voter information statements largely in support of legalization, including a Harvard University poll of doctors supporting medical use in 1996 and an ambiguous reference to a national poll finding that the "drug war is a failure" in 2002.

Table 6- 16. References to Interests Across Voter Information Statements	Support	Opposition
Organizations/decisionmakers/groups	1	4
Court ruling against government	2	
Still illegal under federal law	0	2
Harvard poll of cancer doctors approve medical marijuana	1	0
Voter polls support or oppose use	5	2
Legislature or voters previously approved/disapproved	25	3
Other states approved	2	0
National poll that most think drug war is a failure	1	0

6.5.2.3 Costs

Costs and projected cost savings were one of the two rationales provided for mandating treatment rather than incarceration and a key justification for two decriminalization measures. Statements in support of treatment versus incarceration measures considered in Arizona in 1996, Washington in 1997, California in 2000, and Ohio in 2002, as well as decriminalization measures considered in Alaska in 2000 and 2004 focused on cost considerations (see Table 6-17). Additional Arizona measures considered in 1998 and 2002 had opposition and support statements that focused on costs. Arguments in support of the Utah and Oregon Property Protection Acts in 2000 stated that current law wasted money. This finding was used to oppose making marijuana possession a misdemeanor in Oregon in 1998, and to support legalization in Alaska in 2004, Arizona in 1996 and 2002, and Washington in 1997. A statement in support of Oregon's 2004 measure, which would have expanded provisions of the 1998 medical use act, cited the proposed changes as leading to reductions in criminal justice costs because other drugs would not be needed. The statement suggested that if marijuana were more widely available drug offenders who would use other drugs would increase marijuana use or become marijuana users and thus not be arrested, leading to reduced incarceration costs. This is a rather unique argument and is the only statement to overtly promote increased use of marijuana for other than medical purposes.

While drug use creates a wide range of costs to society, the voter information statements emphasized a comparison of the costs of incarceration to those of treatment to indicate potential cost savings. It is unclear what assumptions were made, or why other costs related to drug use were not considered. Two legislative analyses of potential cost savings were cited in California in 2000 and Oregon in 2004. A cost-effectiveness report mandated by Proposition 200 was used to argue for expanding the proposition in 2002. While 10 statements opposing legalization said the policy alternative proposed would not save money, they provided no supporting evidence. Alaska's and South Dakota's decriminalization measures said legalization would be an economic boon but lacked real-world evidence. Similarly, a statement supporting Oregon's Measure 33 in 2004 suggested that creating dispensaries would increase state revenues.

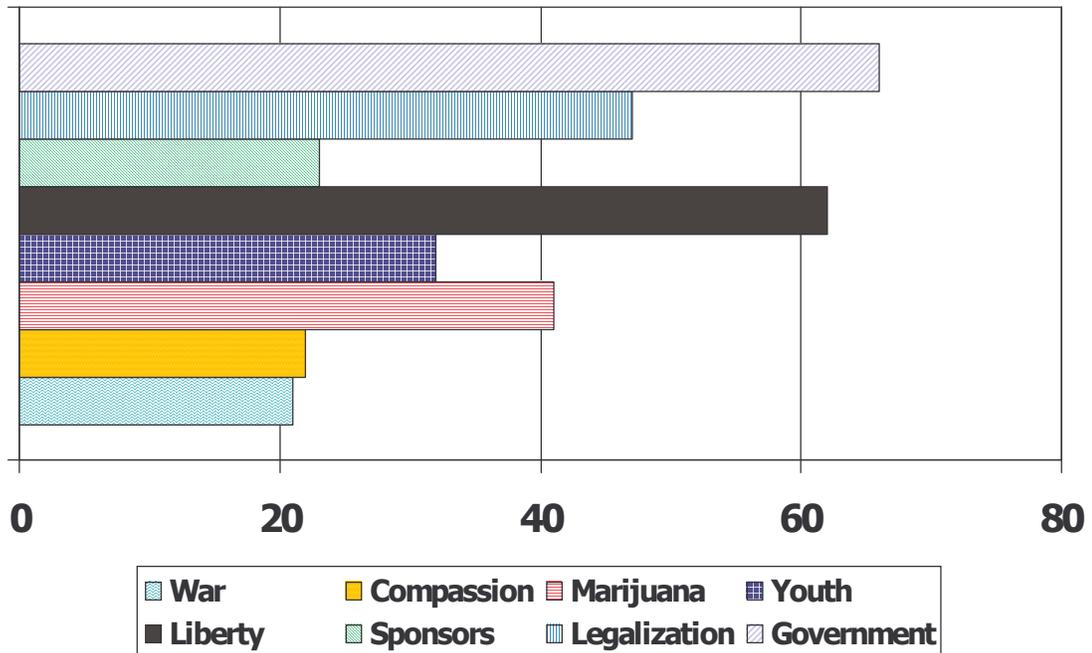
	Support	Opposition
High costs of incarceration	4	0
Treatment costs are lower than costs of incarceration	6	0
Status quo wastes money	11	0
Money can be better spent	6	0
Will pay for itself	4	0
Cost savings (support); More costly (opposition) cost savings/benefits	16	9
leg. analysis of cost savings	2	0
report on AZ supreme court cost savings of treatment	2	0
CA government study of potential cost savings	1	0
Will save money on criminal justice costs because won't need other drugs	1	0

6.5.3 Metaphors and Symbolic Representation

In addition, symbolic representation was used in the voter information statements to influence voters. Metaphors and political or other symbols are used to convey images of “good and bad, right and wrong, suffering and relief” (Stone: 2002:156). Symbolic devices are used to shape perceptions in the voter information statements. Figure 6-3 shows the references to the eight most common issue framing strategies in the voter information statements. Each of these issue-framing strategies was referenced in more than 20 voter information statements and is discussed in this section. Themes appearing in less than 20 statements are not addressed.

As shown in Figure 6-3, war was referenced in more than 20 voter information statements. War, or more specifically the “war on drugs,” was used by those seeking policy change not only to attack the premise that drugs were a problem to be attacked but also to turn the rhetoric around to raise issues of failure. Whereas the “war on poverty” and “war on drugs” several decades ago were used as rallying cries, the rhetoric appears to have been co-opted by those supporting legalization and given negative connotations.

Figure 6-3. Primary Issue Framing Strategies in Voter Information Statements



Raising the need for compassion was employed in 22 statements primarily to support medical use of marijuana and other Schedule I drugs. Marijuana and other Schedule I drugs and how they should be defined was another key issue-framing strategy in more than 40 voter information statements. Marijuana was framed both positively and negatively, to suit the needs of the voter information statement authors. While some voter support statements used the metaphor of medicine to describe marijuana, voter opposition statements referred to marijuana as unsafe and medical use measures as “cruel hoaxes.”

A key strategy for individuals and groups opposing various legalization measures was to raise concern about the messages that would be sent to youth and the fear that youth access to marijuana would increase and subsequently youth use. The need to protect youth and their futures from the threat of illegal drugs was a common organizing strategy in opposition statements. “Youth” was used as a symbol for maintaining the status quo by those opposing legalization.

Another useful issue framing strategy was the representation of “liberty,” which served to expand the scope of conflict appealing to groups that may not normally have had

an interest in drug control policy. Symbols related to liberty were the second most common feature appearing in 63 statements. Appeals to liberty appeared across measure topics and years.

Among those opposing legalization, the second most common strategy was to attack the sponsors of the various measures. While most measure sponsor organizations included the state as part of their name, many were actually state affiliate organizations funded by national legalization organizations. Thus, a common attack was to raise concern about people from out of state with “big money” seeking to make state policy decisions. It was interesting that an argument for legalization by initiative sponsors was that the residents and citizens of the state should have the freedom to set drug policy and knew better than the federal government, while those opposing legalization frequently cited federal authority as something that should not be questioned.

Legalization was primarily referenced pejoratively by authors of statements opposing changes to current drug control policy with 47 mentions. Statements in support of legalization challenged the opposition’s use of the term and frequently sought to refute the charge that particular measures sought legalization. Referring to legalization and characterizing measures as legalization was a key issue framing strategy in opposition statements. “Government” was primarily used as a negative symbol representing high cost, waste, and political decision-making. Since the measures tried to change state and federal drug control policy, it is not surprising that references to government predominated with 66 references.

However, it should be noted that cost-effectiveness was another strategy but it only applied to the treatment measures, which were far fewer in number than the medical use measures. The use of cost-effectiveness arguments is likely to expand from treatment measures to other types of measures in the future as states are increasingly facing budget constraints that are projected to increase rather than decrease over time. Each of the eight issue framing strategies is discussed in greater detail below.

6.5.3.1 Use of Metaphor of War to Define the Drug Problem

The metaphor of a “war on drugs” is usually credited to President Nixon. According to Stone (2002:154), “the metaphor of war is ingrained in policy language.” As discussed in Stone (2002) and Sharp (1994), use of the term war implies survival is at stake and that there is an enemy to be attacked and controlled. In the case of the war on drugs, voter information statements invoked the public safety of “our nation,” particularly of youth, to oppose drug policy change. Interestingly, while voter information statements opposing policy change discussed public safety and the need to protect children, neighborhoods, and communities, they did not use the term war. Rather, the metaphor of the war on drugs was a symbol of failure used by those seeking a new approach to the drug problem. War and related terms (see Table 6-18) appeared in 21 voter statements in Arizona and California alone, specifically in statements supporting the 1996 Arizona multi-subject measure, opposing measures that would limit that measure, and supporting a measure to reinforce the 1996 act. All of these measures featured virtually the same authors. References to the war on drugs also were used in statements related to California’s 2000 measure to mandate treatment vs. incarceration.

Concepts related to war were used to refer pejoratively to the status quo approach to the drug problem in measures seeking to reframe the drug problem, not as an issue in which drug users and suppliers are the enemy but as a disease, medical and public health issue in which drug users are patients or victims in need of medicine and treatment. References to war were not used by those supporting the status quo, who were more likely to frame the drug problem as a public safety issue. A statement in support of Arizona’s Proposition 200 in 1996 embraced the term war and stated if the drug problem really was a war then a new strategy or court martial of the general leading the war was needed (at the time the White House Drug Policy Office was headed by former four-star general Barry McCaffrey) and that Arizonans believed the war on drugs was being lost. A statement in support of Arizona’s 2002 measure to extend Proposition 200 called for moving the “fight to a proper battleground” and then defined drug use as a disease. The metaphor of war also was used to symbolize the status quo’s “attack or war on personal freedoms.” The implicit storyline behind the use of the term war was that it is an inappropriate metaphor and approach to illegal drugs.

war	fight, fighting	attack	war zone
assassination	stupidities of war	casualties of war	battleground
drug war	war on personal freedoms	harm	Invade
war on drugs	weapons	battle	cripple
destroy		threat	destruction
tear apart	fragment	devastation	

6.5.3.2 Drug Treatment and Drug Use Defined as an Issue of Compassion

The drug problem was defined as an issue of compassion in statements on medical use of marijuana. Twenty voter statements in support and opposition to medical marijuana in Alaska, Arizona, California, Oregon, Montana, and Washington specifically used the term “compassion.” The references to compassion are provided in Table 6-19, with ten statements using it in support and ten in opposition.

As the table shows, statements in support of Oregon’s medical use measures were the most likely to call on citizens to be compassionate. Voter information statements supporting legalization of marijuana defined the policy option as “compassionate.” Those supporting medical use prefaced a large number of terms with “compassion,” including law, doctors, nurses, people, and care. One statement repeatedly referred to the ballot measure as a “matter of compassion.”

It is possible that the repeated references to compassion at the expense of other arguments provided an opportunity for authors of voter information statements opposing the medical use measures. Statements opposing reframing the drug issue from one of public safety to one of compassion accused supporters of trying to deceive voters by exploiting their sense of compassion. Opposition statements often reframed the issue as whether voters wanted drug dealers to go unpunished. They invoked images of drug dealers and argued that citizens and the current law were compassionate, implying change was not needed. The statements opposing California’s Proposition 215 refuted that the measure was compassionate, arguing that because marijuana was not medicine it would make people more sick. The Oregon opposition statements took offense at suggesting that Oregon citizens were not compassionate in an attack on the initiative sponsors.

Table 6-19. Terms Related to Compassion Appearing in Voter Information Statements	
Support Statements	
10or984	nurses are compassionate healers; [status quo about] politics not compassion
11wa98	matter of compassion (repeated)
27or042	vote for compassion
27or0403	compassionate law
27or045	compassionate doctors support measure
27or048	compassionate nurses support measure; testimonial guided by compassion, intelligence, acceptance
27or049	compassionate people of OR (so should vote yes)
27or0412	compassionate care and medicine are available in OR
5az982 (vote no)	reasoned compassionate new approach to failed drug policy vote with... compassion and common sense
6az982	with common sense and compassion...severely and terminally ill should get relief
Opposition Statements	
4ak98	attempt to deceive voters into thinking it's compassion don't be fooled. not about compassion about protecting those who grow, transport, distribute, sell, possess, or use marijuana
5az9815	deceptive measure; not about compassion
2ca961	not compassionate (sick will get sicker) because drug will make people sicker
2ca962	exploits public compassion of sick to legalize and legitimize widespread use of marijuana
10or983	Playing upon compassion for serious illness
10or986	OR is compassionate...story of OR voters as compassionate but this not about compassionate
10or9811	not a question of compassion—we care deeply
27or0412	compassionate care and medicine are available in OR
27or041	exploitation of public and compassion for suffering sick people
26mt04	creative attempt by those who seek legalization to label use as compassionate in medical settings

6.5.3.3 The Use of Metaphors and Other Issue Framing Strategies Related to Marijuana and Other Schedule I Drugs

Measures focusing on decriminalization and medical use of marijuana and other drugs included specific references to and definitions of marijuana, as shown in Table 6-20. Just as notable as when marijuana was referenced was when it was not. Statements in opposition to Washington's 1997 act on Schedule I drugs did not mention marijuana but listed heroin, LSD, and crack to illustrate the types of drugs that would be legal to use under the ballot measure. Arizona's Proposition 203 in 2002 was characterized in opposition statements as a "blatant attempt to legalize Schedule I drugs." Montana's 2004 medical use opposition statement characterized marijuana as a Schedule I drug in an effort

to substantiate the dangerous nature of the drug. In 1998, the People Have Spoken, the group opposing Proposition 300, unsuccessfully asked a court to remove references to heroin, LSD, and PCP in the voter pamphlet. A county judge agreed the official description of the initiative in the pamphlet was an “advocacy document” because it only listed the drugs associated with the most serious abuse. State lawmakers appealed the decision to the state Supreme Court, which ruled that the council's official analysis of Proposition 300 could be used for the publicity pamphlet. Fifteen statements in opposition to Arizona’s 1998 ballot measure to reinstate medical use listed the various Schedule I drugs. In Arizona, opposition statements in 1998 referred to “medical crude marijuana and all Schedule I drugs.”

The “positive” or neutral definitions and attributes of marijuana appeared in more than 20 voter information statements. Voter information statements in support used the analogy of marijuana as medicine, as treatment, and as beneficial. Marijuana also was characterized as not a cure for cancer but a treatment. Twenty voter opposition statements for the same measures challenged the supporters’ definition of marijuana. Most notably, “medicine” and “medical” in quotation marks preceded any reference to medical marijuana in opponent statements serving to refute that marijuana is medicine. In contrast, the two Alaska measures seeking legalization of marijuana featured voter information statements equating marijuana to coffee or tobacco. Similarly, other voter information statements in support of legalization focused on marijuana as “all natural” and “therapeutic.”

The voter information statements in opposition attacked marijuana as being natural by selectively focusing on the primary route of administration and labeling marijuana as “smoked marijuana” as well as invoked images of marijuana as a dangerous illegal drug by referring to marijuana using slang terms such as “hand-rolled joints,” “home-grown pot,” and “crude street drug.” The other primary opposition strategy was to ignore the specifics of the ballot measure and reframe the problem as one of legalization of all drugs and to shift focus to the ballot measure sponsors. The voter information statements for measures seeking legalization did not define marijuana as medicine and helpful but instead as natural, harmless, and more like alcohol or tobacco. This difference in characterization reflected two different ideological approaches to illegal drugs—one that illegal drug use

should not be subject to any regulation and the other that illegal drugs should be taxed like other products. These symbols limited the scope of conflict to specific interests, which may have been the intent since only a majority vote was required for the ballot measures.

Table 6-20. References to Marijuana in Voter Information Statements and Definitions and Attributes
Marijuana Definitions and Attributes by Statements Supporting Status Quo
Emphasis on illegal drug aspects: debilitating illegal drug, high potential for abuse, addictive, illicit drug, legally designated Schedule I drug, harmful, dangerous, potent, references to marijuana as “street grass” and “pot”, hemp=THC, crude street drug; legalized hemp=legalized marijuana
Marijuana not medicine: addictive, unproved medicine, harms health and other aspects, bad medicine, “medicinal”, ineffective, cruel hoax, no medicinal value, unsafe, smoking and smoked preceding word marijuana
Marijuana lacking quality and purity controls of medicine: home grown pot, hand rolled joints not medicine, smoked marijuana, =hemp=THC, crude street drug, not useful
Marijuana potential impact on youth: gateway drug, widely used, not benign, bad
Marijuana Definitions and Attributes by Statements Supporting Legalization
Marijuana=medicine, medical therapy, medical drug, prescribed
As type of treatment=effective; beneficial effects; effectively delivered; safe, therapeutic, and scientifically proven; positive results
Not a major public safety or health issue; no more addictive than coffee or tobacco
Marijuana=hemp, natural, economic boon
As treatment=helps terminally ill

6.5.3.4 The Future and Safety and Youth as the Symbol for the Status Quo

Thirteen ballot measures and a total of 32 ballot statements evoked youth, children, grandchildren, kids, and/or schools. The references to youth in voter statements are shown in Table 6-21. Perhaps the most intriguing argument used in the statements opposing medical use, drug treatment vs. incarceration, and decriminalization was that approving any of the measures would “send the wrong message to youth,” specifically calling for sending a strong symbolic message to youth.

Table 6-21. References to Children and Youth in Voter Information Statements
Kids at risk: get drugs at school; will increase/decrease youth use; children will be next victims; even kids could smoke marijuana; teen drug use stats; number one treatment cause for kids
Protect/save youth: Need to care about kids; keep youth drug free; can't gamble kids future; future of our children
Consequences: robs children's minds; ravaging youth; youth access will increase
Messages/ actions: wrong, false, conflicting message to youth kids; must tell kids drugs are bad; learn same lesson as our children; keep drugs out of school/street
Other: child's play for drug dealer to keep money; child molesters stay on street; we play w/your kids (police officer to get legitimacy)
Voter statements: 4Ak981 opp; 13Ak001opp, 13ak001sup; 1AZ961, 5, 6; 25ak041;5az989, 1,2, 13, 14, 15, 17; 20az022, 5, 10,12,17,`8; 21az023; 2ca96; 14ca002, 3; 9or982 counter, 3; 10or982, 3, 5, 6, 7, 11;18or005

Statements in support of the various ballot measures did not use arguments about youth, with the exception of the Alaska decriminalization measures which cited statistics that use had not increased in areas where decriminalization was the policy. The statement said Dutch research showed drug use did not increase among youth following decriminalization of marijuana.

One voter statement authored by the representative of the Oregon Police Chiefs for Safer Communities in opposing asset forfeiture reform invoked “we play with your kids” to establish his legitimacy as a policy actor and to suggest that the “out-of-state backers” did not have youth’s or Oregon’s best interests at heart. The drug problem was defined as a youth issue by those opposing legalization of marijuana for medical purposes. Six statements specifically argued that passing the measures “would send the wrong message to youth.” Opposing legalization, ten voter statements cited youth drug use rates from school surveys and one noted that marijuana was the number one reason for youth entering treatment. Most of the statements focused on votes against the measures as a symbol for youth that drug use is wrong.

In order to rally voters around the idea that the status quo meant protecting “our children,” opposition statements used statistics on youth drug use to illustrate decline---drug use had increased, the drug problem was getting worse, youth were being ravaged, children would be our next victims, and youth were being sent conflicting messages—and that the problem would get worse—children’s minds would be robbed, even kids would be able to get marijuana, youth would have access to street drugs, the future of our

children was at stake. That is, voter information statements supporting the status quo made the normative leap from youth as description to a prescription to protect them. “Youth” were used to highlight the threat of drugs and the need for protection, and to imply and create a potential horror story of youth having increased access to drugs and youth drug use rates rising. The consequences of illegal drug use for youth were listed in several opposition statements as a message strategy. Fears regarding children were also invoked in a voter statement opposing treatment instead of incarceration as allowing “child molesters to stay on the street.”

6.5.3.5 The Drug Problem Redefined as an Issue of Liberty

Symbols like liberty and freedom serve to expand the scope of conflict appealing to a wide range of interests. Symbols of freedom and fundamental rights were used to support decriminalization, asset forfeiture reform, medical use of marijuana and other Schedule I drugs, and to oppose measures seeking to limit Arizona’s 1996 Proposition 200. Terms and phrases relating to liberty are listed in Table 6-22 below.

Table 6-22. References to Liberty and Related Concepts in Voter Information Statements
Restore integrity to democracy; democracy; treasured heritage of democracy; test of democracy; rule of law:24sd02:1; 5az98:8;6az98opp:3,6
Respect will of people; will of people; honor will of people; no right to thwart vote/will; uphold vote; right thing to do Let people decide; court of public decision; public has final word; people are sovereign: 5az98:1,2,3,4,5,6,7,8;6az98opp:1,2,3,4,5,6,7,8;21az02:4,5,2,3
Keep home a castle; not a totalitarian country; war on personal freedoms 4 th amendment protect:9or98:opp:1,12
Fundamental principle of American justice is rule of law; fairness of judiciary; restore due process, Justice, fair hearing Injustice of law; reinforce right to fair trial : :18or00:2,3,4,5,6,7,8,11; 19ut001;24sd02:1
Cherished doctrine of America (innocent until proven guilty); Innocent until proven guilty, Basic American values upon which country founded; foundations of American jurisprudence turned upside down; 200 years of checks and balances; system honored for centuries: 18or00:2,3,4,5,6,7,8,11;19ut001;24sd021 opp
Privacy rights 10or98:5 (implicit); patient’s bill of rights: 27or04:7,8,13 privacy right and personal choice: 27or04:3;25ak04:1
Right to protection/safety: 27or04:1, 4
Empower our courts:21az02:1,2,3, 4
Innocent until proven guilty 18or001,2,3,4,5,,6,7,10,11

“Innocent until proven guilty” was invoked in 11 of 12 statements supporting asset forfeiture reform in Oregon’s 2000 measure, including as a cherished doctrine of America. Keeping one’s home a castle and portraying the status quo as a “war on personal freedom” were among the arguments for opposing Oregon’s 1998 measure to recriminalize marijuana. “Rights” were raised in a number of initiatives: right to safe use, right to use marijuana, patients’ bill of rights, and privacy rights. “Privacy” rights were raised in support of Oregon’s 2004, Oregon’s 1998, and Alaska’s 2000 measures as well as in opposition to the 1998 Oregon initiative seeking to recriminalize marijuana. The sponsor and voter statement author of the 2002 South Dakota measure allowing arguments in court that drug laws were unfair did not mention drugs but instead defined the measure as “reinforcing the right to fair trial,” “fundamental principle of American justice is the rule of law,” “200 years of checks and balances...a system that has been honored for centuries,” and “fairness of the judiciary.”

Both the Oregon and Utah Property Protection Acts characterized the ballot measures not as changing drug policy but as protecting fundamental rights, raising the Constitution and democracy as symbols.

In 1998, Arizona faced a measure that sought to limit medical use allowed for in the state’s 1996 initiative and a measure to reinstate the treatment provisions that had been altered by the state legislature. In 2002, Arizona voted both on a measure to reinforce and strengthen provisions of the 1996 act and one to require jail time if treatment was refused or failed. All of the voter information statements for the 2002 measure used the same arguments as in 1998. This is not surprising given the sponsors and authors were virtually the same for all of the Arizona measures. These authors rarely argued the merits of the measures but instead focused on the state having “no right to thwart the will of the people,” and the importance of honoring the “will of the people”; they defined the measures as “tests of democracy” to ensure the “treasured heritage of democracy” and the “sovereignty of the people.” The support statements contended that the passage of the 1996 measure and vote margin demonstrated the “people have spoken” and the need to punish legislators who had turned the “foundations of America jurisprudence upside down.” Not coincidentally, the sponsor of the 1996 Arizona initiative and subsequent measures in the state is called the

“People Have Spoken,” and the sponsor organization paid the \$300 fee for voter statements for most of the voter support statement authors.

Redefining the drug issue as a privacy right and personal choice rights was a calculated strategy to attract libertarians and others who oppose government regulation. The statements supporting reinstatement of provisions of Arizona’s Proposition 200 and opposing the countermeasures in Arizona and Oregon reframed the debate as one of democracy and fairness that the 1996 vote should be upheld and even extended.

6.5.3.6 Sponsors as Symbols of Deception and Legalization

An interesting strategy primarily used to undermine the credibility and legitimacy of initiative sponsors and to call into question their motives and goals was labeling of sponsors. Voter statements for ballot measures between 1996 and 2004 attacked initiative sponsors as shown in Table 6-23. The opponents often defined the sponsors as seeking “legalization.” The characterization of the sponsors and supporters did not change over time or by state.

California’s Proposition 215 in 1996 was termed a “scam concocted and financed by drug legalization advocates”; similarly the 2000 California measure by the same sponsors was characterized as “funded by three wealthy out of state backers whose ultimate goal is to legalize drugs.” Those opposing legalization in Arizona spoke of the need in 1998 and 2002 to “[kick] drug pushers out of Arizona for good” and not let “out of state promoters continue to use Arizona to advance a pro-legalization agenda.” Similarly, opponents of Oregon’s 1998 measure in their voter statements defined the issue as one of legalization by outsiders, stating that most of the money for the initiative campaign came from out of state marijuana promoters who paid for the measure to make marijuana more available and to eliminate restrictions. Eight voter opposition statements to Oregon’s 1998 measure attacked the initiative sponsors.

As shown in Table 6-23, sponsors were called “lying snake-oil salesman wanting to get high” and “outsiders who are spending millions.” In 2000, a similar strategy was used in Utah with an initiative opponent characterizing the measure as a “backdoor attempt to legalize” and accusing the sponsors of fabricating horror stories on property loss to the press to gain support; another voter statement referred to the sponsors as “out of state drug

legalization groups.” In 2002, Arizona opponents colorfully referred to “wealthy out of state backers have given voters a Trojan horse filled with social experiments they don’t want you to know about.”

In 2004, three statements opposing Oregon’s medical marijuana measure and one opposing Montana’s medical marijuana measure referred to the initiatives as “cynical frauds and cruel hoaxes.” In Montana, the measure was labeled a “creative attempt ...to use the label of compassion...be concerned about legalization advocates efforts to confuse the public.” In Oregon an opponent criticized a “thinly disguised effort to legalize use of marijuana without any scientific justification.” Another opponent of the Oregon measure called the measure a legalization bill and said the sponsors should have stated it that way so that voters would know what they were voting on. Whereas initiative sponsors and the legalization movement were frequently mentioned, supporting statements mentioned the “opposition” only twice. In Alaska in 2000, supporters stated that the opposition focused on minor issues, and Ohio’s 2002 treatment measure refuted opponents’ claim that the measure was about legalization.

Table 6-23. References to Ballot Measure Sponsors and Supporters in Voter Information Statements	
sponsors “exploit public compassion of sick to legalize and legitimize widespread use of marijuana in California”: opposition statement (CA96)	..”it’s a scam concocted and financed by drug legalization advocates” :2ca96 opp 1
attempt to “pry open door to drug legalization”: 4ak 98 med opp1 opposition focuses on minor issues: 13akoo, sup 1	“out-of-state drug legalization groups” :19ut00, 19 backdoor attempt to legalize” refutes myths: sponsors “sued press to spread fabricated stories” of property loss: 19ut00,19 opp
placed on ballot by those seeking to legalize; deceptive; not about compassion; it’s about legalizing dangerous street drugs:5az98, 15	this is “two-prong effort to send message to illegal drug dealers and millionaire dope pushers that citizens of Arizona won’t tolerate their attempts to turn state into playground for their ill-gotten gains by letting criminal drug addicts off the hook” :5az98, 1)
devious objective of wealthy individuals and special interest drug legalization groups spent millions to influence ballot props that take a major step toward legalization...if for medical use why bypass FDA? send message drugs are destructive:5az98, 3	would-be legalizers in AZ under banner of people have spoken..in fact people have not spoken: speak now-speak loud and clear: say no to legalization of drugs; vocal advocate on legalization quotes as key is medical access...then we’ll get full legalization as drug movement moves through dif states, we see step-wise escalation of strategies aimed at full legalization: WA, OR, FL 5az98,2
see through smokescreen used by pro-	drug problem solutions shouldn’t be confined to

legalization advocates”; personal story of anti-drug activist recognizing this is “pro-drug legalization lobby agenda” influencing those who wish to “medicalize”; horror story of testing of laetril at the time of the furor “we have assumed proportions that no other quack medicine has assumed before” :5az98, 5	federal government, state legislature, special interest groups, or wealthy who can spend millions on initiative: encourage people to speak out; send a message of where we stand:5az98, 9; “don’t let the out of state pro legalization movement make its mark in OR”:10or98, 10
don’t let out of state promoters continue to use Arizona to advance a pro-legalization agenda; impacts all:5az98, 17	kick drug pushers out of Arizona for good:5az98, 19; opponents claim it legalizers, it doesn’t: 23oh02, 1
Proposition opponents want illicit drug legalization for everyone; protect yourself, family and community:5az98: 1	most of money for the measure came from outside OR—as OR police we are your neighbors, play w/your kids live in community (implies we know better): 18or0, 5
“out-of-state promoters try to advance pro-legalization stance; should not tolerate this:5az98,16	“Supports...majority of money is from out of state drug legalization advocates (per C&E reports they will be spending millions money and in the process destroying lives and families” :10or98, 11
written by criminal defense lawyer and funded by three wealthy out of state backers whose ultimate goal is to legalize drugs:14ca00 3	says it’s a legalization bill and should have been stated that way so OR could vote:(27or04, 4
it’s about legalization of dangerous drug by out-of-state backers who want legalization and who are “playing upon OR compassion for serious illness” :10or98:3	“wealthy out of state backers have given voters a Trojan horse filled w/social experiments they don’t want you to know about”:20AZ02, 9
“Out of state marijuana promoters” paid for measure to make marijuana more avail. And eliminate all restrictions:10or98, 4	“thinly disguised effort to legalize use of marijuana without any scientific justification”:27or04, 2
“tell those out of state millionaires that OR won’t stand for legalizing dangerous drugs”; Quotes Stroup on using issue as red herring to give marijuana a good name and NORML national director as key to legalizing being medical access and it’s a scam that will lead to full legalization:10or98, 1	creative attempts by those who seek legalization to label use as “compassionate” in medical settings; be concerned about legalization advocates’ efforts to confuse public”:26MT04
init sponsor: “lying” “snake oil salesman wanting to get high”:10or98 1	DuPont: cynical fraud and cruel hoax: 27or 04:1

6.5.3.7 Use of “Legalization” To Characterize All Ballot Measures

The characterization of ballot measure sponsors as “legalizers” brings attention to perhaps the most important term used across ballot measures. Very few statements supporting legalization measures used the word “legal.” A few medical marijuana measures

used “legalize” but always followed by “for medical purposes or use.” A review of all of the voter information statements in support of ballot measures suggests a move away from characterizing any measure as one of “legalization.” Rather than characterizing drugs as legal or illegal, the measures characterized the primary issue as freedom/liberty, privacy right, medicine, public health issue, disease, improved approach (i.e., treatment vs. incarceration), or compassion.

At the heart of the debate on psychoactive substances is whether they should be controlled or illegal or whether they should be uncontrolled or subject to no restrictions. However, by indirectly funding ballot measures or establishing state-based organizations to sponsor particular state ballot measures, national actors supporting legalization have sought to distance themselves from the term “legalization.” A voter information statement opposing Oregon’s 1998 measure to legalize marijuana quoted former head of NORML stating that medical marijuana was being used as a “red herring to give marijuana a good name” and NORML saying that legalizing for medical access was a “scam that will lead to full legalization.”

The authors of statements supporting the status quo repeatedly characterized the measures as legalization. The not so hidden story in most opposition statements was the assumption that voters did not support legalization. As listed in Table 6-24, the arguments of those characterizing the measures as legalization fall under the following themes:

- Threaten youth, neighborhoods, state, and community
- Send the wrong message
- Lay the groundwork for legalization being a “smokescreen” and “stalking horse for legalization”
- Would make dangerous drugs available and be a “plague.”

As shown in Table 6-24, statements in support of Measure 33 in Oregon in 2004 were the principal voter statements in support of legalization that reference legalization. These statements sought to distinguish the measure from legalization by referencing the physician prescription requirements. Similarly, the statement in support of Montana’s Initiative 148 in 2004 argued that the measure was not legalization in disguise.

Table 6-24. References to Legalization in Voter Information Statements
placed on ballot by those seeking to legalize; deceptive; not about compassion; it is about legalizing dangerous street drugs; pry open door to legalization Opposition statements: 4*
vote yes: broadly legalizing marijuana not in best interest of patients and society bad health care policy Opposition statement: 1
see through smokescreen used by pro-legalization advocates; personal story of anti-drug activist recognizing this is pro-drug legalization lobby agenda influencing those who wish to medicalize; horror story of testing of laetril at the time of the furor; we have assumed proportions that no other quack medicine has assumed before; purpose is to legalize; legalized hemp = legalized marijuana; it's a scam concocted and financed by drug legalization advocates; oppose legalization and medicalization of so-called sched 1 drugs; oppose legalization bec need medical and scientific testing we now have; this is "bait and switch" tactic that claims to be toughon drugs but legalizes; smokescreen to real intent of init: has effect of legalizing drugs; tell those out of state millionaires that OR won't stand for legalizing dangerous drugs; red herring to give marijuana a good name... key to legalizing being medical access...it's a scam that will lead to full legalization; thinly disguised effort to legalize use of marijuana without any medically scientific justification Opposition statements: 8
using medical issue to further legalization cause Opposition statement:1
legalize marijuana; can care for suffering without legalizing.... tell those out of state millionaires that OR won't stand for legalizing dangerous drugs; it's about legalization of dangerous drug; legalizing marijuana is bad for Oregon Opposition statements: 4
backdoor attempt to legalize Opposition statements: 1
story of 96 init supported by millions by drug legalization advocates and I said it was a smokescreen; advances legalization objectives Opposition statements: 1
blatant attempt to legalize; is this what we want for future of our state...future of our children? Opposition statements: 1
laying the groundwork for eventual efforts to legalize drugs Opposition statements: 1
tobacco and alcohol already have cost us much why would we want to legalize another dangerous drug Opposition statement: 1
do we want marijuana legalized this way Opposition statement: 1
here we go again: legalize under banner of medical purposes; one of greatest threats of this plague is destruction of families; need honest debate w/good and accurate information Opposition statement: 1
legalization of marijuana sends harmful and very wrong message Opposition statement: 1
legalization will not magically eliminate crime and make neighborhoods safer Opposition statement: 1
don't let the out of state pro legalization movement make its mark in Oregon Opposition statement: 1
legalizes an addictive drug Opposition statement: 1
title: legalized hemp is legalized marijuana

Opposition statement: 1
other countries and states have legalized industrial hemp and marijuana; why does this go further? because no reason to punish responsible adults for using marijuana in the privacy of their own homes
Support statement: 1
marijuana is legally designated Schedule I
Opposition statement: 1
not legalization in disguise
Support statement: 1
stalking horse for legalization of marijuana:
Opposition statements: 3
protects AZ from legalization of drugs like heroin
Opposition statements: 2
remains illegal at fed level and should stay that way 25ak04 decrim:1
says it's a legalization bill and should have been stated that way so OR could vote
allows use legally and safely.. not legalization because must have debilitating condition, see doctor, get card
Support statements: 2
*Indicates number of statements including these quotes

6.5.3.8 Positive and Negative Characterizations of Government

In addition to initiative sponsors, “legalizers,” and opponents, the voter information statements referenced the federal government, the “state,” state government, and specific agencies on occasion. The voter statements thus provide insight into the actors’ names in ballot measures and their roles as well as the degree to which they were perceived as legitimate. Because the state ballot measures addressing drug policy primarily challenged federal policy and jurisdiction regarding illegal drugs, references to the federal government are of particular interest. As Table 6-25 shows, more than twenty voter information statements referenced the federal government. Between 1996 and 2004, the federal government was presented as protecting citizens and determining whether substances should remain illegal and represented as the legitimate authority for such designations. There were no noticeable changes over time in the characterization of the federal government. In challenging the status quo approach to the drug problem, the author of a voter statement supporting use of marijuana for medical purposes in Oregon in 1998 stated that voting for the measure would “send a message” to the federal government. This strategy disingenuously suggested that the measure would not pass and/or was put on the ballot for symbolic reasons. Two additional voter statements for the same measure disparaged the federal government, with one characterizing current law as irrational and the other calling federal law an “obstacle.” The implied message of the voter statements

promoting the measures was that the federal government was arbitrary and unreasonable. Two 2004 marijuana initiatives (Montana and Oregon) referred to the federal government's previous history of providing medical marijuana as evidence that the federal government was being unreasonable and unfair. Thus, the only discernible change over time was the introduction of the federal government's own marijuana program as evidence that prohibitions on medical marijuana by the federal government were illegal.

Table 6-25. References to the Federal Government in Voter Information Statements
Support Statement References
federal intransigence that marijuana can't be prescribed
send message to federal government
federal government irrational in that allows morphine but not this
federal government history of providing medical marijuana cited--federal government shouldn't be playing favorites
drug problem solutions shouldn't be confined to fed government
federal government program allowed more marijuana than this does
DEA/federal law is obstacle
won't necessarily guarantee farmers can produce hemp because federal government prohibits unlicensed production of both hemp and marijuana
Opposition Statement References
federal law prohibits a distribution system encouraging illicit drug use
state government in opposition with federal government
illegal at federal level and should stay that way
dangerous according to federal government
federal government has them on a list (federal government says drugs are dangerous)
federal government protects citizens from unsafe substances
would encourage people to break fed law and possess and cultivate

Only two federal agencies were specifically named in voter statements: the Food and Drug Administration (FDA) and the Drug Enforcement Administration (DEA). Thirteen voter statements for eight different ballot measures directly referenced the FDA. Opponents of measures to allow use of marijuana for medical purposes in 1996, 1997, 1998, and 2004 all cited lack of FDA approval and its implicitly and explicitly stated safeguards on quality, dosage, and delivery to communicate that marijuana must be unsafe. Implicit was that FDA was universally accepted as not being subject to political motivations and was the legitimate authority for determining safety and conducting the scientific testing and procedural safeguards that the statement authors said marijuana sponsors sought to override. Three voter statements referenced the DEA. A DEA judge was referred to in a voter statement supporting the 1996 Arizona ballot measure as

testament that marijuana was “one of the safest therapeutically active substances know to man.” The statement refuted the sponsor’s voter statement that growing hemp would be an “economic boon,” citing DEA’s requirements for a 12-foot fence with infrared surveillance around a test hemp plot. A statement in support of Oregon’s 1998 medical marijuana measure called DEA/federal law an obstacle but noted that Oregon’s voters could decide the law.

“Government” was cited in five statements in support of Oregon’s 2000 measure to reform asset seizure and forfeiture laws. The Oregon voter statements accused the state government of abusing its powers and state government (including state government lawyers) of profiting from lack of oversight and accountability. Voter statements in support of Oregon’s 1998 measure said the government was being arbitrary for political reasons. Federal statistics were referenced in two Arizona voter statements for and against its 1996 ballot measure. “Government bureaucrats and political appointees” were accused of “tying the hands” of physicians unjustly and called on to “stop treating responsible adults as children” in statements supporting the 1996 Arizona measure. While a voter statement in support of the 1996 Arizona measure suggested it would reduce the size of government, an opposing statement argued a “tax hungry government entity” would be created. A measure opposing Arizona’s 2002 measure to establish a state system for marijuana distribution suggested the measure would make the state a magnet for “government-provided pot.” Using the term “pot” rather than “marijuana” probably was purposeful, employing slang representative of a “street drug” and prefacing it with “government-provided” to suggest the absurdity or inappropriateness of the concept.

Table 6-26. References to “Government” in Voter Information Statements
References in Support Statements
“government should stop treating responsible adults as children”
“government show[s] youth drug use has increased several hundred percent in past few years...in federal prison, 61 percent are in for drug offenses”
“make government more efficient; personal experience with Reagan administration was to reduce size of government..this is one way to do that”
“no place for government to tread; physicians doctors by government edict tying hands by government bureaucrats and political appointees”
[accuses government of] “political reasons to arbitrarily outlaw the medical use of marijuana; government should change marijuana status “
“need to place burden of proof on government; remind government that law applies to them too; keen eye on government; government shouldn’t get a dime, unless they can prove the crime; reporting is a secret affair for government agencies; money government lawyers make

(implicit is that government has taken in lot of money, makes lot of money and doesn't report on it; horror stories of innocent losing life savings while police and government lawyers profit; compares police to IRS auditors getting commission for deductions they throw out “
References in Opposition Statements
“magnet for every drug user in America, with government provided pot for anyone who has an in with a doctor”
“creates a tax-hungry government entity”

State government was referenced in eight voter statements (see Table 6-27). State statistics were used as legitimate and unbiased data sources to support positions. Voter statements supporting medical marijuana in Alaska in 1998, Arizona in 2002, and Oregon in 2004 all referred to “state” distribution systems to add legitimacy and comfort voters that marijuana distribution would be regulated and controlled, attempting to allay fears of illicit drug markets and dealers. In opposing Arizona’s 2002 medical marijuana measure and Oregon’s 2004 measure, voter statements said new large government bureaucracies would be created. In Arizona, the image of the Department of Public Safety as one of the largest drug suppliers in the state was raised to suggest the measure was not good policy and that the police who seek to protect should not become drug suppliers, with “drug suppliers” as a synonym for drug dealers, stirring up negative images.

While there are multiple references to state distribution systems, little detail was provided as to how such systems actually might have operated—such as whether the state would grow marijuana and how it would package the drug. One voter statement gave a horror story of the unintended consequences of the increased liability the state of Arizona would face as a marijuana distributor. The statement provided hypothetical stories of persons committing crimes while under the influence of marijuana, such as driving, and then the victims and persons committing the crimes suing the state because it provided the marijuana. Only one statement in Alaska in 2000 raised the fact that legalizing marijuana would put the state in opposition with the federal government as a reason to vote against the measure. Opponents of Arizona’s 1998 ballot measure to reinstate elements of the 1996 act attacked the state legislature’s and state and federal government’s roles in drug policy, stating that people should speak out to oppose the policy changes proposed. This is intriguing, since the argument was most frequently used by ballot measure supporters as the rationale for voting for the measures.

Table 6-27. References to State Government in Voter Information Statements
Support Statement References
CA government study found seven to one cost savings; state's impartial legislative analyst says Proposition 36 can save millions a year
state law helps over 10,000 patients and 1,400 doctors participate
establish a state registration and identification system state regulated supply=increase patient access state health dept and creation of a "system" state supervised system; mandates state medical marijuana program requires state distribution of marijuana
state Supreme Court report on treatment finishes and cost savings 1998 voter statement fiscal impact statement savings and reality of surplus; will add to general fund
drug problem solutions shouldn't be confined to federal government, state legislature, special interest groups, or wealthy who can spend millions on initiatives: encourage people to speak out
Opposition Statement References
puts state in opposition w/federal government
state can be sued if people using state supplied marijuana commit a crime; would force state to distribute marijuana regardless of fiscal impact
bad public policy because creates several new government bureaucracies
requires state to spend almost \$250 mil. over seven years just for offender treatment

6.5.4 Issue Framing Strategies Used in Voter Information Statements by State

Stone (2002: 156) says symbolic representation is fundamental to all discourse, with “images of good and bad, right and wrong, and suffering and relief” serving as “instruments in the struggle over public policy.” This section discusses the patterns found across voter information statements in support of and opposition to particular ballot measures in each state.

6.5.4.1 Alaska

The same message strategies were employed in voter information statements in Alaska over time. Marijuana was defined as of medical benefit and as relief in voter information statements in support of Measure 8 in 1998 and Measure 9 in 2000. The 1998 ballot measure was characterized as a policy of compassion with the implicit message that current drug control policy was the opposite. A story of helplessness about the suffering of chemotherapy patients was provided along with a story of control—now there was a “commonsense measure” that had “strict controls” that would “help thousands.” The

opposition statements similar to other states attacked the measure as an attempt to deceive voters into thinking it was about compassion when it was an attempt “to pry open the door to drug legalization.”

The 1998, 2000, and 2004 ballot measures were characterized in opposition statements as legalization. Implicit was the metaphor of war—that legalizers were traitors and did not share “our values.” Marijuana was defined as a debilitating illegal drug and a gateway drug. Current drug policy was characterized as convincing youth that “doing drugs is bad,” with the voter statements appealing to Alaskan citizens as the interest or group with a stake in the issue. A vote no was characterized in part as a symbolic gesture; to vote yes would “send the wrong message to youth.”

The 2000 Alaska measure to legalize hemp and marijuana is the only measure to include a support statement that defined marijuana prohibition as racism and “politics.” The 2000 and 2004 voter statements in support of legalizing hemp focused on the potential economic benefits of hemp and the need to protect the right to privacy as the rationales for supporting the ballot measure. In 2000, the storyline theme in support was potential cost savings from not “arresting, peaceful, otherwise law-abiding citizens who exercise their constitutionally protected right to use marijuana.” The scope of conflict was expanded through a focus on the economics of hemp and by framing current drug control policy as racism. The strategy in 2000 and 2004 was to focus on privacy rights and potential economic opportunity and to characterize the current laws as racist and “political.” The support statement for the 2004 decriminalization measure that was defeated in Alaska characterized current drug law as leading to a black market for profits that was dangerous for youth. The statement also sought to expand the scope of conflict by raising the constitutionally protected right to use marijuana.

The opposition arguments for the 2000 and 2004 measures were virtually identical. Both emphasized that the measures would legalize all aspects of marijuana cultivation including trafficking, making Alaska a “drug haven.” The 2004 Alaska opposition statement emphasizes that marijuana was not medicine but was illicit and not benign. The statement included a narrative story about the 1998 measure allowing use of marijuana for medical purposes and cited the 2000 rejection of widespread legalization as the rationale for not seriously considering this measure. The statement was one of the few to invoke the

federal government, citing the fact that marijuana was illegal at the federal level and should stay that way. As facts or supports, the author cited increases in youth marijuana use in the state when marijuana was previously decriminalized and the addictive aspects of marijuana.

6.5.4.2 Arizona

The message strategies were very consistent over time as were the voter information statement authors. Those who opposed the countermeasures used the same arguments, in some cases verbatim, emphasizing the need to teach the legislature and politicians a lesson that they could not “thwart the will of the people” and to “send a message” and let the people’s vote stand. Authors of statements in support of the various legalization measures used the metaphor of the drug war and the term prohibition repeatedly and pejoratively to indicate the current approach was a failure and the wrong approach. The authors redefined the drug problem as a cancer, not a criminal problem, but a medical problem. The statements authored by physicians and other health care professionals primarily redefined the drug problem as a cancer or medical problem and the policy proposals as sensible and reasonable. In supporting the treatment measures and removal of incarceration as a sanction, cost savings and the freeing up of prison space for violent offenders were the primary arguments. The statements in support of treatment also repeatedly called on the need to break the cycle of crime.

In contrast, the opposition relied primarily on three message strategies: (1) the measures were red herrings for legalization and would make the state a haven for drug users; (2) children were threatened in a variety of ways: being sent the wrong message, encouraged to use drugs, and placed at risk; and (3) Schedule I drugs were dangerous, not medicine, and included heroin and LSD—and would make the state a war zone. Several statements also raised the issue of marijuana and other Schedule I drugs not being medicine and being unsafe; these statements were primarily authored by health care professionals.

6.5.4.3 California

The two California measures are unique in that they featured some of the most varied actors, including international and national actors as statement authors. The arguments used in the support and opposition statements of Proposition 215 reflect the

types of arguments used across the medical use measures. The support statement was a testimonial from several physicians that marijuana was a help but not a cure for cancer, not magic but relief; it defined marijuana as medicine. This characterization advocated for physicians rather than government to be allowed to determine what is “capable of relieving suffering.” Rather than cite scientific studies, the numerical strategy employed was to report the results of a physician survey that showed support for prescribing marijuana to patients if legal and California poll data. As discussed by Stone (2002), measurement can be used to create norms. In this case the counting was used to create political support to demonstrate that there were communities that supported the measure, legitimizing or suggesting to voters it was politically acceptable to support the ballot measure. The second support statement provided two personal stories: one of a San Francisco district attorney that law enforcement did not want to send cancer patients to jail, and the story of a cancer patient recounting how the pill form of marijuana (marinol) did not help him but how marijuana saved his life. Here, the numerical strategy was that numbers do not speak for themselves and that sometimes it is more powerful for one or two persons to speak and frame the issue from their perspective. The strategy is to appeal to bystander groups—to appeal to their more public spirited side as Stone suggests (2002).

The two opposition statements defined marijuana as a dangerous, harmful drug that would “make people sicker.” They asked the rhetorical question: “home grown pot, hand rolled cigarettes: does this sound like medicine?” and raised concerns about marijuana having unregulated quality, purity, and strength, directly attacking the characterization of marijuana as a help or medicine. Both opposition statements attacked the sponsors as “exploiting public compassion of the sick to legalize and legitimize the widespread use of marijuana in California,” employing scare tactics that marijuana could be used for any condition and “even children could smoke pot.”

California’s Proposition 36 in 2000, which focused on treatment instead of incarceration, featured some of the same arguments as used in 1996. The opposition statements were basically the same. However, the two statements in support characterized the drug war as a failure and too costly and ineffective. They defined treatment instead of jail as more effective, “smart drug policy” and as “a smart alternative to the drug war.” Potential cost savings, including estimated cost savings from Arizona’s Proposition 200,

were the primary supports for the measure. The statement authors also referred to the measure as “not a free ride” but including strict rules to appeal to those concerned about public safety. In contrast, the opposition statements repeatedly used the term “offender” and provided a horror story of “date rape drug offenders and prior convictions for sex crimes like rape and child molesting stay on the street.” All three opposition statements suggested that law enforcement would lose a key tool for combating illegal drugs with “drug users...thumbing their noses at the court and continuing to abuse drugs.” A narrative story of unintended consequences, of “fly by night” for profit treatment; programs that were nothing more than cassette tapes or internet chat rooms could lead to fraud and less effective treatment also were suggested as possibilities. Similar to the Arizona opposition statements, one of the statements raised out-of-state funding by Soros, Sperling, and Lewis as “proof” the measure sought to legalize illegal drugs. The opposition statements also said a no vote would prevent the wrong message from being sent to youth.

6.5.4.4 Massachusetts

In 2000, Massachusetts voters did not approve a measure mandating treatment vs. incarceration and changing forfeiture laws. The support statement used the same general argument as in the Arizona and Ohio treatment measures, emphasizing that too many drug dependent offenders were inappropriately sent to prison. Forfeiture law change was framed as protecting innocent property owners—the same strategy employed in the other two Property Protection Acts considered in 2000. Just as in the statements supporting these measures, a story was told about “your son or daughter” being arrested while driving “your car”; if that happened, “you would lose your car and the police would keep the proceeds from selling your car.” The story had the added strategic benefit of showing how current law affected people. Since this story could have affected any citizen, it likely served to create interest. Opponents to the measure characterized it as a “slippery slope”—a major step in decriminalizing drug dealing that would nullify laws that penalized drug dealers who carried guns. This might have appealed to individuals who supported control and those with a particular interest in public safety.

6.5.4.5 Montana

Similar to those for other medical use measures, the support statement for Initiative 148 defined marijuana as medicine and the measure as providing the necessary protection for patients. The statement told a story of politicians arresting and jailing patients and the measure as a remedy to fix a problem caused by politicians. The opposition statement defined marijuana as a legally designated Schedule I drug that was dangerous, had a high potential for abuse, and was unsafe, ineffective, and of no medical value. In this case, counting or listing the negatives was used to reinforce the message that marijuana was not medicine. Similar to previous statements, legalization as the goal and the slippery slope of the measure leading to decreased perceptions of harm and increases in use were raised. Facts about the lack of FDA approval, dangers of smoked marijuana, and availability of marinol were presented to suggest the measure was inappropriate and unnecessary.

6.5.4.6 Ohio

The Ohio treatment instead of incarceration initiative in 2002 used the same message strategies of similar measures, attacking the status quo as leading to ruined lives and the drug war as a failure. The statement stated politicians were “trying to cover up failure to fix the war on drugs.” This is rather ambiguous but perhaps the author wanted to imply that characterizing the measure as legalizing was a way to deflect attention from the fact that the current approach had been ineffective. Similar to other measures, numbers were used strategically. The facts regarding those in prison were ambiguous as it is not clear if these people were charged and convicted of other offenses and having drugs was just one of the many charges; nor does it indicate whether they perhaps were drug dealers who had pled guilty to possession as part of a plea bargain. As discussed previously, the omission of other costs related to drug use makes it difficult to make a cost effectiveness assessment based only on the two costs provided.

A story of physicians, airline pilots, day care workers, and others with sensitive jobs being able to hide their drug history was provided to invoke fears about public safety if the slate were wiped clean for prior drug offenses. The opposing statement did not address treatment at all but focused instead on the substantial investment and continued spending by the state mandated by the proposed measure.

6.5.4.7 Oregon

Oregon's 1998 countermeasure to make possession of one ounce or less of marijuana a misdemeanor included a voter information statement focused on the need to avoid sending a conflicting message to youth. Similar to opposition statements for other legalization measures, student drug use data, research on marijuana as a gateway drug, and the negative health consequences of drug use were used to garner support for the countermeasure. Eleven statements opposed the measure, using a range of problem definition strategies and argumentation tactics that appeared in all of the Oregon voter information statements. The need to protect the 4th Amendment's right to privacy was raised in several statements in order to "keep everyone's home a castle." Half of the statements argued that politicians wanted to spend millions to send a political message and characterized current law as bad and too costly.

The medical use measure considered in 1998 featured eight statements in support and 11 in opposition. Similarly, the 2000 measure had 12 statements in support of the Oregon Property Protection Act while nine opposed it. The same arguments were used in support of these two measures. Marijuana was defined and characterized as medicine in all eight support statements. Testimonials from patients with multiple sclerosis detailing their suffering and how marijuana helped them were used to invoke compassion among voters. In addition, both measures' support statements included stories of physicians and nurses attesting to the potential medical benefits. The problem definition strategies across the support statements were to redefine marijuana as medicine, invoke stories of suffering in order to present the ballot measure as a reasonable measure to appeal to voters' compassion, and use numbers and facts from studies in medical and health care provider statements to bolster the authority of the statement authors that the problem of patient suffering could be fixed by the measure.

All of the opposition statements argued the ballot measure represented legalization (ballot measure as synecdoche). Marijuana was defined as bad medicine, addictive, dangerous, not medicine, and "robbing children of their growing and developing minds." When the term medical was used it was placed in quotation marks.

The predominate story approach used in the opposition statements was to warn of future decline due to legalization and to employ a causal story by attacking the ballot

measure sponsors as aware of the potential effects—to suggest that legalization was what was secretly intended by the actor.

Stone (2002:155) refers to Schattschneider in discussing the use of symbols like privacy and state rights to expand the scope of conflict. Protecting the innocent, ensuring trust, and restoring basic due process were the supporters' rationales for changing policy regarding the seizure and forfeiture of assets related to drug offenses. Multiple horror stories of injustice were provided in 2002 to support the Property Protection Act, including the following perspectives:

- Personal story of initiative sponsor who lost his life savings despite being innocent who admonished “it is too late to help me but not late to help others,” which was quoted in another statement.
- Testimonial from prior chair of asset forfeiture committee who attested to a lack of accountability—the same story of potential abuse and lack of accountability was repeatedly used.
- Hidden story of how the disadvantaged and minorities suffer under the current system because they cannot afford representation.
- Narrative stories of historical lack of reporting and accountability and money taken in which the implicit story was that it was misused.
- A horror story of the police searching “your home” for illegal drugs but finding none were still able to seize “your cash and other valuables.”
- A horror story of a grandmother losing her house if her grandson were arrested for selling marijuana.

All of these stories reinforced the definition of the problem being that the government was out of control and innocent property owners were suffering.

The opposition statements included three by political officials or law enforcement officers attesting to current law having the appropriate safeguards and the proposed changes benefiting drug dealers. Three statements focused on the unintended consequences of the proposed policy with respect to animals. These statements stated that the law incorrectly defined animals as property, which did not reflect how people feel about their pets and how the new law would prevent organizations from helping pets. Cruelty and related terms were used repeatedly in these statements to arouse compassion and reach

out to citizens who owned pets to oppose the measure. Two statements focused on vehicle forfeiture as a “proven” tool that was fair and effective. Both state that current law had reduced DUI’s. Stone (2002:206) discusses how organizations such as MADD have moved beyond moral framing of issues to other targets of responsibility. MADD was one of the voter statement authors, raising concerns about the ability to take “weapons from the hand of repeat offenders.” Fear that forfeiture law changes would cripple law enforcement and facilitate organized crime also was raised. Numerical counting strategies used included DUI statistics and number and characterization of current safeguards in place.

The voter information statement strategies included few new arguments in 2004. The voter information pamphlet for Oregon Measure 33 included fifteen support statements, featuring the same problem definition strategies and authors as those supporting Measure 67 in 1998. Since the measure extended the 1998 initiative to include dispensaries, the voter information statements in support included stories of how most patients were too sick to grow their own marijuana; and the number of 1,413 doctors qualifying patients was used to demonstrate the need for the system. Another statement told the story of a patient who was wrongly charged with a felony for marijuana to demonstrate how out of control current law was and the need for changes to “protect” patients and “prevent taxpayer expenses for arresting and prosecuting patients.” The war on drugs as a failure was used repeatedly, often preceding rationalizing the measure as a reasonable proposal.

Only four statements opposed Measure 33. All argued that the measure was a “cruel hoax,” bad public health and social policy, and a “thinly disguised effort to legalize the use of marijuana without any medically scientific justification.” Even the chief petitioner of the 1998 measure characterized the ballot measure as an attempt to legalize and as dishonest. Interestingly, an opposition statement by the libertarian party stated the proposed policy like current policy violated patient privacy and personal choice. The fact that Oregon had the fifth highest drug use rates was cited along with calculation that the measure would allow 1 ½ joints every hour of every day of the year; opponents also cited increases in drug prevalence in states that allowed medical use of marijuana. The calculation of the allowable amounts is subject to question as there is no standard joint size, although it clearly was useful to create a mental image for voters.

6.5.4.8 South Dakota

South Dakota voters considered two measures in 2002, one by Bob Newland allowing defendants to argue in court that that drug laws were unfair. He provided examples of “bad laws,” such as a parent taking pictures of their child in a bathtub being convicted of child pornography, to show how verdicts can create “hardship, discord, and cynicism.” He argued that it just made “common sense” that people should be able to argue in court against laws they felt were too harsh or unfair. The rebuttal statement author said the rule of law that had been in place for 200 years and had the appropriate checks and balances. The statement also refuted claims that juries could be arbitrary or unfair.

South Dakota also considered a measure to legalize hemp, which included a voter support statement that hemp was a value-added industry with huge earnings potential and related a story of Canadian hemp being trucked by “barely surviving” South Dakota farms on the way to market. In contrast, the opposition statement said the measure was a “stalking horse for legalization,” accusing the sponsor organization of intermingling hemp advocacy with marijuana promotion. Explaining DEA requirements for experimental hemp plots was used to demonstrate that the costs would outweigh any potential benefits. The opposition statement also questioned whether farmers would actually be able to produce hemp since it was prohibited by federal law. These same arguments against hemp appeared in the National Drug Control Strategy discussion in Chapter 4.

6.5.4.9 Utah

Utah’s Property Protection Act featured an information statement of support designed to appeal to as many interests as possible by defining innocent property owners in need of protection as “parents whose kids use cars, homeowners who rent homes, hunters who loan trucks and guns to friends, and business owners whose employees run afoul of the law.” Similar to the other forfeiture reform efforts, the problem was defined as law enforcement abuse of the current law and lack of oversight. The opposition statement used the familiar refrain of the measure being a “backdoor attempt” to legalize by “out-of-state drug legalization groups.” The statement refuted as fabricated stories provided by supporters as to improper property seizure. The primary strategies employed were to focus on the sponsors and to refute the claims of the initiative sponsors.

6.5.4.10 Washington

In 1997, Washington voters defeated the same ballot measure that Arizona voters had approved the previous year. The support statement defined the current approach to illegal drugs as a waste of money, stated the metaphor of war was wrong, and argued that drug abuse was a disease—the same themes recurring across medical use measures. A story of waste and failure was presented, referring to the war on drugs as a failure, wasting millions of dollars, imprisoning thousands whose only crime was addiction, and giving politicians control over medical decisions while drug use had doubled. While one might expect that facts would be provided to back up such claims, the only facts provided were estimated cost savings from treatment that were used in support of Arizona’s Proposition 200.

The opposition statement neither addressed the claims of the support statement nor focused on the specifics of the ballot measure. Instead it argued that the ballot measure was a “smokescreen for legalization.” The primary tactics were to raise concerns about the ambiguity of the ballot measure language as purposely leading to nullification of all current drug laws and to raise concerns about whether Schedule I drugs were equivalent to other prescription drugs.

The 1998 Initiative 692 voter support statements used virtually the same arguments as those employed to support California’s Proposition 215. The support statement for allowing medical use of marijuana defined marijuana as medicine and as a matter of compassion. The story of sitting by the bedsides with patients in pain and suffering and treated as criminals was used to invoke compassion. The opposition statement argued the ballot measure language was too vague and would create too many loopholes allowing widespread marijuana use.

6.6 Conclusions

The voter information statements not only documented the actors involved in state ballot measures related to drug control policy but also permitted tracing the types of actors over time and across states. Interestingly, the characterization of the support and opposition groups paralleled what I had learned from the interviews with White House Drug Policy Office officials. As the administration officials had indicated, those opposing

the ballot measures were a slightly narrower group of actors than those represented in the support statements. Most significantly, despite the rhetoric in opposition voter statements of the need to protect youth and avoid sending the wrong message to them, few prevention, parent, or community organizations were represented in the statements.

Based on the moral tone struck in the national-level rhetoric in Chapter 4, I also had expected that religious groups and organizations would be more heavily represented in the opposition voter statements. Instead, they were more likely to be found in support statements. In the states addressing multiple ballot measures over time with slightly different characterizations of the drug problem, the actors and arguments were rather consistent. In fact, often the same actors and arguments were simply replicated. Both those in support and those in opposition to the ballot measures sought to characterize the central issue as being about rights, power, and rules regardless of whether the problem was being redefined as a disease, a medical issue, an issue of compassion, an issue of equity, or an issue of liberty. In this way, the voter statements were consistent with other aspects of ballot measures examined.

Stone's framework was valuable in that it forced a closer examination of the voter information statements to understand not just the messages but the message strategies. Applying Stone, I identified stories as a key issue framing strategy in both support and opposition statements. Stories, particularly testimonials, were used throughout the ballot measures to provide a vivid picture of the policy arguments as a "contest between competing interests and between weak and strong interests" (Stone 2002: 134). Metaphors and symbolic representation were widely used to appeal to universally held values. It was interesting to see how those supporting legalization have redefined the war on drugs as a failure to be avoided, just as those opposing legalization have framed legalization as a threat and danger, particularly to America's youth. The numerical strategies used to indicate a problem also served to illuminate the authors' framing of the issue.

The characterization of the drug issue as being about political symbolism appears to ring true based on the analysis of the voter information statements. The next chapter discusses the U.S. Supreme Court cases related to the state drug policy ballot measures.

7 Issue Framing in U.S. Supreme Court Cases Related to California's Proposition 215

This chapter discusses the three key court cases related to California's Proposition 215, which was approved by voters in 1996. Proposition 215, the Medical Use of Marijuana initiative, also known as the Compassionate Use Act, was approved by 56 percent of voters in California's statewide elections. The ballot measure made it legal for physicians to recommend marijuana for medical use and for patients and their primary caregivers to grow and possess marijuana for use by patients who have received a recommendation from a physician. Patients, caregivers, and physicians were exempted from prosecution under California's Health and Safety Code §11357 and §11358. Following passage of Proposition 215 and Arizona's Proposition 200 in 1996, the federal government announced its intent to continue to enforce federal drug control laws and sanction physicians who recommend or prescribe marijuana for medical use to their patients. At the same time, dispensaries for marijuana for medical purposes in the form of cooperatives and cannabis clubs were created as nonprofit organizations in California to supply marijuana to those with a medical need.

Of the drug policy ballot measures considered at the state level over the past decade, only Proposition 215 has generated legal challenges that have reached the U.S. Supreme Court. I chose to examine the U.S. Supreme Court cases related to Proposition 215 for a number of reasons. First, the legal challenges related to Proposition 215 represent attempts to define and redefine the sponsors' intent and interpret the language of state and federal law. Second, both the agenda-setting and direct democracy literature identified the courts as a key actor involved in issue framing. Third, several states approved measures based on Proposition 215, some of which halted and continue to hold up implementation as they await the outcome of the legal challenges surrounding Proposition 215. Thus, the Court's decisions have far-reaching implications not just for California but for other states. Finally, Soros has indicated that his ultimate goal was to impact the national policy agenda and characterized getting cases heard by the U.S. Supreme Court as a victory in that it further legitimizes legalization as a policy alternative to the status quo.

Three cases are examined in this chapter: *U.S. v. Oakland Cannabis Buyers Club et al.*, *Ashcroft v. Raich*, and *Conant v. Walters*. The first two cases were argued before the U.S. Supreme Court. In *Conant v. Walters*, a petition by the federal government for *cert* was denied, bringing national media attention to the case. This chapter discusses the parties involved in the U.S. Supreme Court cases and the interests reflected in the amicus briefs. It then provides background on the cases. The chapter also describes the issue framing strategies used before the U.S. Supreme Court based on transcripts of oral arguments and the available U.S. Supreme Court rulings. Brief discussion also is provided of *Conant v. Walters* as relevant.

7.1 Overview of the U.S. Supreme Court Cases Involving Proposition 215

In November 1996, two historic state ballot measures addressing illegal drugs were approved by voters in Arizona (Proposition 200) and California (Proposition 215). In December, the White House Drug Policy Office (1996) reaffirmed that “federal law is unchanged by the passage of these initiatives....The decision to bring appropriate criminal or administrative enforcement action will be....decided on a case by case basis.” While California’s governor signed Proposition 215, Arizona’s governor initially refused to sign Proposition 200 but was required by law to sign. By early 1997, the Arizona legislature had passed a law preventing Schedule I drugs from being prescribed without approval from the U.S. Food and Drug Administration. 1997 also marked the creation of the NORML Foundation to support legal and other court challenges to federal drug control laws. In October 1997, the federal government enforced federal law in California for the first time since passage of Proposition 215 by raiding a cannabis club in Sacramento. Since then the Soros-funded Drug Policy Alliance and the Marijuana Policy Project have increasingly funded litigation for ballot measures. In 2001, millionaire Peter Lewis made the largest personal donation ever to the ACLU (\$7 million) to challenge drug laws. As evidenced by the respondent and amicus brief authors, all three of these organizations have been actively involved in the cases related to Proposition 215 before the U.S.

Supreme Court. Key dates and actions in the cases related to Proposition 215 are provided in Table 7-1. The next section identifies the various actors involved.

Table 7-1. Legal Actions Related to Proposition 215		
<i>U.S. v. Oakland Cannabis Buyers Cooperative et al.</i>	<i>Ashcroft v. Raich</i>	<i>Conant v. Walters</i>
1998		
9/13:U.S.Ct. of Appeals 9th Circuit decision: medical necessity defense possible		
2000		
2/29: 9th Circuit denied request; case remanded to district court 7/17: District court modified its injunction allowing distribution of cannabis to patients meeting medical necessity criteria 7/28: Govt. petition for <i>cert</i> to U.S. S.Ct. 8/29: Application for stay to U.S.S.Ct. filed 11/27: Petition for <i>cert</i> granted		9/7:U.S. District Court for Northern District of CA entered permanent injunction to protect 1st Amend. rights of physicians; prohibited the fed. govt. from revoking licenses for recommending marijuana if revocation based on professional recommendation of the use of medical marijuana
2001		
3/28: U.S.S.Ct. arguments 5/14:Unanimous decision		
2002		
	10/9: U.S. District Ct. Appeal filed by Raich 10/29: Prelim. injunction	10/14: U.S. Court of Appeals 9th Circuit decision (00-17222) in fed. govt. appeal
2003		
	4/23: Appeal filed in 9th Circuit by Raich 12/16: U.S. Court of Appeals 9th Circuit decision	2/6: Rehearing denied 7/7: Petition for <i>writ of cert</i> filed 9/5: Brief of respondent filed 9/18: Petitioners reply brief filed 10/14: Fed. govt. petition to U.S. S.Ct. denied (03-40)
2004		
	2/25: Fed. govt. lost motion in 9th Circuit 4/20: Fed. govt. filed petition for <i>cert</i> in U.S. S.Ct. 5/14: Preliminary injunction against fed. govt. granted 6/7: Respondents brief 6/23: Prelim.injunction appeal 10/13: Merit brief filed 11/17: Petitioners reply brief on merits 11/29: U.S. S. Ct. Arguments	

7.2 Actors Represented in Petitioner and Respondent Briefs and Amicus Briefs

This section discusses the petitioners and respondents related to the U.S. Supreme Court cases as well as patterns in the actors represented in the amicus briefs. The list of parties and brief authors is provided in Table 7-2. The U.S. Department of Justice’s Office of the Solicitor General represented the federal government in all of the cases. The ACLU and the national legalization organization the Drug Policy Alliance participated in the respondents’ briefs. The husband of Angel Raich, one of the two individuals challenging federal drug control laws in California, was a named respondent in both *U.S. v. Oakland Cannabis Buyers’ Cooperative et al.* and *Ashcroft v. Raich*.

Table 7- 2. Parties and Brief Authors by Court Case
<p><i>U.S. v. Oakland Cannabis Buyers’ Cooperative et al.</i> <u>Petitioner:</u> Seth Waxman, Sol. Gen, counsel of record, David Ogden Acting Asst. AG, Edwin Kneedler, Deputy Sol. Gen., Lisa Shiavo Baltt, Asst. to Sol.Gen. <u>Respondent:</u> James Brosnahan, Annet Carnegie (counsel of record), John Quinn, Robert Raich, Gerald Uelmen (counsel for respondents)</p>
<p><i>Ashcroft v. Raich</i> <u>Petitioner:</u> Paul Clement, Office of Sol.Gen. <u>Respondent:</u> Robert Raich, David Michael, Randy Barnett, Robert Long (counsel of record)</p>
<p><i>Conant v. Walters</i> <u>Petitioner:</u> Theodore Olson, Sol. Gen. <u>Respondent:</u> Graham Boyd, ACLU Foundation; Ann Brick, ACLU Foundation of Northern California, Inc.; Jonathan Weissglass, Altshuler, Berzon, Nussbaum, Rubin & Demain; Daniel N. Abrahamson, Drug Policy Alliance</p>

In *U.S. v. Oakland Cannabis Buyers’ Cooperative et al.* there was one amicus brief on behalf of the petitioner and nine on behalf of the respondent. One of the international anti-drug organizations named in the petitioner’s brief co-authored a voter information statement opposing passage of Proposition 215. The authors of the petitioner’s amicus brief included international opposition or anti-drug organizations as well as national anti-drug or opposition group organizations. Among the nine briefs filed on behalf of the respondent in the case, two featured national legalization organizations that have also funded and sponsored legalization ballot measures—the Marijuana Policy Project and NORML. Two amicus briefs included as authors state and national medical and health professional organizations and national patient organizations. Two national

legal organizations also were represented: the National Association of Criminal Defense Lawyers and the DKT Liberty Project. In addition, national, state, and local ACLU offices were the principal authors of one brief. California-based cannabis club owners authored a brief and the State of California authored another, while a sheriff and political officials from other states including the Governor of New Mexico wrote a brief in support of the cannabis clubs. Individuals were among the authors in several briefs, including one with authors representing a broad range of interests from an AIDS resource center in Arizona to local medical and gay and lesbian societies.

In *Ashcroft v. Raich*, there were four briefs in support of the petitioners and three in support of the respondents. The authors of the briefs in support of the petitioners included several national anti-drug or opposition groups with state and local chapters, an international anti-drug organization, and one religious organization that were authors of voter information statements in opposition to medical use state ballot measures in Arizona as well as other states. A group of physicians, including a former White House Drug Policy Office official, and several U.S. Senators and Representatives provided statements in support of the federal government. The briefs in support of the respondents ranged from out-of-state legal/prosecutorial actors and political officials to individuals, and state medical/health professional organizations, most of which were represented in voter information statements. In addition, the states of California, Maryland, and Virginia and a group of constitutional scholars submitted two briefs in support of the respondents.

While many of the same categories of actors that appeared as authors of voter information statements were named in amicus briefs, the amicus briefs were more likely to feature national organizations and political officials. The amicus brief authors for the two cases are listed in Table 7-3. In *Conant v. Walters*, in which the U.S. Supreme Court denied *cert*, two amicus briefs were filed on behalf of Conant by national health and medical organizations and state organizations representing medical and other health care professionals.

Table 7-3. Amicus Brief Authors by Court Case

U.S. v. Oakland Cannabis Buyers' Cooperative et al.

Petitioner:

(1.) Institute On Global Drug Policy of The Drug Free America Foundation; National Families In Action; Drug Watch International; Drug-Free Kids: America's Challenge, et al.

Respondent:

(1.) Sheriff M. Dion, Maine Sen., CA Sen, NM Gov. Johnson, and DKT Liberty Project

(2.) California Medical Association and Natl. Pain Foundation

(3.) Rick Doblin, Ethan Russo, MD, Rob Kampia, Marijuana Policy Project

(4.) Parties-in-Intervention: Edward Neil Brundridge, Ima Carter, Rebecca Nikkel, and Lucia Y. Vieras

(5.) American Public Health Association, California Nurses Association, Lymphoma Foundation of America, Irvin Henry Rosenfeld, Barbara Douglas, Elvy Musikka, George Lee McMahon, American Medical Women's Association, Colorado Nurses' Association, AIDS Treatment

Initiatives, AIDS Resource Center of Wisconsin, AIDS Project of Arizona, Mothers Against Misuse and Abuse, Marin County Medical Society of California, Gay and Lesbian Medial Association

(6.) ACLU, Northern California; ACLU, Southern California; and ACLU, San Diego and Riverside Counties

(7.) [Sudi Pebbles Trippet](#)

(8.) [NORML and National Association of Criminal Defense Lawyers](#)

(9.) State of California

Ashcroft v. Raich

Petitioner:

(1.) Drug free America Foundation, Drug Free Schools Coalition, Save Our Society from Drugs, The International Scientific and Medical Forum on Drug Abuse, Students Taking Action Not Drugs, et al., Michael Dermody, David Evans

(2.) Community Rights Counsel, Tim Dowling

(3.) U.S. Reps. Mark Souder, Cass Ballender, Dan Burton, Katherine Harris, Ernest Istook (jr), Kack Kingston, Doug Ose, Nicholas Coleman

(4.) Robert DuPont, MD, Peter Bensinger, and Herbert Kleber, MD, John Bartels

Respondent:

(1.) constitutional law scholars : Charles Fried, David Shapiro, Stephen Calabresi, Jay Somin, Douglas Haycock, Ernest Young, Matthew Schnall, Rachel Sommovilla, Bingham McCutchen

(2.) States of CA, MD, and VA : Bill Lockyer, AG of CA; Richard Frank, chief deputy AG; Manuel Medeiros, state solicitor; Taylor Carey, special asst. AG

(3.) CA Nurses Assn. and the DKT Liberty Project :Julia Carpenter

Conant v. Walters

Respondents:

(1) American Public Health Association et al.

(2) California Medical Association et al.

No petitioner amicus briefs

7.3 Issue Framing Strategies Employed in U.S. Supreme Court Cases

This section focuses on the issue framing strategies used in the U.S. Supreme Court cases related to Proposition 215. An overview of the cases precedes a description of the issue framing strategies in briefs of the respondents and petitioners, amicus curiae,

oral arguments before the U.S. Supreme Court, and the U.S. Supreme Court rulings as available.

7.3.1 U.S. v. Oakland Cannabis Buyers' Cooperative et al.

The Oakland Cannabis Buyers' Cooperative was established to supply marijuana to patients eligible to use the drug for medical purposes following passage of Proposition 215 in California. In 1998, the U.S. filed suit against the cooperative in the U.S. District Court for the Northern District of California (*U.S. v. Oakland Cannabis Buyers' Cooperative and Jeffrey Jones*, No. C 98-00088 CRB, filed: May 19, 1998), with the court issuing a preliminary injunction to prevent the manufacture, distribution, or possession of marijuana with intent to sell as a violation of the federal Controlled Substances Act (21 U.S.C. §841(a)(1)). In a related case, *U.S. v. Cannabis Cultivators Club* (Nos. C98-0085, N.D.), Justice Breyer stated that the lawsuits by the federal government did not challenge the constitutionality of Proposition 215 as a whole but rather the issue was “whether the defendants’ conduct, which may be lawful under state law, may nevertheless violate federal law and can thus be enjoined” (Appendix to the Petition for a Writ of Cert., *U.S. v. Oakland Cannabis Buyers' Cooperative et al.*, No. 00-151, p. 42a). The federal government filed a motion to exclude affirmative defenses and show cause as to why the defendants were not in contempt of the May order as they continued to operate cannabis clubs. The court granted the plaintiff’s motions finding that “the defendants have not offered any evidence to controvert...that defendants’ violated the May 19, 1998, preliminary injunction order. Thus, the defendants are in contempt of the conjunction” (Appendix to the Petition for a Writ of Cert., *U.S. v. Oakland Cannabis Buyers' Cooperative et al.*, No. 00-151, p. 20a).

In 1999, the 9th Circuit Court of Appeals heard an appeal from the U.S. District Court (Nos. 98-16950, 98-17044, and 98-17137) in which the Oakland Cannabis Buyers' Cooperative, which did not appeal the 1998 contempt finding, sought to appeal three subsequent orders. The Court of Appeals ruled on September 13, 1999, that it lacked “jurisdiction over the appeal from the denial of the motion to dismiss and from the contempt order that has been purged...[but had] jurisdiction over the appeal from the denial of the motion to modify” (Nos. 98-16950, 98-17044, and 98-17137, p. 2a). The

court remanded the injunction to the district court for further consideration. The district court subsequently denied the request for a stay as well as the request to modify the preliminary injunction.

In 2000, the federal government appealed, requesting the case be reheard by the full complement of 9th Circuit judges. In February 2000, a panel of judges for the U.S. Court of Appeals for the 9th Circuit denied a petition for rehearing en banc. In July 2000, the preliminary injunction order was amended to enjoin the defendants from manufacture or distribution of marijuana, but the order also stated the injunction did not apply to patient-members of the club currently receiving marijuana (*U.S. v. Oakland Cannabis Buyers' Cooperative et al.*, No. C 98-0088 CRB, July 17, 2000). An application for a stay was submitted to the U.S. Supreme Court and granted on August 29, 2000, which allowed the modifications by the district court to remain in place until the final appeal to the U.S. Court of Appeals for the 9th Circuit was resolved (U.S. Ct., No. 00A145). Justice Stevens dissented, stating that “denial of necessary medicine” would not advance the public interest (U.S. Ct., No. 00A145, p. 1).

Over the next few months, the federal government would petition for *cert* to the U.S. Supreme Court, which was granted in November 2000. The U.S. Department of Justice asked the court to reverse the 1999 Court of Appeals ruling allowing distribution of marijuana to those in medical need. In 2001, the U.S. Supreme Court heard arguments and ruled unanimously in favor of the federal government that the CSA provided no medical necessity exception for the manufacture or distribution of marijuana (*U.S. v. Oakland Cannabis Buyers' Cooperative et al.*, *certiorari* to the U.S. Court of Appeals for the 9th Circuit, No. 00-151, Argued March 28, 2001, decided May 14, 2001). The ruling did not overturn state law but addressed federal law prohibiting distribution.

The Supreme Court did not address personal growth of marijuana allowed by state law. The primary question considered by the U.S. Supreme Court was whether the Controlled Substances Act, 21 U.S.C. 801 *et seq.*, foreclosed a "medical necessity" defense to the Act's prohibition against manufacturing and distributing marijuana, a Schedule I controlled substance. The decision did not impact state law allowing possession, cultivation, and distribution. The Marijuana Policy Project (2001) stated in a press release that “the outcome...will not change our strategy of working with state

legislators to remove criminal penalties for legitimate medical marijuana users.” The Court did not explicitly rule on the validity of Proposition 215, nor did it explicitly nullify the law. The U.S. Supreme Court only addressed the medical necessity defense for providers and not for patients who use marijuana, which left the door open to future legal challenges.

The U.S. Department of Justice, Office of Solicitor General, representing the federal government prepared the petition for *writ of cert*, brief on the *writ of cert*, and reply brief for the petitioner—the federal government. The primary issue framing strategies employed were the following:

- Redefining the scope of the CSA.
- Refuting the respondent’s facts in the case that only a “miniscule” number of those “suffering” would have access for marijuana and providing a horror story of Proposition 215’s ambiguous language resulting in no limits of eligible conditions.
- Framing the ballot measure and resulting law as a metaphor for legalization.
- Suggesting the measure and respondents conspired to legalize by restating Congress’s intent that legalization of marijuana was opposed and quoting language from the ballot measure stating it is “legalizing...for medical use.”

The amicus brief in support of the petitioner defined marijuana as unsafe and not effective, referring to the drug as crude marijuana not approved by the FDA. Referencing the FDA implied that marijuana was not subject to quality control and reinforced its illegitimacy as a medicine. The brief also used a numerical strategy, counting the harms that would occur if the U.S. Supreme Court did not take action. The brief included a new fact that did not appear in voter information statements: “the fact that one chemical in marijuana is an FDA-approved medicine does not make marijuana an approved medicine.” This served to reinforce the attack on the respondents’ characterization of marijuana as safe and of medical benefit.

The respondent brief did not rely on legal arguments alone but also characterized the issue as one of power. The respondent suggested that because Congress did not specifically address the defense of necessity, it was appropriate to recognize a necessity

defense. Because the federal government had not prosecuted persons in California, the government's inaction was characterized as implicit acceptance of the necessity defense. The final claim was that if one strictly interprets CSA as preventing a necessity defense, it must be declared unconstitutional. Appeals to liberty were used, accusing the government of "violating" due process rights of patients, violating fundamental liberties guaranteed under the Fifth Amendment and aspects of the Ninth and Tenth Amendments. Just as in the voter information statements, "patients" were used to refer to marijuana users throughout, as part of an effort to frame the issue as a medical issue and patients as symbols for pain and suffering. The arguments implied government was unreasonable and uncompassionate, causing "hardship" to the seriously ill. The respondent brief also provided narrative stories of the most extreme conditions eligible for medical use in its appeals to compassion, suggesting certain persons were needy and worthy of the Court's action.

The amicus briefs in support of the respondents also attacked the federal government for overstepping or abusing its authority, appealed to compassion and medical need as an individual right, and invoked the need to serve the public interest as the primary issue framing strategies. Five of the amicus briefs in support of the respondent focused on narrative stories of government as the issue, characterizing government as out of control and preventing progress. The need to protect patients from imprisonment by government was among the horror stories told as well as a conspiracy story of the government pursuing the case for political rather than substantive reasons. Symbols of liberty and liberty as a goal were commonly used. Similar to the arguments opposing countermeasures in Arizona, amicus briefs contended the federal government was interfering with the state democratic process, particularly the right to enact ballot measures. The federal government was accused of "violating traditional notions of state sovereignty" protected by the Constitution. Marijuana was not only characterized as medicine but also as an individual right; also noted were a constitutional right (to pain relief), the underlying moral issue, and provision of marijuana in the public interest. Arguments unique to the amicus briefs included the need to reinforce the patient-doctor relationship and the suggestion that Congress never intended to prohibit the use of marijuana for medical purposes.

The questions and comments offered by the Supreme Court Justices suggested their interests and concerns related to the case. The issues raised by the Justices in the oral arguments are listed in Table 7-4. The Justices clearly were interested in the policy concerns related to the case, not simply strict interpretation of the law. In questioning the petitioners, the Justices raised several policy issues. The government’s motivations were questioned, with the Court asking if the government was pursuing legal action because it recognized it would be unable to obtain a conviction before a jury. The Justices also suggested a resolution to the issue: Congress could decriminalize marijuana use. The Justices also reinforced the federal government’s role in protecting public health, yet also raised concerns about the courts being used to make decisions that were more appropriately left to medical professionals. Justices also suggested that if people really were suffering from a serious illness they should risk breaking the law if their lives were at stake. Concern was expressed about the overly broad definition of “medical necessity” in Proposition 215, with questions raised about a slippery slope. The Justices did not want to promote the drug business and were concerned that the ambiguity regarding eligible illnesses might increase overall harms to society.

Petitioners	Respondents
assumption proposed is that there are no legitimate claims of medical use	individuals and distributors should not be mixed
federal agencies act in overall public interest	concern about rewriting statute to “allow nonmedical people to decide so-called medical necessity”
no mention of federal law that Schedule I is preemptive	interprets argument of respondent that initiative is irrelevant if argue for common law necessity defense
concern about discretion of powers balance—making district court prosecutorial rather than a neutral judge	sought clarification on seriousness of illness eligible and definition of “just imminent harm”
is real concern that proposition is popular and government will be unable to get a jury conviction	verify opposition to a jury trial; brief implies individual should take chances with “grim reaper” with criminal contempt
issue would go away if Congress eliminated criminal penalty	concerned about “extending medical necessity defense to any one who is in need to someone who opens up a business to provide prohibited drugs to those who need them”
concern about using the courts to answer questions remote from specific disputes (necessity defense)	clarifies whether respondent believes medical necessity defense will be limited to cannabis

In considering the solutions to the policy issue proposed by respondents and petitioners, the Justices focused on definitional issues and political motivations. These concerns were reflected in the unanimous U.S. Supreme Court ruling. The Court ruled that there was no medical necessity exception, supporting its ruling with the fact that the CSA defines marijuana as a Schedule I drug. The Court deferred to Congress and did not question congressional intent, stating that Congress had already made the determination that marijuana has no medical use. The Court also criticized the district court for construing a medical necessity defense when Congress's judgment was clearly expressed in the CSA.

The opinion written by Justice Clarence Thomas repeated concerns expressed during oral arguments (*U.S. v. Oakland Cannabis Buyers' Cooperative et al.* No. 00-151). The majority disagreed with the respondents' interpretation of CSA as subject to additional, implied exceptions, including medical necessity. The Court specified it was not addressing whether federal courts ever have authority to recognize a necessity defense not provided by statute. It concluded that determination of an exemption was an issue of legislative, not judicial judgment. A concurring opinion by Justice Paul Stevens (with Justices David Souter and Ruth Bader Ginsburg joining) emphasized the ruling was limited to the question of whether CSA allowed a medical necessity defense to prohibition against manufacturing and distributing marijuana.

The concurring opinion articulated two concerns with the Court's ruling. Stevens argued that the Court went too far in suggesting that a necessity defense would not be available to anyone. He suggested that there may be exceptions for individuals who are seriously ill and have no alternatives. Stevens also contended the majority opinion went too far in questioning whether necessity can ever be a defense—seeming to raise the concern that one should never say never—and perhaps wishing to leave the door open to reconsideration by the Court. The concurring opinion also raised concern that such a ruling might chill a state's decision to “serve as a laboratory” in the trail of “novel social and economic experiments without risk to the rest of the country,” which imposed a “duty on federal courts, whenever possible, to avoid or minimize conflict between federal and state law” (*U.S. v. Oakland Cannabis Buyers' Cooperative et al.* No. 00-151, p .2).

While the Justices' questions during oral arguments reflected interest in some of the larger policy issues surrounding state ballot measures, the Justices ultimately narrowly defined medical necessity and rejected the respondents' broad interpretation of the CSA. The concurring opinion, however, did bring attention to the potential for exceptions and the concern about potentially discouraging states from using the initiative process.

7.3.2 *Ashcroft v. Raich*

In October 2002, a lawsuit was filed by patient-activist Angel McClary Raich, Diane Monson, and Raich's two anonymous caregiver growers in the U.S. District Court of the Northern District of California (*Raich et al. v. Ashcroft and Tandy*). The lawsuit and subsequent legal challenges have been funded in part by a Marijuana Policy Project grant, the Drug Policy Alliance, and the nonprofit Angel Wings Patient Outreach, Inc. The lawsuit filed against U.S. Attorney General John Ashcroft and DEA Administrator Karen Tandy accused them of violating the constitutional rights of Raich et al. under the Commerce Clause, the Fifth, Ninth, and Tenth Amendments, and on the basis of medical necessity. The lawsuit called for declaratory relief and a permanent injunction against enforcing drug laws related to the plaintiffs' medical use of marijuana.

On December 17, 2002, a hearing was held in U.S. District Court on the motion for a preliminary injunction. On March 5, 2003, the court denied the preliminary injunction. The plaintiffs appealed the denial of their motion to the 9th Circuit U.S. Court of Appeals. The hearing took place in October 2003 and in December 2003, the appeals court held that the CSA as applied to the patients was unconstitutional. The court interpreted the CSA in criminalizing the use of marijuana that was not purchased or obtained out of state as an unconstitutional exercise of the commerce clause. The federal government appealed in January 2004, asking for a rehearing, and a rehearing en banc was denied in March 2004. In April 2004, the federal government filed a petition for a writ of certiorari in the U.S. Supreme Court, which resulted in the case name changing to *Ashcroft v. Raich*. In May 2004, U.S. District Court Judge Jenkins filed a preliminary injunction order that said, "In *Raich v. Ashcroft*, 352 Fed. 3d 1222 (9th Cir. 2003), the United States Court of Appeals for the Ninth Circuit held that the Plaintiffs have demonstrated a strong likelihood that 'as applied to them, the [Controlled Substances Act]

is an unconstitutional exercise of Congress' Commerce Clause authority” Id. at 1227. The order prohibited the government from arresting or prosecuting the defendants or seizing their property.

The U.S. Supreme Court agreed to hear the case, and oral arguments were conducted in November 2004.

Related federal cases will be affected by the outcome in *Ashcroft v. Raich* such as the *City of Santa Cruz v. Ashcroft*. The initial complaint in this case was filed in April 2003 and requested a preliminary injunction in federal district court arguing that the city and county have the right to ensure patient access to marijuana as medicine. Several local ballot measures allowing the establishment of dispensaries or medical marijuana clubs have placed implementation on hold awaiting the U.S. Supreme Court decision.

This section reviews the issue framing strategies in briefs of the respondents, the petitioners, and the amici, and in the oral arguments before the U.S. Supreme Court. The primary question in this case was whether the [Controlled Substances Act](#), 21 U.S.C. 801, *et seq.*, exceeded Congress's power under the Commerce Clause as applied either to the intrastate cultivation and possession of marijuana for purported personal "medicinal" use or to the distribution of marijuana without charge for such use. In the petitioner brief, the issue was defined as one of interstate commerce and marijuana was expanded to encompass other Schedule I substances, which the brief claimed would be affected. The primary argument was that drug activities, particularly cultivation and distribution, would substantially affect interstate commerce. The petitioner also argued that regardless of state law, Congress allowed constitutional regulation of respondents' marijuana activities. Four amicus briefs were filed in support of the petitioner. Two briefs reinforced Congress and the federal executive as legitimate actors relying on facts to make policy decisions. One of the briefs focused on the U.S. obligations under the 1961 U.S. Conventions to prohibit “all individual production and use of cannabis outside the bounds of the established regulatory system.” Two of the briefs—one authored by political officials (U.S. Representatives) and the other by a range of national and international anti-drug organizations—used the same message strategies employed in voter information statements. These briefs defined marijuana as “crude,” implying it was dangerous and used the metaphor of the ballot proposition and subsequent law in

California as an attempt to legalize—a Trojan horse. One of the briefs provided a potential horror story of the slippery slope—an implied conspiracy to legalize drugs resulting in increased drug use.

The respondents' brief expanded the scope of conflict by redefining the issue as one of due process, liberty, and fundamental rights. Stone (2002) cites these as key values for appealing to a wide range of interests. The brief redefined the scope of the commerce act, stating that local cannabis cultivation simply did not count. The brief suggested that applying the CSA would “contravene core principles of federalism and state sovereignty.” The respondents shifted focus, stating that the case was really about the “‘difficult issue’ of whether the doctrine necessity protects respondents.” The five amicus briefs in support of the respondents featured some of the same arguments. All of the briefs redefined the problem as a medical issue and sought to shift power from Congress and the federal executive to the state and individuals, with one brief explicitly defining the case as state and individual rights. The brief invoked the right to be left alone, the right to preserve a “tolerable quality of life,” the right to privacy, the right to due process, and the need to adhere to “history, legal traditions, and practices” and observe personal liberty. One of the framing strategies was to define the issue as being about medical versus nonmedical use, with the latter defined as commercial and the former as noncommercial.

While the petitioner's presentation in oral arguments included the same primary argument from the petitioner's brief about interstate commerce, it also used some of the same arguments as the amicus briefs. The petitioner told a causal story defining marijuana as a dangerous Schedule I drug “with high potential for abuse and no currently accepted medical use in treatment.” If the argument succeeded with respect to medical use, the petitioner alleged, the next step would be recreational use and that there was no real way to distinguish between them. The petitioner stated that medical marijuana was analogous to recreational marijuana use. The petitioner also defined marijuana as “crude” and with harmful effects. The story then discussed the diversion of marijuana to a national market that would frustrate Congress's goal of promoting health (defining the congressional goal).

In contrast, the respondent argued the same points from its brief that local manufacture and distribution of marijuana for medical purposes was noneconomic. As a solution, the respondent redefined authority and decisionmaking, suggesting that “federal prohibition of this class of activities is not essential.” The rebuttal by the petitioner stated that change is only an illusion, implying it was absurd to suggest that the clients would be sealed from the rest of the market on marijuana. The petitioner redefined Proposition 215 from an exercise in cooperative federalism to an effort to legalize marijuana and create interstate commerce in marijuana. A key strategy in the rebuttal was the use of numbers as a metaphor and implying a need for action. The petitioner called into question the respondents’ list of eligible conditions, stating that Proposition 215 used an exceedingly broad definition of a serious medical condition when the reality was a “catchall” of conditions. A hidden story brought to the forefront was of the potential unintended consequences of the law that refuted the evidence of the respondents. The respondents suggested to the Justices that in making their decision they should consider that the law’s applicability would be limited to a small number of people, similar to or the same as the two patients represented in the U.S. Supreme Court case. In response to questions by the Justices, the respondent clarified that one of the persons represented in the case was not dying but suffered from chronic pain and that the respondents were asking for an injunction not only against criminal prosecution but also against the seizure of marijuana plants.

The petitioners provided a story of a person found with 19 ounces of marijuana and drug paraphernalia that a state appeals court had allowed to go to jury as a medical use case. Another story was told of the case of Santa Cruz in which the federal district court said it was unable to enforce the CSA against a 250-person cooperative. These stories were used to measure the phenomenon and demonstrate that the law would include more persons than the respondents’ brief suggested would be included.

The Justices raised a number of questions and issues during the oral arguments, including several definitional issues, listed in Table 7-5.

Petitioners	Respondents
Justices seek clarification on how narrow the market would be and whether the District Court could find a narrow market segment in which they could prevent diversion; questions of whether it's possible to narrowly define a "relevant class of activities"	Justices suggest whether a market is large or small is irrelevant: they suggest the situation is analogous to the Endangered Species Act and unlawful possession of ivory and challenge the suggestion these laws are unconstitutional
Hypothetically CA could pass a law preventing diversion	Justices disagree with self-grower being defined as noneconomic
Clarification is requested about using the a regulatory scheme to prohibit this subject in interstate commerce	Justices disagree with potential large number using marijuana medically and it leading to lower prices nationally and an inability to distinguish between medical and nonmedical use
Clarification is requested about the petitioners and a Justice stating law can't be made on the basis of 2 people who have tried 20 dif. Medicines	Respondents estimation of eligibility questioned as it led to the argument of triviality: questions why the respondent has adopted numbers of government rather than those in its amicus briefs, which would refute noneconomic argument
Statute is defined a "trumping" independent judgment of physicians who prescribe it for patients at issue in the case.	Justices define potential market effect as large not small implying economic and commercial
Question is raised about potential benefit of narrowly defining to medical usage without risk to recreational use	Justices refute California as noneconomic because it is geographically separate Slippery slope concern raised that someone with medical need in another state where marijuana would not be regulated but in CA it would be and how that refutes respondent argument that federal regulation should be prohibited everywhere
Concern is expressed about going down the path of "second guessing Congress' judgment about defining a class of activities"	"medicine by regulation is better than medicine by referendum" (Breyer)
Question is raised about whether there could be statement of facts in which a judicial tribunal would disagree with Congress	Justices disagrees with jurisprudence in this case being based on 2 individuals as not a realistic premise on which to base constitutional law
	Suggest FDA be challenged as abusing its discretion if persons feel marijuana not fairly considered which would allow the court to determine if fair assessment made.

The questions and concerns raised by the Justices suggested several policy options:

- The California legislature could pass a law preventing diversion.
- A petition could be made to the FDA to reconsider smoked marijuana and court challenges could be made if the FDA were considered to have abused its discretion.
- Congress could more explicitly define the class of activities covered by the CSA.

In terms of the potential solutions to the issues raised regarding Proposition 215, the Justices questioned shifting decisionmaking authority. They suggested that decisionmaking should not be removed from physicians and determined by the courts. One of the more memorable questions from Justice Stephen Breyer was that “medicine by regulation is better than medicine by referendum” (p. 40). This disapproval of the venue of the ballot initiative process implies uncertainty about the most appropriate authority for such decisions. The primary disagreements focused on the definitions of eligible persons and the characteristics and definition of the market. Based on the clarification questions asked of the respondent and petitioner, the Justices appeared unsure as to whether the marijuana market could be narrowly defined and considered noncommercial. The Justices moved beyond the precise issue at hand to the public policy issue of whether illegal drug use, particularly for nonmedical purposes, would increase and potentially expand. Just as the briefs of the respondents, petitioners, and the amici often focused on more expansive public policy implications than the narrow issue at hand, so too do Supreme Court Justices. In this case, the Justices appeared particularly concerned with ensuring that the appropriate venue was used for decisionmaking, while also expressing concern about the impact on the larger public policy issue of illicit drug use and the potential harms to society.

7.3.3 *Conant v. Walters*

In response to the federal government’s reaffirmation of its policy to enforce federal drug laws in California and Arizona in late 1996, a federal lawsuit was filed by the Drug Policy Alliance, the ACLU Drug Policy Litigation Project, and the law firm of Altshuler, Berzon, Nussbaum, Rubin and Demain on behalf of California physicians and

patients in order to protect the right for physicians to recommend marijuana to their patients. The case was originally named *Conant v. McCaffrey*, with Conant referring to one of the nine physician plaintiffs, Dr. Marcus Conant, a well-known physician whose experiences addressing HIV and AIDS were chronicled in the book and movie *And the Band Played On*. The plaintiffs included oncologists and physicians specializing in AIDS treatment as well as several patients, including Michael Ferruci, a cancer and chronic pain patient; and Valerie Corral, a chronic seizure patient. The respondent McCaffrey referred to the cabinet head of the White House Drug Policy Office Ret. General Barry R. McCaffrey. Also named were the Secretary of Health and Human Services, the Administrator of the DEA, and the Attorney General. The federal officials named were revised over time as the case progressed through the courts to reflect the most current officials.

In April 1997, the U.S. District Court for the Northern District of California issued a temporary restraining order against the federal government, preventing it from punishing California physicians for recommending marijuana (*Conant v. McCaffrey*, 172 F.R.D. 681 [N.D. Cal. 1997]). The government did not appeal the temporary injunction. The court subsequently granted a permanent injunction preventing the federal government from taking away physicians' licenses and from initiating investigations against physicians on the basis of their recommendations, stating that the injunction "should apply whether or not the doctor anticipates that the patient will, in turn, use his or her recommendation to obtain marijuana in violation of federal law (*Conant v. McCaffrey*, 2000 WL 1281174 at §16 [N.D. Cal. Sept. 7, 2000]). In entering the injunction, Judge Alsup characterized the fundamental disagreement as the "extent to which the federal government could regulate doctor patient communications without interfering with First Amendment interests" (*Conant v. McCaffrey*, 2000 WL 1281174 at §16 [N.D. Cal. Sept. 7, 2000]). The judge also pointed out that the case was being litigated independent of other cases related to Proposition 215.

In June 2001, the federal government challenged the permanent injunction in the U.S. Court of Appeals, Ninth Circuit. The Court of Appeals unanimously upheld the ruling against the federal government in October 2002 (*Conant v. Walters*, 309 F.3d 629 [2002]). The unanimous opinion referenced extensive research on the medical benefits of

marijuana, suggesting such research may have been a factor in the decision. In 2003, the federal government petitioned for a rehearing that was subsequently denied by a three-member panel of the 9th Circuit Court (*Conant v. Walters*, 9th. Cir. 2002, 309 F.3d 629, *cert denied* October 14, 2003). The court upheld its previous ruling that physicians have a First Amendment right to discuss the use of marijuana for medical purposes with their patients but that physicians are prohibited by federal law from helping them obtain marijuana. The court stated that states rather than the federal government had the authority to regulate the practice of medicine. The 9th Circuit opinion by Chief Judge Schroeder stated the “government’s professed enforcement policy threatens to interfere with expression protected by the First Amendment” (*Conant v. McCaffrey*, 2002 No. 00-17222, p. 6).

The opinion concluded that the government’s argument that recommendation was analogous to prescription was too sweeping. The government had argued that the injunction protected criminal conduct; the court ruled that this did not translate into aiding and abetting, or conspiracy. The government also was criticized for focusing on the injunction’s bar against investigating. The court interpreted the injunctions as materially the same and “interprets this portion of the permanent injunction to mean only that the government may not initiate investigation of a physician solely on the basis of a recommendation of marijuana within a bona-fide doctor-patient relationship, unless the government in good faith believes that it has substantial evidence of criminal conduct” (*Conant v. McCaffrey*, 2002 No. 00-17222, p. 13). Core First Amendment values of the doctor-patient relationship were recognized by the court with an emphasis on the imperative for confidence and trust. The court criticized the government for never defining exactly what speech would constitute a recommendation. Circuit Judge Kozinski concurred, citing the need to prevent federal policy’s unintended consequences of drying up the “only reliable source of advice and supervision critically ill patients have, and drive them to use this powerful and dangerous drug on their own” (*Conant v. McCaffrey*, 2002 No. 00-17222, p. 29). The judge then shared his view that research supported the medical benefits of marijuana as an additional rationale for upholding Proposition 215 and preventing the federal government from impeding physician-patient communication.

In July 2003, the federal government filed a *writ of certiorari* to the U.S. Supreme Court (*Walters v. Conant* 03-40). The U.S. Supreme Court denied the petition on October 14, 2003, ending a legal saga that began in 1997. The federal government's petition brief for *cert* disagreed with the judicial interpretation that the injunction prevented the government from investigating violations of federal drug control laws. The government asserted that the court's decision prevented the DEA from ever revoking a physician's license. The government also defined marijuana use as a threat to public health and safety to justify the need to prevent physicians from recommending marijuana. The government argued unsuccessfully that the provision of medical advice is not pure speech.

The respondent brief prepared by the ACLU in response to *cert* petition also focused on definitions and scope. The issue framing strategies employed by the respondents included characterizing the government as making "fanciful assertions," mischaracterizing the case, and purposely using vague language in an attempt to inappropriately and unfairly limit speech. The problem was defined as unique to California and as not affecting other circuit courts in an effort to indicate the scope of the court's decision would be limited. While Proposition 215 did not define "recommendation," the respondents' brief did, implying it simply meant providing honest information and advice to patients and not providing or treating patients as implied by the petitioners. The respondents characterized their goal as one of liberty—protecting physicians and patients from government interference with their medical choices. A narrative story was provided of the federal government's failure to provide clarifying language following the passage of Proposition 215 of the government's interpretation of recommendation and its failure to define what physicians' speech would be subject to administrative action. The respondents' brief also referenced the federal government's own confusion about the definition of recommendation and the government's ambiguous language regarding the issue. The implicit story was that the government purposely failed to provide clear definitions.

One of the two amicus briefs in support of the respondents defined the problem and solution as one of legal and normative rights—the First Amendment protection of physician-patient dialogue. The first amicus brief told a horror story of how potential

harms to the physician-patient relationship caused by a government policy that violated the First Amendment, was contrary to medical ethics, and jeopardized patient care. The second amicus brief defined marijuana as medicine and used studies and testimonials as evidence of the effectiveness of marijuana. These issue framing strategies mirror those used in the voter information statements.

Since *cert* was denied, the views of the 9th Circuit Court are relevant. It embraced the respondent definition of the issue as a First Amendment issue and the need to protect the physician-patient relationship (*Conant v. Walters*, 309 F.3d 629 [2002]). The federal government as petitioner was unsuccessful in framing physician-patient speech about marijuana as preventing investigation and enforcement of drug control laws. The court did not accept the petitioner’s definition of speech as conspiracy. The court held that the First Amendment issues trumped any perceived concerns of the government. The dispute centered on free speech rights versus efforts to prevent marijuana use, with free speech interpreted by the courts as the central “trumping” issue. As discussed previously, the court also accepted the framing of marijuana as medicine. The briefs indicate that some of the same issue framing strategies were used in the venue of the courts as in the initiative process, although the strategies were used primarily to reinforce values of liberty. The denial of *cert* was interpreted by California, Arizona, and other states as validation of their state laws and by legalization organizations as encouragement to other states to pass similar ballot measures.

7.3.4 Discussion of the Arguments in the Court Cases Related to Proposition 215

The federal government made the following formal arguments in its legal challenges to Proposition 215:

- “Recommending” marijuana to patients is equivalent to violating federal drug control laws prohibiting distribution of marijuana.
- The CSA does not allow for and it was not Congress’s intent that there be a medical necessity exception.

- Allowing the cultivation and distribution of marijuana for medical purposes in California would violate the commerce clause, since doing so constitutes economic activity and would affect interstate commerce.

While these were the “official arguments,” the briefs of the petitioners, respondents, and amici framed the issue similarly to the voter information statements, defining it as a slippery slope to legalization of all illicit drugs and as an issue of rights, including the rights to privacy, due process, free speech, and medicine. Marijuana was defined by some as medicine, compassion, treatment, and noneconomic and by others as a threat to public health and safety, dangerous, addictive, and an economic commodity. Horror stories of drug users abusing the medical necessity defense were provided along with fears of increased drug use; others made appeals to compassion based on narrative stories of suffering and pain.

The 9th Circuit ruled the First Amendment was the core issue in *Conant v. Walters* and the U.S. Supreme Court is construed by some as concurring by refusing to hear the case. The U.S. Supreme Court unanimously ruled that there was no medical necessity exception in the CSA but offered some suggested policy changes to address the issue. The U.S. Supreme Court has not yet ruled in *Ashcroft v. Raich*. The Court appeared receptive to claims of the medical benefits of marijuana but was clear that it was not its purview to assess such claims and suggested it perhaps should be the purview of the medical community rather than government. While the Court is considering *Ashcroft v. Raich*, other challenges in federal court regarding the legality of marijuana cultivation and distribution and state dispensaries remain in limbo. While the Court has fostered debate on a range of issues related to medical use, the decisions remained narrowly focused on the specific questions. Simply having the U.S. Supreme Court hear two of the cases is considered by some to be a major victory as it reflects the division in public opinion and among decisionmaking venues regarding the issue.

7.4 Conclusions

The briefs of respondents and petitioners by necessity addressed the narrow legal questions at issue, but often this seemed to be mostly perfunctory as the authors

apparently used the venue of the courts to frame the drug issue in the same way that the issue had been defined in the ballot measure materials. In particular, the briefs of respondents, petitioners, and amici often used the same issue framing strategies as employed in the voter statements, including defining marijuana use as a medical issue, a matter of compassion, and consistently as a rights issue. Those seeking to maintain the status quo and opposing full implementation of Proposition 215 refuted the narrow definitions of the respondents and focused on congressional support for current drug control laws. While the literature review suggested that judges can and sometimes do apply their own policy preferences, the U.S. Supreme Court in its decisions limited itself to the legal matters at hand, although in oral arguments and in its opinions it did suggest policy alternatives and express policy preferences.

8 Conclusions and Implications

In the first chapter, I discussed the potential of examining materials related to state ballot measures to gain insight into the issue framing strategies employed in this venue to redefine policy issues, using illegal drugs as the vehicle. The notion that all language is political appears to be particularly true for polarizing issues such as illegal drugs. The literature on direct democracy indicated that political “hot-button” issues may often be presented in the alternative venue of the initiative process, because it allows only one policy option to be presented, limiting the policy debate. The research fills a key gap in the literature--linking the problem definition with the direct democracy literatures. The literature review and the discussion of the rhetoric around the drug issue in Chapter 4 showed how the metaphor of war has been co-opted by those opposing the status quo, just as legalization has come to be negatively characterized and widely used to characterize any and all challenges to the status quo. The review in Chapter 4 of national and state drug laws and rhetoric at the national level defined psychoactive substances as harmful and a threat to public safety and implicitly those who use or sell illegal drugs as immoral. As the dissertation has shown, legalization via the initiative process is frequently framed as a debate over such values as liberty and compassion. These findings served to reinforce the appropriateness of Stone’s (2002) analytic framework for understanding the different ways in which problems are defined, including the use of language, causes, interests, and the kind of choice or decision they represent.

8.1 Discussion of Findings

A key element of the research was the examination of the various propositions in specific ballot measures and which elements were approved to better understand the conceptualization of legalization via the initiative process. As discussed in Chapter 5, voters generally approved measures to grow, possess, and use marijuana for medical purposes if recommended by a physician; to divert offenders to treatment; and to further limit states’ forfeiture laws. In terms of limits to legalization, voters felt that similar to

prescription drugs, some controls should be in place, such as limiting the amount of marijuana and establishing registries to verify medical use. Measures to remove all criminal and/or civil penalties for marijuana were defeated. Alaska voters, who had previously approved a medical use measure, twice defeated such measures. Analogizing marijuana as like alcohol or tobacco was not accepted by voters. They generally accepted redefining drug abuse as a public health or treatment problem rather than as a law enforcement or criminal justice problem. Consequently, offenders selecting treatment were not subject to sanctions if they complied with treatment. Voters were less clear as to whether they thought incarceration should be eliminated as a sanction available to the courts. All three forfeiture reform measures reflected voter agreement that a state's ability to use forfeiture should be further restricted that individual rights trumped law enforcement.

In terms of the solutions implicitly and explicitly found in the official ballot language, the themes varied by ballot measure topic. Treatment vs. incarceration measures consistently focused on establishing rules for eligibility, establishing offenders' right to treatment, and reassigning power from the criminal justice to the treatment system. Forfeiture measures emphasized the need to restrict the power and authority of government and to reinforce the rights of property owners. Medical use measures always focused on the right of patients to medicine and privacy. These measures, like those on treatment, often characterized the solution as one of compassion. While most medical use measures focused on removing the government as the legitimate authority and establishing physicians as the authority, some of these same measures delegated to the state authority for developing patient registries and managing distribution. All of the decriminalization measures characterized current law as the problem and removing current restrictions as the solution. Interestingly, some of these measures defined marijuana as like alcohol, tobacco, or coffee, with the former two proposed as a sample regulatory scheme. Voters did not embrace this conceptualization of marijuana. All of the solutions explicitly were to shift or restrict government decisionmaking authority, implicitly defining government's current laws or approach as the problem. The solutions proposed did not show much variation by year except in states considering multiple ballot measures—in these cases, states almost always considered medical use measures first and

in later years would consider measures to further remove government restrictions on illegal drugs.

The official ballot language was usually more narrowly focused in terms of solutions than the political preambles, which often raised issues of normative rights. Both the ballot language and political preambles related to medical use established physicians as the decisionmaking authority regarding medical use of Schedule I drugs. However, while most of the official ballot language for medical use measures focused on providing patients with the right to use based on medical/health need, the political preambles were more likely to focus on normative aspects—that the measures would provide patients with a right they should already have. Similarly, the political language for the Oregon Property Protection Act focused on normative rights, while the ballot language emphasized limiting states rights instead. Arizona’s Proposition 200 and Washington’s Initiative Measure 685 spoke of mandated sentences for violent offenders in their political preambles but not in the official ballot language. The measure with perhaps the largest disconnect between the official ballot language and the political preamble was Oregon’s Measure 33. The ballot language referenced rule changes to create dispensaries and address marijuana distribution and provide patients with the power and right to possess more marijuana. In contrast, the political preamble expanded the solution set to emphasize rights.

The examination of the voter information authors documented a wide range of actors engaged in the drug policy debate at the state level. Medical professionals were used in both support and opposition statements as were political officials and law enforcement representatives, although the latter were more predominant in opposition statements. The categories of interests and specific actors were remarkably consistent over time. In states considering multiple ballot measures, the actors and arguments were often identical over time. Whereas the rhetoric at the national level predominately involved members of the executive branch and representatives of well-funded national legalization organizations, the debate via the voter information statements featured a wider range of interests and few national and international actors. As discussed in Chapter 6, the voter information statement authors ranged from medical and health care professionals to local elected officials, prosecutors, pastors, and individuals often

affiliated with sponsor groups. The same types of authors appeared in both opposition and support statements, although individuals as authors were more likely to be affiliated with sponsor organizations in the support statements. A much broader range of actors was involved in the policy debate in this venue than in other policymaking venues.

The predominate issue framing strategies as suggested by Stone (2002) were a variety of narrative stories and the use of metaphors and political symbols. Emotional appeals, particularly testimonials related to pain and suffering, were a common strategy. Personal stories also were used to increase the scope of conflict related to forfeiture measures. While the rhetoric at the national level discussed in Chapter 4 suggested an emphasis on moral aspects of the drug issue and youth as a rallying point, religious leaders and parent and prevention organizations were infrequently found. Youth as a symbol was predominant in the voter information statements but rarely if ever referenced in support statements. The same metaphors and symbols found at the national level were adopted and used at the state level over the past decade, including framing the ballot measures as a “stalking horse” for legalization or as a “Trojan horse,” attributing negative connotations to the drug war, using youth as the symbolic rationale or rallying point for maintaining the status quo, and defining marijuana as medicine and medical use and treatment vs. incarceration measures as compassionate acts. The same symbols, metaphors, and story strategies were used over time, often duplicated exactly.

The briefs of respondents, petitioners, and amicus curiae in the U.S. Supreme Court cases by necessity addressed the narrow legal questions at issue but often this seemed perfunctory as the briefs, particularly the respondent and amicus briefs used the same issue framing strategies as the voter information statements. The primary issue framing strategies included defining marijuana use as a medical issue, a matter of compassion, and a rights issue. The primary revelation from the U.S. Supreme Court cases was the challenge for the court to interpret not the sponsor’s intent but the language used in the ballot measure. The court cases focused on very narrow questions and the interpretation of federal law to determine what was permissible at the state level. I was surprised to see the justices convey their own policy interests and alternatives for resolving the issues at hand in the cases. The justices provided a number of policy options that could be taken by Congress and the California legislature to address the

issues raised by Proposition 215. The Justices' comments also indicated a concern about the rights of patients to obtain medicine that could benefit them, while at the same time reflecting the concerns of the status quo about promoting drug use. Perhaps most interesting, the Justices expressed concern about such policy decisions being made through the referendum. Just as suggested in my interview with the Director of the White House Drug Policy Office, the fact that these cases were heard by the U.S. Supreme Court reflects the lack of consensus on the drug issue and the ongoing tensions between state and federal laws.

8.2 Implications for Public Policy

Across all of the ballot measure materials examined (with the exception of the full text) and the court cases, there was a surprising lack of focus on the specifics of the actual ballot measures. All were inherently about changing the power structure and altering the rule of government. Framing the issue as inefficient, ineffective, or negligent government was expected, since the initiative process was selected because the initiative sponsors had been unable to change policy through other venues. While the U.S. Supreme Court cases provide perspective on the potential impact and conflict with federal law, few of the ballot measures made reference to changing federal law as the ultimate goal. The full text of the ballot measures provided the most insight into how the measures would affect state institutions.

As found through the application of Stone (2002), the issue framing strategies reflected appeals to personal and privacy rights as well as to compassion and cost-effectiveness. Focusing on framing the issue in this manner suggests the core values or interests that constitute public concern. The strength of Stone lies in the deconstruction of the often complex messaging used to define and redefine the issue overtly and covertly. A quick reading of an aspect of a ballot measure may lead to a gut reaction, but understanding the nuances of problem definition and the solutions and goals does hold promise for a more informed debate. Understanding the core values underlying the ballot measures and whether voters embraced particular values with their vote suggests potential message strategies for future ballot measures as well as provides insight into

what is important to voters and therefore could lead to debate focusing on those values, what they mean, and how to operationalize them.

The venue of the initiative provides a valuable opportunity to carefully craft for public consumption the policy problems, goals, and solutions. Because the initiative sponsors have a high degree of control over the messaging, the materials related to ballot measures provide valuable insight into the framing of the conflict and the change mechanisms. Perhaps the most important lesson was the value of the voter information statements for documenting the debate and actors at the state level over time. The debate within this venue reflects the character of policy debates in other venues where the various interests seek to promote their own solution—it is just narrowed to either the status quo or an alternative. However, that did not stop some actors from promoting a particular vote to send a symbolic message. The voter information statements demonstrate that the interests represented and engaged in this venue are more diverse than in other venues. This reinforces the origins of the initiative process to provide individuals with an alternative venue in which to be heard. Many of the states did not charge individuals to have their views listed in the voter information statements, providing a venue to those who may not always perceive they have a voice in the process. The value in such exploratory descriptive research lies not only in illuminating areas of future research relating to the use of this venue but also in identifying potentially rich data sources that have previously been untapped. The voter information statements proved to be a wealth of information for documenting not only the various actors but also the different definitions and strategies employed in the debate.

8.3 Implications for Future Research

Exploratory research by its very nature suggests more questions than it answers. A number of research questions came to mind as a result of this research. Foremost is to what extent do voters critically review the various aspects of the ballot measures, and in particular, to what extent do they use the voter information statements or the voter information statement authors as information cues? The direct democracy literature has not systematically examined voter information statements to date. The large number of

voter information statements in some states, including those that charge up to \$300 for placement, suggests at a minimum that the authors feel there is value in these statements. A better understanding of the extent to which these statements cue voters would provide an indication of their importance and role in influencing voters as well as insight to supporters and opponents as to whether this is a resource in which they should place additional effort.

A related research question would be to what extent the arguments and issue framing strategies used in the voter information statements reflect the paid ads, op-eds, and statements by sponsors and opponents in the media during the initiative campaigns. Obtaining copies of ads and all of the op-eds and related materials across a state has inherent difficulties. In particular, sponsor organizations may no longer be in existence to provide permission to reproduce ads, which was the case for some of the ads used in the state ballot measures over the past decade. If the voter information statements are representative of the debate in the media, that would suggest the voter information statements are reliable documentation of the policy debate. The issue framing strategies used in the voter statements did mirror much of the rhetoric at the national level, lending credence to the statements as a valid resource. This finding also suggests a more detailed comparison of similarities and differences in issue framing by venue type may be instructive.

The initiative process is often selected as a venue for controversial issues. Are the issue framing strategies identified through application of Stone (2002) found in initiative efforts related to other policy issues? That all of the measures focused to some degree on rights and power issues may reflect the very nature of the initiative process, that it is often a venue of first or last result. When an interest cannot obtain satisfaction in other venues, particularly for controversial issues, appeals to universal values may be a common strategy along with the use of metaphors and symbolic representation to deflect focus from the issue specifics. Replicating the dissertation approach with another polarizing issue such as physician-assisted suicide or abortion would be an important step in understanding not only the extent to which Stone's framework illuminates issue framing in another issue area but also whether the same types of appeals are used to generate support for controversial issues.

My interview with Ms. Taft indicated that Ohio's opposition coalition learned from the experiences of other states, which informed its message strategies. Understanding the extent to which the various actors learn from other states and how that impacts their strategies would be instructive. My research suggests there was little change over time within ballot topic but that there were new ballot topics introduced over time—such as the measures focusing solely on property protection in 2000. In the case of illegal drugs, three individuals were the primary funders over the past decade, and their early successful measures were more often than not reproduced whole cloth in other states after polling had occurred indicating receptivity to the measures. Is this the case for other policy issue areas? And, why were the measures for the most part simply replicated—was it because, for example, the same three people funded most of the ballot measures?

The U.S. Supreme Court cases resulted in some issue framing strategies not found in the voter information statements as well as revealed some of the Justices' own views and uncertainties over how the drug problem should be defined. Monitoring of future drug policy ballot measure efforts and national drug control policy to gain insight into the extent to which the concerns and suggestions of the Justices are addressed by the various actors in the initiative process would provide an indication of the role of the Court in policymaking.

Perhaps the most important implication of this research is the identification of voter information statements as a snapshot of the policy debate and as a potentially valuable information source for voters. The application of Stone (2002) highlighted the importance of critically examining and questioning policy arguments and strategies to understand the values and interests represented. This would allow for a more informed policy debate. Stone's framework proved particularly useful in understanding the issue framing strategies used in the initiative process and the complexity of the policy and political debate.

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**Appendix A: Sample Ballot Measure Materials
and State Handbook for Initiative, Referendum, and Recall**

BALLOT PROPOSITION VOTER'S GUIDE

This page is provided for your convenience to mark your choices after studying the propositions. It may be detached from this booklet and taken to the polling place on General Election Day, November 5, 2002, to assist you in voting your ballot.

Proposition 100 - proposed amendment to the Arizona Constitution by the legislature relating to municipal debt limits	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 101 - proposed amendment to the Arizona Constitution by the legislature relating to State Lands	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 102 - proposed amendment to the Arizona Constitution by the legislature relating to residential property tax valuation	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 103 - proposed amendment to the Arizona Constitution by the legislature relating to bailable offenses	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 104 - proposed amendment to the Arizona Constitution by the legislature relating to school district expenditure limitations	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 200 - proposed by initiative petition relating to Indian gaming	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 201 - proposed by initiative petition relating to Indian gaming and racetrack gaming	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 202 - proposed by initiative petition relating to Indian gaming	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 203 - proposed by initiative petition relating to penalties for drug possession and use	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 300 - referred by the legislature relating to State School Trust Land revenues	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 301 - referred by the legislature relating to the State Lottery	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 302 - referred by the legislature relating to probation	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 303 - referred by the legislature relating to taxation of tobacco products	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Proposition 304 - recommendation of the commission on salaries for elective state officers relating to legislators' salaries	YES <input type="checkbox"/>	NO <input type="checkbox"/>

VOTER'S RIGHTS

- Any voter may be accompanied into the voting booth and assisted in casting a ballot by a person of his or her choice or by two poll workers of different political parties, except for a candidate, other than precinct committeeman, whose name appears on the ballot.
- A voter may also be accompanied by a person under the age of 18 pursuant to Arizona's "Youth in the Booth" law.
- Sample ballots may be brought to the polling place and may be taken into the voting booth at the time of the election.
- Any qualified voter who is in the line of waiting voters at 7:00 p.m. on election day shall be allowed to prepare and cast a ballot.

VOTER REGISTRATION

October 7 is the registration deadline for the 2002 General Election.



You can now register to vote online! Visit the Service Arizona Voter Registration site at:
<http://www.servicearizona.com>



- Voter registration forms are also available from the county recorder in each county, as well as government offices and public locations throughout the state. Completed forms can be sent to the appropriate county recorder listed in this publication.
- An online registration form is available on the Secretary of State's Web page (www.sos.state.az.us). The registration form can be filled out and printed on a home computer. Once signed, it can be mailed to the Secretary of State's Office. You may also request a voter registration form by calling toll-free within Arizona at 1-877-THE-VOTE (1-877-843-8683).
- Arizona residents who are temporarily absent from the state can register by mailing a registration form to the county recorder in their county of residence.

PROPOSITION 203**OFFICIAL TITLE****AN INITIATIVE MEASURE**

AMENDING TITLE 13, CHAPTER 6 BY ADDING SECTION 13-610, ARIZONA REVISED STATUTES; AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 34, BY AMENDING SECTION 13-3413 AND ADDING SECTIONS 13-3405.01, 13-3413.01 AND 13-3423, ARIZONA REVISED STATUTES; AMENDING SECTION 13-4304, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 3, ARTICLE 2 BY ADDING SECTION 31-411.02, ARIZONA REVISED STATUTES; AMENDING TITLE 36, BY ADDING CHAPTER 27.1, SECTIONS 36-2601, 36-2602, 36-2603, 36-2604, 36-2605, 36-2606, 36-2607, 36-2608, 36-2609, 36-2610, 36-2611, 36-2612, 36-2613 AND 36-2614 ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1 BY ADDING SECTION 41-1604.18, ARIZONA REVISED STATUTES; RELATING TO DRUGS.

TEXT OF THE PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1. Title.

This Act shall be known and may be cited as the "Drug Medicalization, Prevention, and Control Act of 2002."

Section 2. Findings and Declarations.

The people of the State of Arizona find and declare the following:

A. The Drug Medicalization, Prevention, and Control Act of 1996 approved by 65.4% of the voters is saving the state money and making our neighborhoods safer by diverting non-violent drug users into treatment rather than incarcerating them. The 1996 Act was overwhelmingly re-approved in 1998 after the Legislature attempted to thwart the will of the people.

B. According to a Report Card prepared by the Arizona Supreme Court, the 1996 Act is "resulting in safer communities and more substance abusing probationers in recovery." The most recent annual Report Card showed:

1. 5,385 non-violent offenders participated in the program;

2. Almost two-thirds of the offenders successfully participated in their treatment program;

3. Those offenders who could not be incarcerated for drug violations complied more successfully with drug treatment programs than those who could be incarcerated if they did not comply with the drug treatment programs.

4. Arizona's annual cost-savings as a result of placing offenders in treatment versus jail or prison is at least \$6,711,714.

C. The Drug Medicalization, Prevention, and Control Act of 2002 will expand the benefits of the 1996 Act by increasing the funding for drug treatment and expanding sentencing reforms for non-violent drug users. This will result in greater cost-savings to the state, safer communities, and more prison space for violent offenders.

D. The Drug Medicalization, Prevention, and Control Act of 2002 will also correct any further circumvention or misunderstanding of the 1996 Act by the courts, county attorneys, and federal government by clarifying the medical marijuana and sentencing reform provisions of the 1996 Act.

E. The Drug Medicalization, Prevention, and Control Act of 2002 acknowledges that there is a legitimate medical use for marijuana. The legitimate use of medical marijuana has been affirmed twice by Arizona voters and has been affirmed by medical and scientific research. The People of Arizona want to preserve the autonomy of Arizona residents and their physicians and allow them to utilize all legitimate medical alternatives to preserve their health, relieve pain, and alleviate suffering.

Section 3. Purpose and Intent.

The people of the State of Arizona declare their purposes to be as follows:

A. Those convicted of drug offenses will pay for drug treatment and prevention themselves. Drug fines should be placed in the Drug Treatment and Education Fund.

B. Tougher punishments will be provided for violent drug felons. The maximum sentence for violent crimes causing serious injury or death committed while under the influence of drugs will be

increased by 50%, but mandatory minimum sentences will be removed for non-violent drug offenders.

C. Arizona marijuana laws, which currently provide that someone caught with a small amount of marijuana could be charged with a felony and possible jail time, will be changed. Possession for small amounts of marijuana will be changed to a civil violation with a fine.

D. Those persons charged with drug offenses will not have their property forfeited unless and until they are found guilty of a crime.

E. Sentencing provisions of the 1996 Act requiring mandatory treatment and probation/parole for those convicted of drug possession will be clarified. The courts have not always understood that the 1996 Act clearly stated that first- and second-time offenders should not be incarcerated in jail or prison. In addition, some prosecutors have been trying to circumvent the mandatory treatment provisions of the 1996 Act by invoking paraphernalia laws. The Drug Medicalization, Prevention, and Control Act of 2002 remedies both these situations and will restore the parole provisions repealed by the Legislature in 1997.

F. Medical marijuana patients will no longer be forced to obtain their medicine on the streets. A state distribution system will be established. Only marijuana that can be identified as having been cultivated and produced in Arizona or provided by the federal government will be distributed to patients and the number of patients who will be eligible for medical use will be limited. The medical use of marijuana cultivated and distributed will not have any substantial effect upon interstate commerce. Patients who qualify for medical use will not be able to sell or otherwise distribute the marijuana provided to them by the state. Qualified patients must also be Arizona residents. The measure will not permit distribution of marijuana to patients except by state officials under regulated or controlled conditions that will ensure no commercial transactions and strictly limit the possession and use of marijuana by qualified patients to Arizona. Strict sanctions will be provided for those who violate the terms of the agreement.

Section 4. Title 13, Chapter 6, Arizona Revised Statutes, is amended by adding § 13-610 to read:

§ 13-610. MINIMUM MANDATORY DRUG SENTENCING LAWS; EXCEPTIONS.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY AND EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, THERE SHALL BE NO MINIMUM MANDATORY SENTENCE OR MINIMUM MANDATORY FINE FOR ANY CONVICTION OF A DRUG OFFENSE LISTED IN TITLE 13, CHAPTER 34.

B. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO § 13-901.01, § 13-3405.01, 13-3409, § 13-3411, § 13-3423 AND § 41-1604.15.

Section 5. Title 13, Chapter 9, Arizona Revised Statutes, is amended to read:

§ 13-901.01. Probation for persons convicted of personal possession and use of controlled substances and personal possession or use of drug paraphernalia associated with possession or use of a controlled substance; treatment; prevention; education.

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

GENERAL ELECTION NOVEMBER 5, 2002

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A. Notwithstanding any law to the contrary AND EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, any person who is convicted of the personal possession or use of a controlled substance ~~as defined in § 36-2504~~ OR WHO IS CONVICTED OF PERSONAL POSSESSION OR USE OF DRUG PARAPHERNALIA ASSOCIATED WITH PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE is eligible for probation. THE COURT SHALL NOT IMPOSE ANY SANCTION THAT INCLUDES INCARCERATION IN PRISON OR JAIL AS A CONDITION OF PROBATION. The court shall suspend the imposition or execution of sentence and place such person on probation.

B. Any person who has been convicted of or CURRENTLY STANDS indicted for a violent crime as defined in § 13-604.04 is not eligible for probation as provided for in this section but instead shall be sentenced pursuant to the other provisions of chapter 34 of this title.

C. Personal possession or use of a controlled substance OR PERSONAL POSSESSION OR USE OF DRUG PARAPHERNALIA ASSOCIATED WITH PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE pursuant to this section shall not include possession for sale, production, manufacturing, or transportation for sale of any controlled substance.

D. If a person is convicted of personal possession or use of a controlled substance ~~as defined in § 36-2504~~ OR PERSONAL POSSESSION OR USE OF DRUG PARAPHERNALIA ASSOCIATED WITH PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE, as a condition of probation, the court shall require participation in an appropriate drug treatment or education program administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances. THE COURT SHALL NOT IMPOSE ANY SANCTION THAT INCLUDES INCARCERATION IN PRISON OR JAIL AS A CONDITION OF PROBATION. Each person WHO IS enrolled in a drug treatment or education program shall be required to pay for participation in the program to the extent of the person's financial ability.

E. A person who has been placed on probation ~~under the provisions of~~ PURSUANT TO this section and who is determined by the court to be in violation of probation shall have new conditions of probation established by the court. The court shall select the additional conditions it deems necessary, including intensified drug treatment, community service, intensive probation, home arrest, or any other sanctions short of incarceration IN PRISON OR JAIL.

F. If a person is convicted a second time of personal possession or use of a controlled substance ~~as defined in § 36-2504~~ OR PERSONAL POSSESSION OR USE OF DRUG PARAPHERNALIA ASSOCIATED WITH PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE, the court may include additional conditions of probation it deems necessary, including intensified drug treatment, community service, intensive probation, home arrest, or any other action within the jurisdiction of the court. THE COURT SHALL NOT IMPOSE ANY SANCTION THAT INCLUDES INCARCERATION IN PRISON OR JAIL AS A CONDITION OF PROBATION.

G. A person who has been convicted three times of personal possession or use of a controlled substance ~~as defined in § 36-2504~~ OR OF PERSONAL POSSESSION OR USE OF DRUG PARAPHERNALIA ASSOCIATED WITH PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE is not eligible for probation under the provisions of this section but instead shall be sentenced pursuant to the other provisions of chapter 34 of this title.

H. A COURT SHALL NOT CONSIDER A CONVICTION FOR PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE OR PERSONAL POSSESSION OR USE OF DRUG PARAPHERNALIA ASSOCIATED WITH PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE AS A PRIOR CONVICTION FOR PURPOSES OF THIS SECTION IF THE PERSON HAS COMPLETED THE COURT ORDERED DRUG TREATMENT

OR EDUCATION PROGRAM PURSUANT TO SUBSECTION D OF THIS SECTION FOR THAT PRIOR CONVICTION.

I. FOR THE PURPOSES OF DETERMINING WHETHER A PERSON IS SUBJECT TO THE PROVISIONS OF SUBSECTION G OF THIS SECTION, ONLY CONVICTIONS FOR PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE OR PERSONAL POSSESSION OR USE OF DRUG PARAPHERNALIA ASSOCIATED WITH PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE THAT OCCUR AFTER DECEMBER 6, 1996 SHALL APPLY.

J. A PERSON WHO HAS BEEN PLACED ON PROBATION PURSUANT TO THIS SECTION AND WHO IS THE SUBJECT OF A PETITION TO REVOKE PROBATION IN WHICH THE PETITION DOES NOT CONTAIN AN ALLEGATION THAT THE PERSON HAS COMMITTED A NEW CRIMINAL OFFENSE WHILE ON PROBATION SHALL NOT BE ARRESTED OR TAKEN INTO CUSTODY OR INCARCERATED IN PRISON OR JAIL BEFORE THE COURT HAS RULED ON THE PETITION TO REVOKE PROBATION, BUT SHALL BE SUMMONED TO APPEAR IN THE APPROPRIATE PROBATION VIOLATION COURT.

K. FOR THE PURPOSES OF THIS SECTION, "DRUG TREATMENT" FOR PERSONS WHO HAVE A HISTORY OF OPIOD USE SHALL INCLUDE AN ASSESSMENT BY A TREATMENT PROFESSIONAL WHO IS QUALIFIED IN THE USE OF NARCOTIC REPLACEMENT TREATMENT AND SHALL INCLUDE THE USE OF NARCOTIC REPLACEMENT THERAPY THAT MAY ALSO INCLUDE THE USE OF METHADONE MAINTENANCE, WHERE MEDICALLY APPROPRIATE.

L. FOR THE PURPOSES OF THIS SECTION, "CONTROLLED SUBSTANCE" HAS THE SAME MEANING PRESCRIBED IN § 36-2501.

Section 6, Title 13, Chapter 34, Arizona Revised Statutes, is amended by adding § 13-3405.01 to read:

§ 13-3405.01. POSSESSION OF MARIJUANA, MARIJUANA PLANTS OR RELATED MARIJUANA DRUG-PARAPHERNALIA FOR PERSONAL USE; PENALTIES; EXCLUSIONS; DEFINITIONS.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY AND EXCEPT AS PROVIDED IN § 13-3411 AND IN THIS SECTION:

(1) POSSESSION OF MARIJUANA FOR PERSONAL USE IS A CIVIL VIOLATION PUNISHABLE SOLELY BY A CIVIL FINE AND IS NOT PUNISHABLE AS A CRIMINAL OFFENSE.

(2) POSSESSION OF MARIJUANA PLANTS FOR PERSONAL USE IS A CIVIL VIOLATION PUNISHABLE SOLELY BY A CIVIL FINE AND IS NOT PUNISHABLE AS A CRIMINAL OFFENSE.

(3) POSSESSION OF MARIJUANA DRUG PARAPHERNALIA FOR PERSONAL USE FOR THE PURPOSES SET OUT IN THIS SECTION IS A CIVIL VIOLATION PUNISHABLE SOLELY BY A CIVIL FINE AND IS NOT PUNISHABLE AS A CRIMINAL OFFENSE.

B. A PERSON CONVICTED OF A CIVIL VIOLATION UNDER THIS SECTION SHALL PAY A CIVIL FINE OF TWO HUNDRED FIFTY DOLLARS, PROVIDED HOWEVER THAT IF SUCH PERSON HAS BEEN PREVIOUSLY CONVICTED THREE OR MORE TIMES OF A CIVIL VIOLATION PURSUANT TO THIS SECTION DURING THE TWO YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF COMMISSION OF THE CIVIL VIOLATION TO BE CHARGED, THE AMOUNT OF THE CIVIL FINE SHALL BE SEVEN HUNDRED FIFTY DOLLARS.

C. ANY JUDGE IMPOSING A FINE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL WAIVE ALL OF THE FINE IF THE PERSON WHO VIOLATED THE PROVISIONS OF THIS SECTION COMPLETES A DRUG EDUCATION PROGRAM APPROVED OF BY THE COURT. EACH PERSON WHO IS ENROLLED IN A DRUG EDUCATION PROGRAM PURSUANT TO

THIS SECTION SHALL BE REQUIRED TO PAY FOR PARTICIPATION IN THE PROGRAM TO THE EXTENT OF THE PERSON'S FINANCIAL ABILITY, EXCEPT THAT THE COST OF THE PROGRAM TO THE PARTICIPANT SHALL NOT EXCEED THE COST OF THE FINE IMPOSED PURSUANT TO SUBSECTION B OF THIS SECTION.

D. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PERSON CHARGED SOLELY WITH A VIOLATION OF THIS SECTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF § 13-901.01.

E. NOTWITHSTANDING ANY LAW TO THE CONTRARY, ALL OF THE MONEY COLLECTED PURSUANT TO A CIVIL FINE IMPOSED FOR A VIOLATION OF THIS SECTION SHALL BE DEPOSITED INTO THE DRUG TREATMENT AND EDUCATION FUND ESTABLISHED IN § 13-901.02.

F. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT A CRIMINAL PROSECUTION FOR POSSESSION, PRODUCTION, OR TRANSPORTATION OF MARIJUANA OR MARIJUANA PLANTS IF THE AMOUNT OF MARIJUANA POSSESSED EXCEEDS TWO OUNCES OF MARIJUANA OR TWO MARIJUANA PLANTS.

G. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT A CRIMINAL PROSECUTION FOR THE SALE OF ANY AMOUNT OF MARIJUANA.

H. IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "POSSESSION OF MARIJUANA FOR PERSONAL USE" MEANS POSSESSION, USE, OR TRANSPORTATION OF NOT MORE THAN TWO OUNCES OF MARIJUANA BY ANY PERSON EIGHTEEN YEARS OF AGE OR OLDER SOLELY FOR THAT PERSON'S PERSONAL USE PROVIDED THAT NONE OF SUCH MARIJUANA IS HELD FOR SALE OR SOLD TO OTHERS.

(2) "POSSESSION OF MARIJUANA PLANTS FOR PERSONAL USE" MEANS POSSESSION, USE, PRODUCTION OR TRANSPORTATION OF NOT MORE THAN TWO MARIJUANA PLANTS BY ANY PERSON EIGHTEEN YEARS OF AGE OR OLDER SOLELY FOR THAT PERSON'S PERSONAL USE PROVIDED THAT NONE OF SUCH MARIJUANA PLANTS ARE HELD FOR SALE OR SOLD TO OTHERS.

(3) "POSSESSION OF MARIJUANA DRUG PARAPHERNALIA FOR PERSONAL USE" MEANS POSSESSION, USE OR TRANSPORTATION OF MARIJUANA DRUG PARAPHERNALIA BY ANY PERSON EIGHTEEN YEARS OF AGE OR OLDER SOLELY FOR THE PURPOSES SET OUT IN THIS SECTION PROVIDED THAT NONE OF SUCH MARIJUANA DRUG PARAPHERNALIA IS HELD FOR SALE OR SOLD TO OTHERS.

(4) "MARIJUANA DRUG PARAPHERNALIA" MEANS ALL EQUIPMENT, PRODUCTS AND MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE OR DESIGNED FOR PRODUCTION OR USE OF MARIJUANA CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

(5) "HELD FOR SALE" MEANS HELD WITH THE SPECIFIC INTENT TO DELIVER, SELL OR DISTRIBUTE SUCH ITEM TO ANOTHER PERSON FOR CONSIDERATION.

Section 7. Title 13, Chapter 34, Arizona Revised Statutes, is amended to read:

§ 13-3413. Forfeiture and disposition of drugs and evidence

A. The following items used or intended for use in violation of A CRIMINAL OFFENSE OF this chapter are subject to seizure and forfeiture pursuant to chapter 39 of this title:

1. Property, equipment, containers, chemicals, materials, money, books, records, research products, formulas, microfilm, tapes and data.

2. Vapor-releasing substances containing a toxic substance.

3. Vehicles to transport or in any manner facilitate the transportation, sale or receipt of, or in which is contained or possessed, any item or drug, except as provided in chapter 39 of this title.

B. The following property is subject to seizure and forfeiture pursuant to chapter 39 of this title:

1. All proceeds traceable to an offense that is included in this chapter and that is committed for financial gain.

2. All proceeds seized in this state and traceable to an offense that:

(a) Is chargeable or indictable under the laws of the state in which the offense occurred and, if the offense occurred in a state other than this state, would be chargeable or indictable under this chapter if the offense occurred in this state.

(b) Is punishable by imprisonment for more than one year.

(c) Involves prohibited drugs, marijuana or other prohibited chemicals or substances.

(d) Is committed for financial gain.

C. Peyote, dangerous drugs, prescription-only drugs, marijuana, narcotic drugs and plants from which such drugs may be derived which are seized in connection with any violation of this chapter or which come into the possession of a law enforcement agency are summarily forfeited.

D. When seizures of marijuana are made in excess of ten pounds or seizures of any other substance specified in subsection C of this section are made in excess of one pound in connection with any violation of this chapter the responsible law enforcement agency may retain ten pounds of the marijuana or one pound of the other substance randomly selected from the seized quantity for representation purposes as evidence. IF THE SEIZED MARIJUANA WAS GROWN, CULTIVATED OR PRODUCED IN THE STATE, THE LAW ENFORCEMENT AGENCY SHALL RETAIN THE SEIZED MARIJUANA FOR REPRESENTATIONAL PURPOSES AS EVIDENCE AND AFTER SUCH PURPOSES ARE FULFILLED, FORWARD THE MARIJUANA TO THE ARIZONA DEPARTMENT OF PUBLIC SAFETY FOR DISTRIBUTION CONSISTENT WITH THE PROVISIONS OF § 13-3413.01. The agency may destroy the remainder of ANY OTHER SEIZED SUBSTANCE, OR IF THE MARIJUANA WAS NOT GROWN, CULTIVATED OR PRODUCED IN THE STATE, THE AGENCY MAY DESTROY THE REMAINDER OF the seized marijuana. Before any destruction is carried out, the responsible law enforcement agency shall photograph the material seized with identifying case numbers or other means of identification and prepare a report, identifying the seized material. The responsible law enforcement agency shall notify in writing any person arrested for a violation of this chapter or the attorney for the person at least twenty-four hours in advance that such photography will take place and that such person or the person's attorney may be present at such photographing of the seized material. In addition to the amount of marijuana or other substance retained for representation purposes as evidence, all photographs and records made under this section and properly identified are admissible in any court proceeding for any purpose for which the seized marijuana or substance itself would be admissible. Evidence retained after trial shall be disposed of pursuant to the rules of criminal procedure, rule 28.

E. If a seizure is made of chemicals used for the manufacture of a narcotic drug or dangerous drug as defined by section 13-3401 in connection with a violation of this title, the seizing agency may apply to a magistrate or superior court judge in the application for the search warrant or as soon as reasonable after the seizure for an order allowing the proper disposal or destruction of the substances,

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on a showing to the magistrate or superior court judge by affidavit of both of the following:

1. The substances pose a significant safety hazard to life or property because of their explosive, flammable, poisonous or otherwise toxic nature.

2. No adequate and safe storage facility is reasonably available to the seizing agency.

F. On a proper showing pursuant to subsection E of this section, the magistrate or superior court judge shall order the substances to be properly destroyed if the containers are first photographed. In addition the magistrate or superior court judge may order that the chemicals be sampled and the samples preserved, unless the court finds either:

1. Sampling would be unnecessary or unsafe.

2. The chemicals are in labeled or factory sealed containers.

Section 8, Title 13, Chapter 34, Arizona Revised Statutes, is amended by adding § 13-3413.01 to read:

§ 13-3413.01. REQUEST FOR MARIJUANA; RETENTION OF SEIZED MARIJUANA GROWN IN ARIZONA; DISTRIBUTION FOR MEDICAL PURPOSES; NOTICE; LIMITATION OF LIABILITY.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS ACT, THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL SEND A LETTER TO THE NATIONAL INSTITUTE ON DRUG ABUSE AND THE UNIVERSITY OF MISSISSIPPI REQUESTING THAT THE NATIONAL INSTITUTE ON DRUG ABUSE AND THE UNIVERSITY OF MISSISSIPPI PROVIDE, BEGINNING ON FEBRUARY 1, 2003, QUARTERLY SHIPMENTS OF MARIJUANA GROWN AT THE UNIVERSITY OF MISSISSIPPI TO THE DEPARTMENT OF PUBLIC SAFETY IN SUCH AMOUNTS AS ARE NECESSARY TO PROVIDE MARIJUANA TO ALL PERSONS QUALIFIED TO USE MARIJUANA FOR MEDICAL PURPOSES PURSUANT TO TITLE 36 CHAPTER 27.1. THE DEPARTMENT OF PUBLIC SAFETY SHALL TAKE APPROPRIATE ACTIONS TO ENSURE THE SECURITY OF MARIJUANA SHIPPED PURSUANT TO THIS SUBSECTION. MARIJUANA RECEIVED BY THE DEPARTMENT OF PUBLIC SAFETY PURSUANT TO THIS SUBSECTION SHALL BE MAINTAINED AND DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

B. NOTWITHSTANDING ANY LAW TO THE CONTRARY, MARIJUANA SUBJECT TO SEIZURE AND FORFEITURE PURSUANT TO CHAPTER 39 OF THIS TITLE THAT IS GROWN, CULTIVATED OR PRODUCED IN THE STATE SHALL NOT BE DESTROYED AND SHALL BE RETAINED BY THE ARIZONA DEPARTMENT OF PUBLIC SAFETY, EXCEPT FOR THAT AMOUNT OF MARIJUANA HELD FOR REPRESENTATIONAL PURPOSES PURSUANT TO § 13-3413(D). MARIJUANA RETAINED PURSUANT TO THIS SUBSECTION, RECEIVED PURSUANT TO SUBSECTION A OF THIS SECTION OR FORWARDED TO THE ARIZONA DEPARTMENT OF PUBLIC SAFETY PURSUANT TO § 13-3413 SHALL BE MAINTAINED IN A SECURE LOCATION WITHIN PUBLIC BUILDINGS LOCATED IN AT LEAST THREE COUNTIES HAVING THE GREATEST POPULATION IN THE STATE.

C. THE DEPARTMENT OF PUBLIC SAFETY SHALL PROHIBIT THE PUBLIC FROM ENTERING THE SECURE LOCATION OF A PUBLIC BUILDING WHERE MARIJUANA IS RETAINED PURSUANT TO SUBSECTIONS A AND B OF THIS SECTION, EXCEPT THAT A PERSON POSSESSING A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603 SHALL BE PERMITTED IN SUCH SECURE LOCATION FOR THE SOLE PURPOSE OF OBTAINING MARIJUANA PURSUANT TO THIS SECTION UPON THE PRESENTATION OF THAT PERSON'S REGISTRY IDENTIFICATION CARD.

D. UPON THE PRESENTATION OF A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603 BY

THE PERSON TO WHOM THE CARD WAS ISSUED, THE DEPARTMENT OF PUBLIC SAFETY SHALL GIVE TO THAT PERSON NOT MORE THAN TWO OUNCES OF MARIJUANA RETAINED OR RECEIVED PURSUANT TO SUBSECTIONS A AND B OF THIS SECTION. NO PERSON OBTAINING MARIJUANA UNDER THIS SECTION SHALL RECEIVE OR ATTEMPT TO RECEIVE MORE THAN TWO OUNCES OF MARIJUANA WITHIN A THIRTY DAY PERIOD.

E. THE DEPARTMENT OF PUBLIC SAFETY SHALL TAKE ALL REASONABLE STEPS NECESSARY TO PACKAGE OR OTHERWISE IDENTIFY MARIJUANA RETAINED OR RECEIVED PURSUANT TO SUBSECTIONS A AND B OF THIS SECTION BEFORE SUCH MARIJUANA IS GIVEN TO PERSONS IN POSSESSION OF A VALID REGISTRY IDENTIFICATION AS PROVIDED IN SUBSECTION D OF THIS SECTION.

F. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN EMPLOYEE OF THE DEPARTMENT OF PUBLIC SAFETY COMPLYING WITH THE REQUIREMENTS OF THIS SECTION SHALL NOT BE PROSECUTED FOR ACTS CONSISTENT WITH THIS SECTION AND SHALL NOT BE CIVILLY LIABLE FOR COMPLYING WITH THE REQUIREMENTS OF THIS SECTION.

G. THE DEPARTMENT OF PUBLIC SAFETY SHALL MAKE PUBLIC THE LOCATION OF THE PUBLIC BUILDINGS WHERE MARIJUANA RETAINED OR RECEIVED PURSUANT TO SUBSECTIONS A AND B OF THIS SECTION SHALL BE STORED.

H. ANY PERSON WHO USES OR ATTEMPTS TO USE A FALSIFIED REGISTRY IDENTIFICATION CARD OR A REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603 THAT WAS ISSUED TO SOMEONE OTHER THAN THE PERSON RECEIVING OR ATTEMPTING TO RECEIVE MARIJUANA PURSUANT TO THIS SECTION IS GUILTY OF A CLASS 4 FELONY.

I. IT SHALL BE UNLAWFUL FOR ANY PERSON POSSESSING A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603 TO POSSESS, USE, SELL, DELIVER OR TRANSPORT MARIJUANA RECEIVED PURSUANT TO THIS SECTION OUTSIDE THE BORDERS OF THIS STATE OR TO DELIVER MARIJUANA TO ANY OTHER PERSON WHO INTENDS TO POSSESS, SELL, DELIVER OR TRANSPORT SUCH MARIJUANA OUTSIDE THE BORDERS OF THIS STATE. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION IS GUILTY OF A CLASS 6 FELONY.

Section 9, Title 13, Chapter 34, Arizona Revised Statutes, is amended by adding § 13-3423 to read:

§ 13-3423. SENTENCE ENHANCEMENT AND PROBATION OR OTHER RELEASE NONELIGIBILITY; VIOLENT CRIME; UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE MAXIMUM PERMISSIBLE SENTENCE OF A PERSON WHO IS CONVICTED BY PROOF BEYOND A REASONABLE DOUBT OF INTENTIONALLY AND KNOWINGLY COMMITTING A VIOLENT CRIME WHILE THE PERSON IS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE AS DEFINED IN § 36-2501 IN VIOLATION OF ANY OF THE PROVISIONS OF TITLE 13, CHAPTER 34 SHALL BE INCREASED BY FIFTY PER CENT. A PERSON WHOSE SENTENCE HAS BEEN INCREASED PURSUANT TO THIS SECTION SHALL NOT BE ELIGIBLE FOR PROBATION OR RELEASE UNTIL THE ENTIRE SENTENCE HAS BEEN SERVED. PURSUANT TO § 41-1604.07, THE DIRECTOR OF THE ARIZONA DEPARTMENT OF CORRECTIONS SHALL INCLUDE ANY SUCH PERSON WHOSE SENTENCE HAS BEEN INCREASED PURSUANT TO THIS SECTION IN A NONELIGIBLE EARNED RELEASE CREDIT CLASS AND THE PRISONER IS NOT ELIGIBLE FOR PLACEMENT IN AN ELIGIBLE EARNED RELEASE CREDIT CLASS.

B. FOR THE PURPOSES OF THIS SECTION, "VIOLENT CRIME" MEANS ANY INTENTIONAL AND KNOWING COMMIT-

MENT OF A CRIMINAL ACT THAT RESULTS IN DEATH OR SERIOUS PHYSICAL INJURY.

C. FOR THE PURPOSES OF THIS SECTION, NO PERSON SHALL BE FOUND TO BE UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE EXCEPT UPON PROOF BEYOND A REASONABLE DOUBT.

Section 10. Title 13, Chapter 39, Arizona Revised Statutes, is amended to read:

§ 13-4304. Property subject to forfeiture; exemptions

All property, including all interests in such property, described in a statute providing for its forfeiture is subject to forfeiture. However:

1. No vehicle used by any person as a common carrier in the transaction of business as a common carrier may be forfeited under the provisions of this chapter unless it appears that the owner or other person in charge of the vehicle was a consenting party or privy to the act or omission giving rise to forfeiture or knew or had reason to know of it.

2. No vehicle may be forfeited under the provisions of this chapter for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state or of the United States.

3. No property may be forfeited pursuant to section 13-3413, subsection A, paragraph 1 or 3 if the conduct giving rise to the forfeiture both:

(a) Did not involve an amount of unlawful substance greater than the statutory threshold amount as defined in section 13-3401.

(b) Was not committed for financial gain.

4. No owner's or interest holder's interest may be forfeited under this chapter if the owner or interest holder establishes all of the following:

(a) He acquired the interest before or during the conduct giving rise to forfeiture.

(b) He did not empower any person whose act or omission gives rise to forfeiture with legal or equitable power to convey the interest, as to a bona fide purchaser for value, and he was not married to any such person or if married to such person, held the property as separate property.

(c) He did not know and could not reasonably have known of the act or omission or that it was likely to occur.

5. No owner's or interest holder's interest may be forfeited under this chapter if the owner or interest holder establishes all of the following:

(a) He acquired the interest after the conduct giving rise to forfeiture.

(b) He is a bona fide purchaser for value not knowingly taking part in an illegal transaction.

(c) He was at the time of purchase and at all times after the purchase and before the filing of a racketeering lien notice or the provision of notice of pending forfeiture or the filing and notice of a civil or criminal proceeding under this title relating to the property, whichever is earlier, reasonably without notice of the act or omission giving rise to forfeiture and reasonably without cause to believe that the property was subject to forfeiture.

6. NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO OWNER'S OR INTEREST HOLDER'S INTEREST IN ANY PROPERTY MAY BE FORFEITED UNDER THIS CHAPTER AS PART OF A SEIZURE FOR FORFEITURE OF PROPERTY FOR A VIOLATION OF ANY DRUG OFFENCE LISTED IN TITLE 13, CHAPTER 34 UNLESS AND UNTIL THE OWNER OF THE PROPERTY OR THE INTEREST HOLDER WITH AN INTEREST IN THE PROPERTY IS CONVICTED OF SUCH AN OFFENSE IN THE STATE OR ANOTHER JURISDICTION AND THE COURT FINDS

BY CLEAR AND CONVINCING EVIDENCE THAT THE PROPERTY WAS INSTRUMENTAL IN COMMITTING OR FACILITATING THE CRIME OR WAS THE PROCEEDS OF THAT CRIME. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO EFFECT THE TEMPORARY SEIZURE OF PROPERTY FOR EVIDENTIARY OR PROTECTIVE PURPOSES.

Section 11. Title 31, Chapter 3, Article 2, Arizona Revised Statutes, is amended by adding § 31-411.02 to read:

§ 31-411.02 PAROLE OR COMMUNITY SUPERVISION FOR PERSONS PREVIOUSLY CONVICTED OF PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EVERY PERSON WHO IS ELIGIBLE FOR PAROLE OR COMMUNITY SUPERVISION PURSUANT TO THE PROVISIONS OF § 41-1604.18 SHALL BE RELEASED ON PAROLE OR COMMUNITY SUPERVISION WITHIN NINETY DAYS OF THE ISSUANCE OF THE LIST REQUIRED PURSUANT TO § 41-1604.18(D), PROVIDED HOWEVER THAT IF THE BOARD OF EXECUTIVE CLEMENCY DETERMINES BEYOND A REASONABLE DOUBT THAT AN ELIGIBLE PERSON WOULD BE A DANGER TO THE GENERAL PUBLIC, THE BOARD SHALL NOT RELEASE SUCH AN OTHERWISE ELIGIBLE PERSON ON PAROLE OR COMMUNITY SUPERVISION.

B. THE BOARD OF EXECUTIVE CLEMENCY SHALL ORDER AS A CONDITION OF PAROLE OR COMMUNITY SUPERVISION THAT EACH PERSON RELEASED ON PAROLE OR COMMUNITY SUPERVISION PURSUANT TO THIS SECTION BE REQUIRED TO PARTICIPATE IN AN APPROPRIATE DRUG TREATMENT OR EDUCATION PROGRAM ADMINISTERED BY A QUALIFIED AGENCY OR ORGANIZATION THAT PROVIDES SUCH TREATMENT TO PERSONS WHO ABUSE CONTROLLED SUBSTANCES. EACH PERSON WHO IS ENROLLED IN A DRUG TREATMENT OR EDUCATION PROGRAM SHALL BE REQUIRED TO PAY FOR PARTICIPATION IN THE PROGRAM TO THE EXTENT OF HIS OR HER FINANCIAL ABILITY.

C. EACH PERSON RELEASED UPON PAROLE OR COMMUNITY SUPERVISION PURSUANT TO THIS SECTION SHALL REMAIN ON PAROLE OR COMMUNITY SUPERVISION UNLESS THE BOARD REVOKES PAROLE OR COMMUNITY SUPERVISION OR GRANTS AN ABSOLUTE DISCHARGE FROM PAROLE OR COMMUNITY SUPERVISION OR UNTIL SUCH PERSON REACHES HIS OR HER INDIVIDUAL EARNED RELEASE CREDIT DATE. WHEN SUCH PERSON REACHES HIS OR HER INDIVIDUAL EARNED RELEASE CREDIT DATE, HIS OR HER PAROLE OR COMMUNITY SUPERVISION SHALL BE TERMINATED AND HE OR SHE SHALL NO LONGER BE UNDER THE AUTHORITY OF THE BOARD.

Section 12. Title 36, Arizona Revised Statutes, is amended by adding Chapter 27.1 to read:

§ 36-2601. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ATTENDING PHYSICIAN" MEANS A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN ARIZONA AS DEFINED IN § 32-1800(24) OR A DOCTOR OF MEDICINE LICENSED TO PRACTICE MEDICINE IN ARIZONA AS DEFINED IN § 32-1401(10) WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE AND TREATMENT OF A PERSON DIAGNOSED WITH A DEBILITATING MEDICAL CONDITION.

2. "DEBILITATING MEDICAL CONDITION" MEANS:

(A) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNE DEFICIENCY SYNDROME, OR TREATMENT FOR THESE CONDITIONS;

(B) A MEDICAL CONDITION OR TREATMENT FOR A MEDICAL CONDITION THAT PRODUCES, FOR A SPECIFIC PATIENT, ONE OR MORE OF THE FOLLOWING:

- (i) CACHEXIA;
- (ii) SEVERE PAIN;
- (iii) SEVERE NAUSEA;
- (iv) SEIZURES, INCLUDING BUT NOT LIMITED TO SEIZURES CAUSED BY EPILEPSY; OR
- (v) PERSISTENT MUSCLE SPASMS, INCLUDING BUT NOT LIMITED TO SPASMS CAUSED BY MULTIPLE SCLEROSIS; OR

(C) ANY OTHER MEDICAL CONDITION OR TREATMENT FOR A MEDICAL CONDITION ADOPTED BY THE DEPARTMENT BY RULE OR APPROVED BY THE DEPARTMENT PURSUANT TO A PETITION SUBMITTED PURSUANT TO § 36-2611.

3. "DEPARTMENT" MEANS THE ARIZONA DEPARTMENT OF HEALTH SERVICES.

4. "DESIGNATED PRIMARY CAREGIVER" MEANS A PERSON EIGHTEEN YEARS OF AGE OR OLDER, WHO IS AND REMAINS A RESIDENT OF ARIZONA WHILE ACTING IN THE CAPACITY OF A DESIGNATED PRIMARY CAREGIVER, WHO HAS NOT BEEN CONVICTED OF A CRIMINAL DRUG OFFENSE PURSUANT TO TITLE 13, CHAPTER 34 OR BEEN CONVICTED OF A FELONY DRUG OFFENSE IN ANOTHER STATE OR JURISDICTION, WHO HAS SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PERSON WHO HAS BEEN DIAGNOSED WITH A DEBILITATING MEDICAL CONDITION AND WHO IS DESIGNATED AS SUCH ON THAT PERSON'S APPLICATION FOR A REGISTRY IDENTIFICATION CARD OR IN OTHER WRITTEN NOTIFICATION TO THE DEPARTMENT. "DESIGNATED PRIMARY CAREGIVER" DOES NOT INCLUDE THE PERSON'S ATTENDING PHYSICIAN.

5. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES.

6. "HELD FOR SALE" MEANS HELD WITH THE SPECIFIC INTENT TO DELIVER, SELL OR DISTRIBUTE SUCH ITEM TO ANOTHER PERSON FOR CONSIDERATION.

7. "MARIJUANA" MEANS ALL PARTS OF ANY PLANT OF THE GENUS CANNABIS, FROM WHICH THE RESIN HAS NOT BEEN EXTRACTED, WHETHER GROWING OR NOT, AND THE SEEDS OF SUCH PLANT.

8. "MEDICAL USE OF MARIJUANA" MEANS THE POSSESSION, USE, PRODUCTION OR ADMINISTRATION OF NOT MORE THAN TWO OUNCES OF MARIJUANA OR NOT MORE THAN TWO MARIJUANA PLANTS OR MARIJUANA DRUG PARAPHERNALIA AS DEFINED IN §13-3405.01(H)(4) THAT IS USED TO ADMINISTER MARIJUANA FOR THE EXCLUSIVE BENEFIT OF A PERSON TO MITIGATE THE SYMPTOMS OR EFFECTS OF HIS OR HER DEBILITATING MEDICAL CONDITION, PROVIDED THAT NONE OF SUCH MARIJUANA OR MARIJUANA DRUG PARAPHERNALIA IS HELD FOR SALE OR SOLD TO OTHERS.

9. "PUBLIC PLACE" MEANS ALL OR ANY PORTION OF AN AREA, LANDS, BUILDING OR OTHER STRUCTURE THAT IS GENERALLY OPEN TO THE PUBLIC OR TO WHICH THE PUBLIC HAS ACCESS AND IS NOT USED PRIMARILY FOR PRIVATE RESIDENTIAL PURPOSES. PUBLIC PLACE DOES NOT INCLUDE THE INSIDE OF A PERSON'S DWELLING OF RESIDENCE.

10. "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT ISSUED BY THE DEPARTMENT THAT IDENTIFIES A PERSON WHO HAS BEEN AUTHORIZED TO ENGAGE IN THE MEDICAL USE OF MARIJUANA AND THE PERSON'S DESIGNATED PRIMARY CAREGIVER, IF ANY.

11. "USABLE MARIJUANA" MEANS THE DRIED LEAVES AND FLOWERS OF THE PLANT CANNABIS FAMILY MORACEAE, AND ANY MIXTURE OR PREPARATION THEREOF, WHICH ARE APPROPRIATE FOR MEDICAL USE AS ALLOWED IN THIS CHAPTER. "USABLE MARIJUANA" DOES NOT INCLUDE THE SEEDS, STALKS AND ROOTS OF THE PLANT.

12. "WRITTEN DOCUMENTATION" MEANS A STATEMENT SIGNED BY THE ATTENDING PHYSICIAN OF A PERSON DIAGNOSED WITH A DEBILITATING MEDICAL CONDITION OR COPIES OF THE PERSON'S RELEVANT MEDICAL RECORDS.

§ 36-2602. MEDICAL USE OF MARIJUANA BY PERSONS POSSESSING VALID REGISTRY IDENTIFICATION CARDS: LIMITS ON AMOUNT POSSESSED, DELIVERED OR PRODUCED: AFFIRMATIVE DEFENSE.

A. NOTWITHSTANDING § 13-3405 AND § 13-3405.01 AND ANY OTHER LAW TO THE CONTRARY, A PERSON WHO POSSESSES A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603 MAY POSSESS, USE OR PRODUCE TWO OUNCES OF MARIJUANA AND TWO MARIJUANA PLANTS AND THAT PERSON'S DESIGNATED PRIMARY CAREGIVER MAY POSSESS OR PRODUCE TWO OUNCES OF MARIJUANA AND TWO MARIJUANA PLANTS FOR THE SOLE PURPOSE OF MITIGATING THE SYMPTOMS OR EFFECTS OF THE PERSON'S DEBILITATING MEDICAL CONDITION. EXCEPT AS ALLOWED IN SUBSECTION C OF THIS SECTION, A REGISTRY IDENTIFICATION CARDHOLDER AND THAT PERSON'S DESIGNATED PRIMARY CAREGIVER SHALL NOT COLLECTIVELY POSSESS, DELIVER OR PRODUCE MARIJUANA IN EXCESS OF THE AMOUNTS PROVIDED IN THIS SUBSECTION.

B. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PERSON WHO POSSESSES A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603 MAY ENGAGE IN, AND THE DESIGNATED PRIMARY CAREGIVER OF SUCH A PERSON MAY ASSIST IN, THE MEDICAL USE OF MARIJUANA FOR THE SOLE PURPOSE OF MITIGATING THE SYMPTOMS OR EFFECTS OF THAT PERSON'S DEBILITATING MEDICAL CONDITION.

C. IF THE INDIVIDUALS DESCRIBED IN SUBSECTION A OF THIS SECTION POSSESS, DELIVER OR PRODUCE MARIJUANA IN EXCESS OF THE AMOUNTS ALLOWED IN SUBSECTION A OF THIS SECTION, SUCH INDIVIDUALS ARE NOT EXEMPTED FROM THE CRIMINAL LAWS OF THE STATE BUT MAY ESTABLISH AN AFFIRMATIVE DEFENSE TO SUCH CHARGES, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE GREATER AMOUNT IS MEDICALLY NECESSARY TO MITIGATE THE SYMPTOMS OR EFFECTS OF THE PERSON'S DEBILITATING MEDICAL CONDITION.

§ 36-2603. REGISTRY IDENTIFICATION CARD: CARDHOLDER IMMUNITY: ISSUANCE: ELIGIBILITY: DUTIES OF CARDHOLDER.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY AND EXCEPT AS PROVIDED IN 36-2605 AND 36-2614, A PERSON ENGAGED IN OR ASSISTING IN THE MEDICAL USE OF MARIJUANA IS NOT SUBJECT TO CRIMINAL PROSECUTION OR SUBJECT TO A CIVIL FINE FOR POSSESSION, DELIVERY OR PRODUCTION OF TWO OUNCES OR LESS OF MARIJUANA, OR ANY OTHER CRIMINAL OFFENSE IN WHICH POSSESSION, DELIVERY OR PRODUCTION OF MARIJUANA IS AN ELEMENT IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(1) THE PERSON HOLDS A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO THIS SECTION, HAS APPLIED FOR A REGISTRY IDENTIFICATION CARD PURSUANT TO THIS SECTION, OR IS THE DESIGNATED PRIMARY CAREGIVER OF A CARDHOLDER OR APPLICANT;

(2) THE PERSON WHO HAS A DEBILITATING MEDICAL CONDITION OR HIS OR HER PRIMARY CAREGIVER ARE COLLECTIVELY IN POSSESSION OF, DELIVERING OR PRODUCING USABLE MARIJUANA OR MARIJUANA PLANTS FOR MEDICAL USE IN AMOUNTS THAT DO NOT EXCEED THE LIMITS ESTABLISHED IN § 36-2602; AND

(3) NONE OF THE MARIJUANA OR MARIJUANA PLANTS POSSESSED BY THE PERSON WHO HAS A DEBILITATING MEDICAL CONDITION OR HIS OR HER PRI-

MARY CAREGIVER ARE HELD FOR SALE OR SOLD TO OTHERS.

B. THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A PROGRAM FOR THE ISSUANCE OF REGISTRY IDENTIFICATION CARDS TO ARIZONA RESIDENTS WHO MEET THE REQUIREMENTS OF THIS SECTION. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A REGISTRY IDENTIFICATION CARD TO ANY ARIZONA RESIDENT WHO PAYS A FEE NOT TO EXCEED FIFTY DOLLARS ESTABLISHED BY THE DEPARTMENT TO OFFSET THE DEPARTMENT'S COSTS IN ADMINISTERING THE PROGRAM AND WHO PROVIDES ALL OF THE FOLLOWING:

(1) VALID, WRITTEN DOCUMENTATION FROM THE PERSON'S ATTENDING PHYSICIAN STATING THAT THE PERSON HAS BEEN DIAGNOSED WITH A DEBILITATING MEDICAL CONDITION AND THAT THE MEDICAL USE OF MARIJUANA MAY MITIGATE THE SYMPTOMS OR EFFECTS OF THE PERSON'S DEBILITATING MEDICAL CONDITION;

(2) THE NAME, ADDRESS AND DATE OF BIRTH OF THE PERSON;

(3) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PERSON'S ATTENDING PHYSICIAN; AND

(4) THE NAME AND ADDRESS OF THE PERSON'S DESIGNATED PRIMARY CAREGIVER, IF THE PERSON HAS DESIGNATED A PRIMARY CAREGIVER AT THE TIME OF APPLICATION.

C. THE DEPARTMENT SHALL ISSUE A REGISTRY IDENTIFICATION CARD TO A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE IF THE PERSON SUBMITS THE MATERIALS REQUIRED UNDER SUBSECTION B OF THIS SECTION, IS AN ARIZONA RESIDENT AT THE TIME THE APPLICATION IS SUBMITTED, AND THE CUSTODIAL PARENT OR LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS FOR THE PERSON UNDER EIGHTEEN YEARS OF AGE SIGNS A WRITTEN STATEMENT THAT CONTAINS ALL OF THE FOLLOWING:

(1) THE ATTENDING PHYSICIAN OF THE PERSON UNDER EIGHTEEN YEARS OF AGE HAS EXPLAINED TO THAT PERSON AND TO THE CUSTODIAL PARENT OR LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS FOR THE PERSON UNDER EIGHTEEN YEARS OF AGE THE POSSIBLE RISKS AND BENEFITS OF THE MEDICAL USE OF MARIJUANA;

(2) THE CUSTODIAL PARENT OR LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS FOR THE PERSON UNDER EIGHTEEN YEARS OF AGE CONSENTS TO THE MEDICAL USE OF MARIJUANA BY THE PERSON UNDER EIGHTEEN YEARS OF AGE FOR MEDICAL PURPOSES;

(3) THE CUSTODIAL PARENT OR LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS FOR THE PERSON UNDER EIGHTEEN YEARS OF AGE AGREES TO SERVE AS THE DESIGNATED PRIMARY CAREGIVER FOR THE PERSON UNDER EIGHTEEN YEARS OF AGE; AND

(4) THE CUSTODIAL PARENT OR LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS FOR THE PERSON UNDER EIGHTEEN YEARS OF AGE AGREES TO CONTROL THE ACQUISITION OF MARIJUANA AND THE DOSAGE AND FREQUENCY OF USE BY THE PERSON UNDER EIGHTEEN YEARS OF AGE.

D. A PERSON APPLYING FOR A REGISTRY IDENTIFICATION CARD PURSUANT TO THIS SECTION MAY SUBMIT THE INFORMATION REQUIRED IN THIS SECTION TO A COUNTY HEALTH DEPARTMENT FOR TRANSMITTAL TO THE DEPARTMENT. A COUNTY HEALTH DEPARTMENT THAT RECEIVES

THE INFORMATION PURSUANT TO THIS SUBSECTION SHALL TRANSMIT THE INFORMATION TO THE DEPARTMENT WITHIN FIVE DAYS OF RECEIPT OF THE INFORMATION. INFORMATION RECEIVED BY A COUNTY HEALTH DEPARTMENT PURSUANT TO THIS SUBSECTION SHALL BE CONFIDENTIAL AND SHALL NOT SUBJECT TO DISCLOSURE, EXCEPT AS REQUIRED TO TRANSMIT THE INFORMATION TO THE DEPARTMENT.

E. THE DEPARTMENT SHALL VERIFY THE INFORMATION CONTAINED IN AN APPLICATION SUBMITTED PURSUANT TO THIS SECTION AND SHALL APPROVE OR DENY AN APPLICATION WITHIN THIRTY DAYS OF RECEIPT OF THE APPLICATION.

F. THE DEPARTMENT MAY DENY AN APPLICATION ONLY FOR THE FOLLOWING REASONS:

(1) THE APPLICANT DOES NOT PROVIDE THE INFORMATION REQUIRED PURSUANT TO THIS SECTION TO ESTABLISH HIS OR HER DEBILITATING MEDICAL CONDITION AND TO DOCUMENT HIS OR HER CONSULTATION WITH AN ATTENDING PHYSICIAN REGARDING THE MEDICAL USE OF MARIJUANA IN CONNECTION WITH SUCH CONDITION, AS PROVIDED IN SUBSECTIONS B OR C OF THIS SECTION; OR

(2) THE DEPARTMENT DETERMINES IN GOOD FAITH AND BASED ON EVIDENCE ADMISSIBLE IN COURT UNDER THE ARIZONA RULES OF EVIDENCE THAT THE INFORMATION PROVIDED WAS FALSE.

G. DENIAL OF A REGISTRY IDENTIFICATION CARD SHALL BE CONSIDERED A FINAL AGENCY ACTION, SUBJECT TO JUDICIAL REVIEW. ONLY THE PERSON WHOSE APPLICATION HAS BEEN DENIED OR THE PARENT OR LEGAL GUARDIAN OF A PERSON UNDER EIGHTEEN YEARS OF AGE WHOSE APPLICATION HAS BEEN DENIED SHALL HAVE STANDING TO CONTEST THE DEPARTMENT'S ACTION.

H. ANY PERSON WHOSE APPLICATION HAS BEEN DENIED MAY NOT REAPPLY FOR SIX MONTHS FROM THE DATE OF THE DENIAL, UNLESS AUTHORIZED TO DO SO BY THE DEPARTMENT OR A COURT OF COMPETENT JURISDICTION.

I. IF THE DEPARTMENT HAS VERIFIED THE INFORMATION SUBMITTED PURSUANT TO SUBSECTIONS B OR C OF THIS SECTION AND NONE OF THE REASONS FOR DENIAL LISTED IN SUBSECTION F OF THIS SECTION IS APPLICABLE, THE DEPARTMENT SHALL ISSUE A SERIALY NUMBERED REGISTRY IDENTIFICATION CARD WITHIN FIVE DAYS OF VERIFICATION OF THE INFORMATION. THE REGISTRY IDENTIFICATION CARD SHALL STATE ALL OF THE FOLLOWING:

(1) THE CARDHOLDER'S NAME, ADDRESS AND DATE OF BIRTH;

(2) THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD;

(3) THE NAME AND ADDRESS OF THE PERSON'S DESIGNATED PRIMARY CAREGIVER, IF ANY; AND

(4) SUCH OTHER INFORMATION AS THE DEPARTMENT MAY SPECIFY BY RULE.

J. WHEN A PERSON TO WHOM THE DEPARTMENT HAS ISSUED A REGISTRY IDENTIFICATION CARD PURSUANT TO THIS SECTION HAS SPECIFIED A DESIGNATED PRIMARY CAREGIVER WHO MEETS ALL OF THE CRITERIA TO BE A DESIGNATED PRIMARY CAREGIVER PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE A REGISTRY IDENTIFICATION CARD TO THE DESIGNATED PRIMARY CAREGIVER. THE PRIMARY CAREGIVER'S REGISTRY IDENTIFICATION CARD SHALL CONTAIN ALL OF THE FOLLOWING:

(1) THE CARDHOLDER'S NAME, ADDRESS AND DATE OF BIRTH;

(2) THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD;

(3) THE NAME AND ADDRESS OF THE PERSON'S FOR WHOM THE DESIGNATED PRIMARY CAREGIVER WILL BE ACTING IN THE CAPACITY OF A DESIGNATED PRIMARY CAREGIVER; AND

(4) SUCH OTHER INFORMATION AS THE DEPARTMENT MAY SPECIFY BY RULE.

K. PERSON WHO POSSESSES A REGISTRY IDENTIFICATION CARD SHALL:

(1) NOTIFY THE DEPARTMENT OF ANY CHANGE IN THE PERSON'S NAME, ADDRESS, ATTENDING PHYSICIAN OR DESIGNATED PRIMARY CAREGIVER; AND

(2) ANNUALLY SUBMIT TO THE DEPARTMENT:

(a) UPDATED WRITTEN DOCUMENTATION OF THE PERSON'S DEBILITATING MEDICAL CONDITION; AND

(b) THE NAME OF THE PERSON'S DESIGNATED PRIMARY CAREGIVER OR THE NAME OF A NEW DESIGNATED PRIMARY CAREGIVER WHO MEETS ALL THE CRITERIA TO BE A DESIGNATED PRIMARY CAREGIVER IF A PRIMARY CAREGIVER HAS BEEN DESIGNATED FOR THE UPCOMING YEAR.

L. IF A PERSON WHO POSSESSES A REGISTRY IDENTIFICATION CARD DOES NOT COMPLY WITH THIS SECTION, THE CARD SHALL BE DEEMED EXPIRED. IF A REGISTRY IDENTIFICATION CARD EXPIRES, THE IDENTIFICATION CARD OF ANY DESIGNATED PRIMARY CAREGIVER OF THE CARDHOLDER SHALL ALSO EXPIRE.

M. A PERSON WHO POSSESSES A REGISTRY IDENTIFICATION CARD PURSUANT TO THIS SECTION AND WHO HAS BEEN DIAGNOSED BY THE PERSON'S ATTENDING PHYSICIAN AS NO LONGER HAVING A DEBILITATING MEDICAL CONDITION SHALL RETURN THE REGISTRY IDENTIFICATION CARD TO THE DEPARTMENT WITHIN SEVEN CALENDAR DAYS OF NOTIFICATION OF THE DIAGNOSIS. ANY DESIGNATED PRIMARY CAREGIVER SHALL RETURN HIS OR HER IDENTIFICATION CARD WITHIN THE SAME PERIOD OF TIME.

N. A PERSON WHO POSSESSES A REGISTRY IDENTIFICATION CARD OR ACTS AS A DESIGNATED PRIMARY CAREGIVER PURSUANT TO THIS SECTION AND WHO IS NO LONGER A RESIDENT OF THE STATE SHALL RETURN HIS OR HER REGISTRY IDENTIFICATION CARD TO THE DEPARTMENT WITHIN SEVEN CALENDAR DAYS OF THAT PERSON'S CHANGE IN RESIDENCY.

O. A PERSON WHO HAS APPLIED FOR A REGISTRY IDENTIFICATION CARD PURSUANT TO THIS SECTION BUT WHOSE APPLICATION HAS NOT YET BEEN APPROVED OR DENIED AND WHO IS CONTACTED BY ANY LAW ENFORCEMENT OFFICER IN CONNECTION WITH HIS OR HER USE, POSSESSION, DELIVERY OR PRODUCTION OF MARIJUANA FOR MEDICAL USE MAY PROVIDE TO THE LAW ENFORCEMENT OFFICER A COPY OF THE WRITTEN DOCUMENTATION SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTIONS B OR C OF THIS SECTION AND PROOF OF THE DATE OF MAILING OR OTHER TRANSMISSION OF THE DOCUMENTATION TO THE DEPARTMENT. THIS DOCUMENTATION SHALL HAVE THE SAME LEGAL EFFECT AS A REGISTRY IDENTIFICATION CARD UNTIL SUCH TIME AS THE PERSON RECEIVES NOTIFICATION THAT THE APPLICATION HAS BEEN APPROVED OR DENIED.

P. ANY PERSON WHO INTENTIONALLY PROVIDES FALSE INFORMATION TO THE DEPARTMENT FOR PURPOSES OF OBTAINING A REGISTRY IDENTIFICATION CARD PURSUANT TO THIS SECTION IS GUILTY OF A CLASS 4 FELONY.

§ 36-2604. DESIGNATED PRIMARY CAREGIVER.

A. IF A PERSON WHO POSSESSES A REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603, OTHER THAN A DESIGNATED PRIMARY CAREGIVER, CHOOSES TO

HAVE A DESIGNATED PRIMARY CAREGIVER, THE PERSON MUST DESIGNATE THE PRIMARY CAREGIVER BY INCLUDING THE DESIGNATED PRIMARY CAREGIVER'S NAME AND ADDRESS ON ANY OF THE FOLLOWING:

(1) ON THE PERSON'S APPLICATION FOR A REGISTRY IDENTIFICATION CARD;

(2) IN THE ANNUAL UPDATED INFORMATION REQUIRED UNDER § 36-2603(I); OR

(3) IN A WRITTEN, SIGNED STATEMENT SUBMITTED TO THE DEPARTMENT.

(B) NO PERSON POSSESSING A REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603 SHALL HAVE MORE THAN ONE DESIGNATED PRIMARY CAREGIVER AT ANY GIVEN TIME.

(C) A DESIGNATED PRIMARY CAREGIVER SHALL NOT ACT AS A DESIGNATED PRIMARY CAREGIVER FOR MORE THAN TWO PERSONS WHO HOLD A VALID REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603.

§ 36-2605. LIMITATIONS ON CARDHOLDER'S IMMUNITY FROM CRIMINAL LAWS INVOLVING MARIJUANA.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO PERSON AUTHORIZED TO POSSESS, USE, DELIVER OR PRODUCE MARIJUANA FOR MEDICAL USE PURSUANT TO THIS CHAPTER SHALL BE EXCEPTED FROM THE CRIMINAL LAWS OF THIS STATE OR SHALL BE DEEMED TO HAVE ESTABLISHED AN AFFIRMATIVE DEFENSE TO CRIMINAL CHARGES OF WHICH POSSESSION, USAGE, DELIVERY OR PRODUCTION OF MARIJUANA IS AN ELEMENT IF THE PERSON:

(1) IS CHARGED WITH DRIVING UNDER THE INFLUENCE OF MARIJUANA AS PROVIDED IN § 28-1381, § 28-1383 AND § 28-1386;

(2) ENGAGES IN THE MEDICAL USE OF MARIJUANA IN A PUBLIC PLACE OR ON THE GROUNDS OF A CORRECTIONAL FACILITY AS DEFINED IN § 13-2501 OR A JUVENILE SECURE CARE FACILITY AS DEFINED IN § 41-2801;

(3) DELIVERS MARIJUANA TO ANY INDIVIDUAL WHO THE PERSON KNOWS IS NOT IN POSSESSION OF A REGISTRY IDENTIFICATION CARD;

(4) SELLS OR ATTEMPTS TO SELL MARIJUANA; OR

(5) DELIVERS OR TRANSPORTS OR ATTEMPTS TO DELIVER OR TRANSPORT MARIJUANA OUTSIDE THE BORDERS OF THE STATE.

B. NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO PERSON AUTHORIZED TO POSSESS, USE, DELIVER OR PRODUCE MARIJUANA FOR MEDICAL USE PURSUANT TO THIS CHAPTER SHALL BE EXCEPTED FROM THE CRIMINAL LAWS OF THIS STATE OR ANY OTHER JURISDICTION FOR THE POSSESSION, USAGE, DELIVERY, PRODUCTION OR TRANSPORTATION OF MARIJUANA OUTSIDE THE BORDERS OF THE STATE.

C. IN ADDITION TO ANY OTHER PENALTY ALLOWED BY LAW, THE DEPARTMENT MAY PROHIBIT A PERSON FROM OBTAINING OR USING A REGISTRY IDENTIFICATION CARD FOR THE MEDICAL USE OF MARIJUANA OF A PERSON WHO WILLFULLY VIOLATES THE PROVISIONS OF THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT FOR CARRYING OUT THE PURPOSES OF THIS CHAPTER.

§ 36-2606. AFFIRMATIVE DEFENSE TO CERTAIN CRIMINAL LAWS INVOLVING MARIJUANA AVAILABLE TO CARDHOLDER.

A. EXCEPT AS PROVIDED IN § 36-2605 AND 36-2614, IT IS AN AFFIRMATIVE DEFENSE TO A CRIMINAL CHARGE OF POSSESSION, USAGE OR PRODUCTION OF MARIJUANA, OR ANY OTHER CRIMINAL OFFENSE IN WHICH POSSESSION, USAGE OR PRODUCTION OF MARIJUANA IS AN ELEMENT, THAT THE PERSON CHARGED WITH THE OFFENSE IS A PERSON WHO:

(1) HAS BEEN DIAGNOSED WITH A DEBILITATING MEDICAL CONDITION AND BEEN ADVISED BY HIS OR HER ATTENDING PHYSICIAN THAT THE MEDICAL USE OF MARIJUANA MAY MITIGATE THE SYMPTOMS OR EFFECTS OF THAT DEBILITATING MEDICAL CONDITION;

(2) IS ENGAGED IN THE MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER; AND

(3) POSSESSES OR PRODUCES MARIJUANA ONLY IN THE AMOUNTS ALLOWED IN § 36-2602, OR IN EXCESS OF THOSE AMOUNTS IF THE PERSON PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE GREATER AMOUNT IS MEDICALLY NECESSARY AS DETERMINED BY THE PERSON'S ATTENDING PHYSICIAN TO MITIGATE THE SYMPTOMS OR EFFECTS OF THE PERSON'S DEBILITATING MEDICAL CONDITION.

B. IT IS NOT NECESSARY FOR A PERSON ASSERTING AN AFFIRMATIVE DEFENSE PURSUANT TO THIS SECTION TO HAVE RECEIVED A REGISTRY IDENTIFICATION CARD IN ORDER TO ASSERT THE AFFIRMATIVE DEFENSE ESTABLISHED IN THIS SECTION.

C. NO PERSON ENGAGED IN THE MEDICAL USE OF MARIJUANA WHO CLAIMS THAT MARIJUANA PROVIDES MEDICALLY NECESSARY BENEFITS AND WHO IS CHARGED WITH A CRIME PERTAINING TO SUCH USE OF MARIJUANA SHALL BE PRECLUDED FROM PRESENTING EVIDENCE SUPPORTING THE NECESSITY OF MARIJUANA FOR TREATMENT OF A SPECIFIC DISEASE OR MEDICAL CONDITION, PROVIDED THAT THE AMOUNT OF MARIJUANA AT ISSUE IS NO GREATER THAN PERMITTED IN § 36-2602 AND THE PATIENT HAS TAKEN SUBSTANTIAL STEPS TO COMPLY WITH THE PROVISIONS OF THIS CHAPTER.

§ 36-2607. EFFECT OF POSSESSION OF REGISTRY IDENTIFICATION CARD OR DESIGNATED PRIMARY CAREGIVER CARD ON SEARCH AND SEIZURE RIGHTS.

A. POSSESSION OF A REGISTRY IDENTIFICATION CARD OR DESIGNATED PRIMARY CAREGIVER IDENTIFICATION CARD PURSUANT TO § 36-2603 SHALL NOT ALONE CONSTITUTE PROBABLE CAUSE TO SEARCH THE PERSON OR PROPERTY OF THE CARDHOLDER OR OTHERWISE SUBJECT THE PERSON OR PROPERTY OF THE CARDHOLDER TO INSPECTION BY ANY GOVERNMENTAL AGENCY.

B. NO PROPERTY INTEREST POSSESSED, OWNED OR USED IN CONNECTION WITH THE MEDICAL USE OF MARIJUANA OR ACTS INCIDENTAL TO THE MEDICAL USE OF MARIJUANA THAT HAS BEEN SEIZED BY STATE OR LOCAL LAW ENFORCEMENT OFFICERS SHALL BE HARMED, NEGLECTED, INJURED OR DESTROYED WHILE IN THE POSSESSION OF ANY LAW ENFORCEMENT AGENCY. A LAW ENFORCEMENT AGENCY HAS NO RESPONSIBILITY TO MAINTAIN LIVE MARIJUANA PLANTS LAWFULLY SEIZED. MARIJUANA AND MARIJUANA DRUG PARAPHERNALIA USED TO ADMINISTER MARIJUANA THAT WERE SEIZED BY ANY LAW ENFORCEMENT AGENCY SHALL BE RETURNED IMMEDIATELY UPON A DETERMINATION BY THE COUNTY ATTORNEY IN WHOSE COUNTY THE PROPERTY WAS SEIZED, OR HIS OR HER DESIGNEE, THAT THE PERSON FROM WHOM THE MARIJUANA OR MARIJUANA DRUG PARAPHERNALIA USED TO ADMINISTER MARIJUANA WAS SEIZED IS ENTITLED TO THE PROTECTIONS CONTAINED IN THIS CHAPTER. SUCH A DETERMINATION MAY BE EVIDENCED, FOR EXAMPLE, BY A DECISION NOT TO PROSECUTE, THE DISMISSAL OF CHARGES, OR AN ACQUITTAL.

§ 36-2608. ATTENDING PHYSICIAN: LIMITATION ON CIVIL LIABILITY AND PROFESSIONAL DISCIPLINE.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN ATTENDING PHYSICIAN SHALL NOT BE SUBJECT TO CIVIL PENALTY OR DISCIPLINE FOR EITHER OF THE FOLLOWING:

(1) ADVISING A PERSON WHOM THE ATTENDING PHYSICIAN HAS DIAGNOSED AS HAVING A DEBILITATING MEDICAL CONDITION OR A PERSON WHO THE ATTENDING PHYSICIAN KNOWS HAS BEEN SO DIAGNOSED BY ANOTHER ATTENDING PHYSICIAN ABOUT THE RISKS AND BENEFITS OF MEDICAL USE OF MARIJUANA OR THAT THE MEDICAL USE OF MARIJUANA MAY MITIGATE THE SYMPTOMS OR EFFECTS OF THE PERSON'S DEBILITATING MEDICAL CONDITION, PROVIDED THE ADVICE IS BASED ON THE ATTENDING PHYSICIAN'S PERSONAL ASSESSMENT OF THE PERSON'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION; OR

(2) PROVIDING THE WRITTEN DOCUMENTATION NECESSARY FOR ISSUANCE OF A REGISTRY IDENTIFICATION CARD UNDER § 36-2603, IF THE DOCUMENTATION IS BASED ON THE ATTENDING PHYSICIAN'S PERSONAL ASSESSMENT OF THE APPLICANT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION AND THE PHYSICIAN HAS DISCUSSED THE POTENTIAL MEDICAL RISKS AND BENEFITS OF THE MEDICAL USE OF MARIJUANA WITH THE APPLICANT.

§ 36-2609. LIMITS ON PROFESSIONAL LICENSING BOARD'S AUTHORITY TO SANCTION LICENSEE FOR MEDICAL USE OF MARIJUANA.

NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO PROFESSIONAL LICENSING BOARD MAY IMPOSE A CIVIL PENALTY OR TAKE OTHER DISCIPLINARY ACTION AGAINST A LICENSEE BASED ON THE LICENSEE'S MEDICAL USE OF MARIJUANA IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER OR ACTIONS TAKEN BY THE LICENSEE THAT ARE NECESSARY TO CARRY OUT THE LICENSEE'S ROLE AS A DESIGNATED PRIMARY CAREGIVER TO A PERSON WHO POSSESSES A LAWFUL REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO § 36-2603.

§ 36-2610. INFORMATION AND LIST OF PERSONS ISSUED REGISTRY IDENTIFICATION CARDS AND DESIGNATED PRIMARY CAREGIVERS: DISCLOSURE.

A. THE DEPARTMENT SHALL CREATE AND MAINTAIN A LIST OF THE PERSONS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY IDENTIFICATION CARDS PURSUANT TO § 36-2603 AND THE NAMES OF ANY DESIGNATED PRIMARY CAREGIVERS. NOTWITHSTANDING ANY LAW TO THE CONTRARY AND EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, THE LIST AND ALL OTHER INFORMATION PROVIDED TO THE DEPARTMENT PURSUANT TO THIS CHAPTER SHALL BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE.

B. NAMES AND OTHER IDENTIFYING INFORMATION FROM THE LIST ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION MAY BE RELEASED TO:

(1) AUTHORIZED EMPLOYEES OF THE DEPARTMENT AS NECESSARY TO PERFORM OFFICIAL DUTIES OF THE DEPARTMENT; AND

(2) AUTHORIZED EMPLOYEES OF STATE OR LOCAL LAW ENFORCEMENT AGENCIES, ONLY AS NECESSARY TO VERIFY THAT A PERSON IS A LAWFUL POSSESSOR OF A REGISTRY IDENTIFICATION CARD OR THAT A PERSON IS THE DESIGNATED PRIMARY CAREGIVER OF SUCH A PERSON.

§ 36-2611. ADDING DISEASES OR CONDITIONS THAT QUALIFY AS DEBILITATING MEDICAL CONDITIONS.

ANY PERSON MAY SUBMIT A PETITION TO THE DEPARTMENT REQUESTING THAT A PARTICULAR DISEASE OR CONDITION BE INCLUDED AMONG THE DISEASES AND CONDITIONS THAT QUALIFY AS DEBILITATING MEDICAL CONDITIONS AS DEFINED IN § 36-2601, PARAGRAPH 2. THE DEPARTMENT SHALL ADOPT RULES ESTABLISHING THE

MANNER IN WHICH THE DEPARTMENT WILL EVALUATE PETITIONS SUBMITTED UNDER THIS SECTION. ANY RULES ADOPTED PURSUANT TO THIS SECTION SHALL REQUIRE THE DEPARTMENT TO APPROVE OR DENY A PETITION WITHIN 180 DAYS OF RECEIPT OF THE PETITION BY THE DEPARTMENT. DENIAL OF A PETITION SHALL BE CONSIDERED A FINAL AGENCY ACTION SUBJECT TO JUDICIAL REVIEW.

§ 36-2612. RULEMAKING: EXEPTION

THE DEPARTMENT MAY ADOPT RULES TO CARRY OUT THE PURPOSES AND PROVISIONS OF THIS CHAPTER. FOR THE PURPOSES OF THIS CHAPTER, THE DEPARTMENT IS EXEMPT FROM THE RULEMAKING PROVISIONS OF TITLE 41, ARTICLE 3, CHAPTER 6, EXCEPT THAT THE DEPARTMENT SHALL SUBMIT THE RULES FOR PUBLICATION AND THE SECRETARY OF STATE SHALL PUBLISH THE RULES IN THE ARIZONA ADMINISTRATIVE REGISTER. THE DEPARTMENT SHALL PROPOSE AND ADOPT RULES IN ONE OR MORE PUBLIC MEETINGS, WITH AT LEAST SIXTY DAYS ALLOWED FOR INTERESTED PARTIES TO COMMENT AFTER THE RULES ARE PROPOSED.

§ 36-2613. LIMITATIONS ON REIMBURSEMENT OF COSTS AND EMPLOYER ACCOMMODATION.

NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO REQUIRE EITHER OF THE FOLLOWING:

- (1) A GOVERNMENT MEDICAL ASSISTANCE PROGRAM OR PRIVATE HEALTH INSURER TO REIMBURSE A PERSON FOR COSTS ASSOCIATED WITH THE MEDICAL USE OF MARIJUANA; OR
- (2) AN EMPLOYER TO ACCOMMODATE THE MEDICAL USES OF MARIJUANA IN ANY WORKPLACE.

§ 36-2614. LIMITATION ON PROTECTION FROM CRIMINAL LIABILITY.

NOTHING IN THIS CHAPTER SHALL PROTECT A PERSON FROM A CRIMINAL PROSECUTION BASED ON POSSESSION, USE, PRODUCTION, OR DELIVERY OF MARIJUANA THAT IS NOT AUTHORIZED PURSUANT TO THIS CHAPTER.

Section 13. Title 41, Chapter 11, Article 1, Arizona Revised Statutes, is amended by adding § 41-1604.18 to read:

§ 41-1604.18. PAROLE OR COMMUNITY SUPERVISION ELIGIBILITY FOR PERSONS PREVIOUSLY CONVICTED OF POSSESSION OR USE OF A CONTROLLED SUBSTANCE.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY AND EXCEPT AS PROVIDED IN SUBSECTIONS B AND C OF THIS SECTION, IF A PERSON HAS BEEN CONVICTED OF PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE AS DEFINED IN § 36-2501 AND THE PERSON IS NOT CONCURRENTLY SERVING ANOTHER SENTENCE, THE PERSON SHALL BE ELIGIBLE FOR PAROLE OR IF THE OFFENSE FOR WHICH THE PERSON WAS INCARCERATED WAS COMMITTED ON OR AFTER JANUARY 1, 1996, THE PERSON SHALL BE ELIGIBLE FOR COMMUNITY SUPERVISION.

B. ANY PERSON WHO PREVIOUSLY HAS BEEN CONVICTED OF A VIOLENT CRIME AS DEFINED IN § 13-604.04 SHALL NOT BE ELIGIBLE FOR PAROLE OR COMMUNITY SUPERVISION PURSUANT TO THE PROVISIONS OF THIS SECTION.

C. PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE AS DEFINED IN § 36-2501 SHALL NOT INCLUDE POSSESSION FOR SALE, PRODUCTION, MANUFACTURE OR TRANSPORTATION FOR SALE OF ANY CONTROLLED SUBSTANCE.

D. WITHIN FORTY-FIVE DAYS OF THE EFFECTIVE DATE OF THIS ACT, THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL PREPARE A LIST THAT IDENTIFIES EACH PERSON WHO IS ELIGIBLE FOR PAROLE OR COMMUNITY SUPERVISION PURSUANT TO THIS SECTION AND SHALL DELIVER THE LIST TO THE BOARD OF EXECUTIVE CLEMENCY.

Section 14. Severability.

IF ANY PROVISION OF THIS ACT, OR PART THEREOF, IS FOR ANY REASON HELD TO BE INVALID OR UNCONSTITUTIONAL, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL REMAIN IN FULL FORCE AND EFFECT, AND TO THIS END THE PROVISIONS OF THE ACT ARE SEVERABLE.

ANALYSIS BY LEGISLATIVE COUNCIL

In 1996, the voters passed the Drug Medicalization, Prevention and Control Act of 1996. The Act allowed medical doctors to prescribe certain controlled substances to treat diseases or to relieve the symptoms of seriously ill or terminally ill patients. Along with other provisions, the Act modified probation, sentencing and treatment laws for drug offenders.

Proposition 203 would decriminalize the possession of two ounces or less of marijuana, marijuana drug paraphernalia or two or fewer marijuana plants if the possession is for personal use only but would subject the possessor to a civil fine of \$250 for a first or second offense or \$750 for a third or subsequent offense within a two year period. A judge could waive the civil fine if the person completes a court approved drug education program.

Proposition 203 requires the Department of Public Safety to provide not more than two ounces of marijuana free of charge to each person who is qualified to use marijuana for medical purposes.

This proposition would require any law enforcement agency that seizes marijuana that was grown, cultivated or produced in Arizona to retain the marijuana and forward it to the Arizona Department of Public Safety. It also would require the Director of the Department of Public Safety to request from the National Institute on Drug Abuse and the University of Mississippi quarterly shipments of marijuana grown at the University of Mississippi for distribution free of charge by the Department to all persons qualified to use marijuana for medical purposes.

The Department of Public Safety would be required to maintain marijuana that is seized and that is grown, cultivated or produced in Arizona in secure locations within public buildings located in at least the three most populous counties, and the Department would be required to disclose the location of these public buildings. The distribution to qualified persons would be limited to not more than two ounces of marijuana within a thirty day period. In addition, the proposition would establish criminal penalties for any person who uses or attempts to use false identification and for any person who possesses, uses, sells, delivers or transports marijuana outside Arizona or delivers the marijuana to another person who intends to possess, sell, deliver or transport the marijuana outside Arizona.

Proposition 203 also would require the Arizona Department of Health Services to establish and maintain a program for the issuance of registry identification cards to any Arizona resident who is at least eighteen years of age, who pays a fee of \$50 and who provides written documentation from the person's attending physician that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's condition. If the person designates a primary caregiver and the caregiver meets certain requirements, the caregiver also would be eligible to receive a registry identification card. A cardholder would be entitled to possess, use or produce two ounces of marijuana and two marijuana plants, and the cardholder's designated primary caregiver would be entitled to possess or produce two ounces of marijuana and two marijuana plants. The registry identification card program also includes the following provisions:

Under certain conditions, the Department of Health Services would be allowed to issue a registry identification card to a person who is less than eighteen years of age if the person's custodial parent or legal guardian consents to the medical use of marijuana by that person.

The Department also would be allowed to deny an application for a registry identification card if the applicant fails to provide the necessary information or the Department determines that the information provided is false.

Intentionally providing false information to the Department for purposes of obtaining a registry identification card would be punishable as a class 4 felony.

A cardholder and the cardholder's designated primary caregiver would be required to return their registry identification cards to the Department if the cardholder's attending physician determines that the cardholder no longer has a debilitating medical condition or if the cardholder no longer resides in Arizona.

Any person who possesses a registry identification card would have to notify the Department of any change in the person's name, address, attending physician or designated primary caregiver and annually submit to the Department updated written documentation of the person's debilitating medical condition and name of the person's designated primary caregiver for the upcoming year.

Proposition 203 defines "debilitating medical condition" to mean cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions; a medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following: (i) cachexia; (ii) severe pain; (iii) severe nausea; (iv) seizures, including but not limited to seizures caused by epilepsy; or (v) persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis; or any other medical condition or treatment for a medical condition adopted by the Department by rule or approved by the Department pursuant to a petition submitted pursuant to Arizona Revised Statute section 36-2611.

Proposition 203 would increase the maximum sentence by fifty percent for any person who is convicted of intentionally and knowingly committing a violent crime while under the influence of a controlled substance and would abolish the minimum mandatory sentence or fine for any conviction of certain drug offenses.

Proposition 203 would require probation on conviction of a first or second offense involving the personal possession or use of paraphernalia associated with possession or use of a controlled substance and prohibit the court from imposing a term of incarceration in prison or jail as a condition of probation. It would subject to incarceration persons who are convicted of three or more offenses involving personal possession or use of a controlled substance or paraphernalia associated with possession or use of a controlled substance. For purposes of determining whether or not a person is eligible for probation or incarceration, a court could not consider a prior conviction for personal possession or use of a controlled substance or personal possession or use of drug paraphernalia associated with possession or use of a controlled substance if the person has completed a court ordered drug treatment or education program for that prior conviction. Proposition 203 also specifies that any drug treatment for a person with a history of opioid use must include an assessment by a professional who is qualified in the use of narcotic replacement treatment and, if medically necessary, must include use of narcotic replacement therapy, such as methadone maintenance.

Proposition 203 provides that even if a person does not possess a registry identification card, the person would have an affirmative defense to a criminal charge of possession, usage or production of marijuana if the person charged has been diagnosed with a debilitating medical condition, has been advised by an attending physician that the medical use of marijuana may mitigate the symptoms or effects, is engaged in the medical use of marijuana and possesses or produces not more than two ounces of marijuana and two marijuana plants. If the person possesses or produces more than these amounts, the person could also assert the affirmative defense but would have to prove that the greater amount is medically necessary as determined by the person's attending physician.

Proposition 203 would also require parole or community supervision for prisoners who have been convicted of personal possession or use of a controlled substance and who are not concurrently serving another sentence, unless the Board of Executive Clemency determines that a prisoner would be a danger to the public. These prisoners would be required to participate in and, to the extent they are able, pay for a drug treatment or education program as a condition of parole or community supervision.

Proposition 203 specifies that property seized in relation to a drug offense may not be forfeited unless the owner of the property is convicted of the drug offense and the court finds by clear and convincing evidence that either the property was instrumental in committing or facilitating the offense or was the proceeds of the offense.

Fiscal Impact Summary

Proposition 203 is projected to reduce state prison costs. These savings could be partially offset by increased costs for probation and the medical marijuana registry and distribution system. A precise fiscal estimate of this proposition, however, cannot be determined.

The proposition requires the parole of certain prison inmates currently serving a sentence for personal possession or use of a controlled substance, eliminates the mandatory minimum sentence for certain drug offenses and increases the maximum sentence by 50% for violent crimes committed while under the influence of drugs. Overall, these provisions are projected to reduce the state prison population and result in savings.

The proposition would also result in some increased probation costs, as the elimination of mandatory minimum sentences would result in some drug offenders sentenced to supervised probation. This cost could be partially offset by a provision which would reduce current probation expenses by changing possession of 2 ounces or less of marijuana from a criminal violation to a civil violation. It is projected that any increased cost for probation would be less than the prison savings as probation is less costly than prison.

The state would also have the cost of establishing and operating a patient registry and a system for the legal distribution of medical marijuana to qualified patients. The cost of the patient registry is estimated to be \$165,000. Revenues collected from fees to offset the costs of the patient registry are estimated to be \$55,000. The cost of the distribution system cannot be estimated as more information is needed to determine how the system will be structured and the testing costs related to distributing confiscated marijuana.

ARGUMENTS "FOR" PROPOSITION 203

Yes on 203

I served in the Reagan Administration when the Drug War was just gaining steam. I remember then how Republicans and Democrats hopped on the bandwagon so quickly despite the problems with the policy. At the time I thought that drug abuse is a disease like cancer. You need to fight it the way you fight other diseases — through medical treatment, not guns and prisons. Now, I am even more certain of that.

In 1996, myself and the late Barry Goldwater were part of a citizens committee to find alternatives to our failing War on Drugs. The final product of this group was Proposition 200 which was approved by Arizona Voters 65% to 35%.

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

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Unfortunately, no sooner had the ink dried on the governor's signature making this law in 1996, than the Arizona politicians sought to repeal the will of the voters. We had to take them to the ballot again in 1998 which we won and the last step to ensure that the people have spoken is Proposition 203. I urge you to vote Yes on Proposition 203 which will expand the voter mandated drug treatment programs and remedy a broken medical marijuana law.

Drug treatment is saving the state \$5 million a year and placing thousands of drug users in useful programs rather than jail. The medical marijuana program contained in Proposition 203 will be overseen by the state thus ensuring a safe and effective program for medical marijuana.

Our War on Drugs is failing. However, that doesn't mean we should give up on the fight against addiction. Vote yes on Proposition 203 to move this fight to the proper battle ground.

John Norton, Former Deputy Secretary of Agriculture, Chairman, The People Have Spoken, Phoenix

Paid for by "The People Have Spoken"

Drugs/Alcohol & irrational religion (ill-Logos) may be your Gods (opium to kill the pain of life-living): Jail is not the solution. **Vote YES on 203!**

Bruce A. Friedemann, Candidate, State Representative, District 28, Tucson

Paid for by "Friedemann2002"

Yes on 203

In 1996, Arizonans overwhelmingly approved an initiative to provide medical marijuana to seriously ill patients and drug treatment to medically dependent offenders. I urge you to vote Yes on Prop. 203 to make this program a full political reality.

Despite medical marijuana being approved twice in Arizona, we still do not have a functional program because the politicians are failing to comply with the will of of Arizona voters. Prop. 203 forces the state to implement a program through the State which will provide necessary safe guards to patients, doctors, and to the general public.

Prop. 203 also expands on the drug treatment programs established in 1996. Thousands of drug users have completed treatment successfully under this program and saved the state millions of dollars in prison costs since treatment costs a fraction of prison.

Another key component of Prop. 203 which I support is reform of our asset forfeiture laws as it relates to drug cases. Currently, a person can lose their assets even before they are proven guilty of crimes. Prop. 203 requires that a person must be first proven guilty.

As the former Attorney General I can assure that Prop. 203 is a safe and effective complement to our drug policies. I urge you to vote Yes on 203.

Grant Woods, Arizona Attorney General 1991-98, Phoenix

Paid for by "The People Have Spoken"

ARIZONANS SHOULD VOTE "YES" ON PROPOSITION 203

In 1996, Arizona voters overwhelmingly approved a ballot initiative reforming our drug laws. They realized that drug use and abuse was primarily a medical problem, not a criminal problem. Thus, Arizonans voted to allow for medicinal use of marijuana. They also required treatment, rather than prison, for first and second-time non-violent drug offenders. Doctors were among the strongest supporters of this new approach.

The politicians and bureaucrats tried to thwart the will of the voters, but the voters reaffirmed their intentions, in a resounding way, once again in 1998.

A 2001 Arizona Supreme Court report showed that referral to treatment rather than incarceration was yielding positive results: of the more than 5,000 non-violent drug offenders referred to treatment, almost two-thirds successfully completed the program, with an annual savings to Arizona's treasury of at least \$6.7 million.

Unfortunately, however, politicians and bureaucrats have prevented implementation of the voters' decision to permit terminally-ill and debilitated patients to use marijuana for medicinal purposes. Even though the Federal government's own studies acknowledge marijuana's medicinal value, and even though nine states have currently passed "medical marijuana" laws, the will and intent of the voters remain unfulfilled.

As doctors, we strongly support Proposition 203, because it enforces Arizona's "medical marijuana" laws by removing any ambiguities in the original act that allowed opponents to block its implementation. It does this by creating a state-supervised system. We also support Proposition 203 because it vastly expands existing drug treatment programs-programs that have been proven to work.

As doctors, we urge you to vote "Yes" on Proposition 203, the Drug Medicalization, Prevention, and Control Act.

Jeffrey A. Singer, MD, FACS, Phoenix

Jeffrey D. Steier, MD, Scottsdale

Steven J. Lipsky, MD, FACEP, Paradise Valley

Steven A Yee, MD, Scottsdale

Greg S. Morris, MD, Scottsdale

Abraham J. Sayegh, MD, Phoenix

Joel E. Colley, MD, Scottsdale

Paid for by Jeffrey A. Singer

Yes on 203

I am a cancer survivor. I was diagnosed in 1995 with head cancer. All of my doctors said this was 95% fatal. I went through numerous surgeries and severe radiation therapies over 6 years. Through a combination of God's grace, luck, and medical marijuana I am still alive. Medical marijuana enabled me during these trying times to maintain my appetite and weight. Without a vigorous physical state that medical marijuana allowed me to maintain, I would never had made it.

In 1996, Arizona voters approved medical marijuana 65% to 35% and again in 1998, but the politicians still fail to honor the will of the voters. Proposition 203 will end the nonsense once and for all. It mandates a statewide medical marijuana program which will be overseen by the state.

It is impossible to imagine how we can deprive terminally and seriously ill patients in my position from the medicine they need to

reduce, if not eliminate, the symptoms of their disease. You voted for medical marijuana already, do it this time for once and for all. Vote Yes on 203.

Josh Burner, Mesa

Paid for by "The People Have Spoken"

Yes on 203

I served on the Arizona Appellate Court for 12 years and the Superior Court for another 10 years. As a judge on the front line of our criminal justice system, I saw how futile our War on Drugs had become. I supported the first drug reform measure in 1996 to develop a new strategy of fighting drug abuse. Proposition 203 expands upon the drug treatment programs we approved. Proposition 203 also finally fixes the broken medical marijuana program approved by voters in 1996 and 1998 - which has still yet to be realized because of political obstacles.

According to the Arizona Supreme Court, drug treatment is a huge success. Roughly, two-thirds of those participating successfully comply with treatment, over 5,000 drug users receive treatment, and the state saves over \$5 million a year as a result of placing drug users in treatment instead of prisons. Proposition 203 will increase access to these programs for more Arizonans in need of help and provide additional cost savings to the state.

In terms of medical marijuana, Proposition 203 mandates that the state implement a full medical marijuana program. State oversight will ensure greater protection for patients, doctors, and the public.

Proposition 203 also gives greater discretion to judges in the area of drug sentencing and would prevent marijuana users from being incarcerated for small amounts of marijuana. We need that prison space for more dangerous offenders.

I urge you to vote yes on Proposition 203.

Judge Rudolph Gerber, (ret.), Phoenix

Paid for by "The People Have Spoken"

Yes on 203

I served as Arizona's Secretary of State from 1990-94. As such, I ran elections in this state. Voters in 1996 and 1998 approved medical marijuana, but the politicians still have not allowed this program to happen. Now, through, Proposition 203 we have an opportunity to end this shell game. I urge you to vote Yes on 203 as it will create a statewide medical marijuana program through the state that the politicians cannot screw up. This program will ensure the maximum amount safety for everyone involved - patients, doctors, and the public.

Proposition 203 will also expand on the successful drug treatment programs approved by voters. These programs are helping thousand of drug users in recovery and saving the states millions of dollars. The measure will also ensure that low level marijuana users cannot be incarcerated.

I urge you to vote Yes on 203.

Richard Mahoney, Arizona Secretary of State 1990-1994, Independent Candidate for Governor, Phoenix

Paid for by "The People Have Spoken"

Yes on 203

I am supporting Proposition 203 because I believe we need alternatives to prison in fighting drug abuse. Drug abuse is primarily a disease and must also be fought through medical treatment. The Drug War had good intentions, but it has unnecessarily incarcerated many victims whose only crime is addiction. Many of these unintended casualties of the War on Drugs are poor. People who don't have the money to pay for expensive attorneys to get them into treatment.

Proposition 203 expands on voter ballot measures approved in 1996 and 1998. According to the Supreme Court, some 5,000 drug users are receiving treatment, 25 percent of these are Latino, two-thirds are successfully complying with treatment. Meanwhile, the state is saving millions of dollars in the costs of prisons. Let's keep a good thing going and reach out to more of our people so that they can benefit from drug treatment.

Proposition 203 also fixes Arizona's broken medical marijuana system. Arizonans voted twice for medical marijuana, but political obstacles stopped it from becoming a reality. Proposition 203 will create a program overseen by the state which protects patients, doctors, and the public.

I urge you to vote Yes on 203.

Alfredo Gutierrez, Democratic Candidate for Governor, Phoenix

Paid for by "The People Have Spoken"

Yes on 203

A recent national poll showed that 76% of Americans think the War on Drugs has failed and they are right. That 76% also think that non-violent drug users should be sent to treatment, **not to prison!** In 1996 Arizonans led the nation in reforming our stupid drug laws by voting for treatment over prison. The Arizona legislators, in their wisdom, said the voters were duped and voided the new law. In 1998, Arizonans passed the same measure proving that it was the legislators who were duped — **duped by their own arrogance.**

By approving Proposition 203, voters will reaffirm their decisions in 1996 and 1998 to provide treatment for non-violent drug users rather than sending them to prison. In addition, Proposition 203 mandates once and for all that sick people who need medical marijuana will be able to obtain it through a state supervised system. This system will protect patients, doctors, and the general public from any abuse.

According to a recent report by the Supreme Court, last year almost two thirds of 5,385 non-violent drug users successfully completed treatment programs at a savings of \$5,000,000, compared to what it would have cost had those same 5,385 drug users been sent to prison. In prison they would have had easy access to drugs and they would have been released from prison more addicted than when they went in.

As an educator and a businessman, I am supporting 203 because it provides an alternative strategy to the continuing stupidities of the War on Drugs.

Say no to drug abuse the sensible way, say Yes on 203.

*Dr. John Sperling, Chairman of the Apollo Group and Founder,
University of Phoenix, Phoenix*

Paid for by "The People Have Spoken"

ARGUMENTS "AGAINST" PROPOSITION 203

Among its many detrimental consequences, Proposition 203 would allow many guilty drug dealers and those who help them to keep their drug money. It exempts drug money from forfeiture unless the owner is convicted of the drug crime that generated the money. However, there are many reasons that guilty owners of drug money are not convicted:

- Many major drug dealers in Arizona avoid conviction simply by becoming fugitives. Mexico doesn't generally extradite its citizens to the United States, so fugitives can stay in Mexico forever.
- Many drug money owners are never identified, such as when drug proceeds are found in luggage at an airport but nobody claims the baggage after police examine it. Unidentified owners cannot be convicted.
- Some drug money owners avoid conviction or plead guilty to non-drug offenses in exchange for their testimony.
- Some die before their conviction, or while it is on appeal, so the case is expunged.

This would exonerate the wealth of notorious drug cartel leaders like Pablo Escobar and Amado Carillo-Fuentes, who imported tons of cocaine into Arizona.

Arizona's forfeiture statutes are the most imitated forfeiture statutes in the nation. Arizona passed a Forfeiture Reform Act in 1994, and similar reforms have just now been made federally. Arizona's statutes are the model for half a dozen states and for two national model statutes. The most important reason for this is that these statutes were written by people who knew what they were doing, not by people hacking away without any idea of the consequences.

If a person makes money from drug dealing or helping drug dealers, that person should not get to keep that money, period. This proposal goes way too far by allowing guilty drug dealers and their associates to keep their drug money. Vote "NO" on Proposition 203.

Tom Rankin, Tucson

Drug abuse kills 19,000 Americans annually. Drug abuse incites property and violent crime. It costs taxpayers \$70 billion dollars a year, and costs employers millions in costly mistakes, accidents and absenteeism. Yet Proposition 203 seeks to make marijuana more widely available and more easily obtained.

Teen drug use has risen steadily in the past five years. More than 1 out of 3 high school seniors use marijuana. Marijuana use in middle school has tripled since 1996. Yet Proposition 203 seeks to decriminalize up to 2 ounces of marijuana, regardless of where the offense occurred, such as drug free school zones.

Proposition 203 establishes a taxpayer funded system run by the Department of Public Safety to provide for the distribution of marijuana to "eligible persons" possessing a doctor's "recommendation." "Eligible persons" are exempt from all criminal sanctions. Parents can consent to their minor children receiving "recommendations" and becoming "eligible" for taxpayer provided marijuana. If this proposition passes, a cottage business providing "marijuana recommendations" will spring up overnight.

The initiative prohibits jail or prison for anyone convicted of their first or second drug possession offense, even if they violate their conditions of probation, regardless of the seriousness of the violation. This hampers drug courts from imposing any sanctions against those in treatment who fail to abide by their conditions of probation. It gives permission for chronic, repetitive drug offenders to violate probation repeatedly without fear of going to jail.

Increased acceptance of drugs leads to increased levels of drug use. Increased drug use and increased drug availability worsens our crime problems. It puts public safety severely at risk. A permissive drug policy tells our youth that drugs are tolerated by society. Proposition 203 is very bad public policy. I strongly oppose it and urge you to vote "NO."

Barbara LaWall, Pima County Attorney, Tucson

I was outraged when our Legislature and Governor enacted the infamous alternative fuels program without recognizing its multi-million dollar expense to you and me, the taxpayers. Proposition 203 is another well-intentioned program that risks multi-million dollar expense to the taxpayers.

I'm talking about the hundreds of millions of dollars in civil judgments against the state (which you and I, the taxpayers, will pay) that will result from requiring the state to distribute marijuana. That's right, this Proposition REQUIRES the state to hand out marijuana! If this Proposition passes, the same lawyers who sue the state on behalf of clients injured in traffic accidents will sue the state, alleging that the accident (or even the crime) was caused by marijuana supplied by the state. Under Arizona law, a bar is liable for serving liquor. If this Proposition passes, you can bet that the state will be held liable for serving marijuana. On top of that, the long term effects of marijuana smoking and secondary marijuana smoke will be the subject of multimillion dollar lawsuits (and million dollar legal fees) against the state in years to come, just like the lawsuits against the tobacco industry. And, it will cost more money to transport, house, guard (the location of the marijuana must be publically announced) and distribute all this marijuana for "free."

No credible authority has even considered the fiscal impact of Proposition 203. No reputable business would start distributing marijuana without completing a thorough review of the business and liability risks, and obtaining massive insurance coverage. This Proposition would force the state to distribute marijuana, regardless of its fiscal impact. A business can go bankrupt and avoid judgment, but a state can only raise taxes. Vote "no" or accept the consequences in your future tax bills.

Charles Johnson, Scottsdale

VOTE NO ON PROPOSITION 203

Hello, I'm Rick Romley, the Maricopa County Attorney. In 1996, supported by millions of dollars provided by drug legalization advocates, a proposition was passed which permitted medical marijuana. At the time, I said that the sponsors of this proposition were merely using the "smoke screen" of medical marijuana to hide their true intention of paving the way for drug legalization. They of course denied this motive, claiming their only interest was helping the ill. Time has shown how wrong they were; and, unfortunately, how right I was.

Not satisfied with their victory in 1996, they came back with a new proposition. This time trying to gain immunity from criminal prosecution.

tion for drug dealers, even to those selling drugs to kids. Fortunately, this effort failed and for the first time their true motivation behind these propositions was disclosed -- **Legalization**.

Now, in 2002, they are back again. This time using their millions to advance Proposition 203. Again they are purposely mischaracterizing their proposition as "medical" marijuana. Again, they are not telling the truth. Medical marijuana is already on the books. Rather, Proposition 203 advances their legalization objectives. To highlight what Proposition 203 does: (1) It decriminalizes marijuana; (2) It takes away the need for a doctor to prescribe marijuana for an illness; and, (3) Finally, and perhaps the most **BIZARRE**, it will require the Department of Public Safety to give (yes – for **FREE**) marijuana to anyone claiming a medical need.

All of us know how drugs have torn apart our families. All of us know that "Drugs Destroy Dreams". I urge you to vote **NO** on **Proposition 203**.

Richard M. Romley, Maricopa County Attorney, Phoenix

Vote NO on Prop 203

If you read the terms of Prop 203, you will find that the Department of Public Safety must:

1. Secure marijuana supplies in public buildings located in at least three counties
2. Purchase marijuana from the University of Mississippi
3. Ensure the safety of the shipment from Mississippi
4. Use confiscated drugs for distribution (which will obviously have to be tested for "quality" in crime labs)
5. Provide marijuana with only a written statement from a doctor. There is no requirement for a medical prescription; and the marijuana can be provided to a "caregiver" and not the actual "patient."
6. Issue "Registry Identification Cards"

All of these stipulations cost the Department of Public Safety time, manpower and money. **Shouldn't public safety officials be fighting crime instead of playing pharmacist with illicit drugs?**

And where will the money for this "marijuana legalization" plan come from? **Our tax dollars!!**

Prop 203 also takes away the courts rights to confiscate property of a drug abuser. What is interesting about this stipulation is that no mention is made of those using drugs for "medicinal purposes". It only talks about drug violations by the general public. This fact alone should make any intelligent person question how much Prop 203 really has to do with "medicinal" needs.

This is a blatant attempt to legalize Schedule 1 drugs such as marijuana, cocaine, PCP and heroin. Is this really what we want for the future of our state? Is this really what we want for the future of our children?

The potential for fraud with this ridiculous plan is frightening and overwhelming! **VOTE NO ON PROP 203!**

Phil Gordon, Phoenix City Councilman, Phoenix

Questions and Answers Against Prop 203

If you have even the slightest inclination to vote for Prop 203, you may want to consider the answers to these following questions:

1. Did you know that this initiative calls for the release of convicted drug abusers - into our neighborhoods?
2. Do you really want our public officials dispensing illegal drugs? Wouldn't you rather they were spending their time fighting crime and protecting our families?
3. Did you know that this initiative undermines the authority of the court system in sentencing drug abusers?
4. Do you really want your hard earned tax dollars used for the cultivation and purchase of illicit drugs?
5. Are you aware that the same three men who have introduced this initiative also attempted to launch another initiative that proposed granting immunity to drug dealers?
6. Do you see the potential for legal drug abuse?
7. Do we really want Arizona to become a safe haven for the illicit drug culture?

Think about the answers to these questions very carefully - and then **VOTE NO** on Prop 203.

Michael J. Minnaugh, Phoenix

"Just Say No" to Prop 203

We see public announcement messages every day that encourage our children to "just say no" to drugs and that educate our children on the negative repercussions of drug abuse.

As parents, we are now faced with the misleading and deceptive message of Prop 203. This proposition has little to do with medicinal drug use. Prop 203 is laying the groundwork for eventual efforts to legalize drugs.

Let's learn the same lesson we hope our children have learned... "Just Say No" to Prop 203.

Tom Reithmann, SADD Director, Teacher, Brophy College Preparatory, Phoenix

This proposition suffers from the same deceptive drafting that caused years of taxpayers' expense and legal confusion over Proposition 200. For example, the forfeiture provision requires that no owner's or interest holder's interest in property could ever be forfeited for a violation of any drug offense unless and until the owner or interest holder is "convicted of an offense listed in title 13, chapter 34, and the court finds that the property facilitated or was the proceeds of "that crime."

This is a massive loophole. The largest kingpin methamphetamine and cocaine dealers are charged with offenses that are not in title 13, chapter 34. These include Conducting a Criminal Enterprise, Participating in a Criminal Syndicate, Money Laundering, Conspiracy, Attempt, Solicitation, and Facilitation. When the dealer is convicted of these drug related offenses, but not a chapter 34 drug crime, his ill-gotten property is exempted forever if this proposition becomes law.

Under Proposition 203, the illicit property must be tied to the very crime the person is convicted of. So if a dealer has been dealing drugs for years but is caught in only a recent deal, he keeps all drug money not tied to that last transaction. This is because the offenses that would allow aggregation of profits over a long time, such as Conducting a Criminal Enterprise and Conspiracy, are not in chapter 34.

The proposal also exempts all drug profits of drug dealers convicted in federal or other states' courts, because no other jurisdiction can convict under Arizona's "title 13, chapter 34." This is another huge loophole.

Proposition 203 would let large, long-time, convicted drug dealers keep drug money. If Prop 293 is really about medical marijuana why

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does it contain so many hidden clauses that help methamphetamine and cocaine dealers? Vote “NO” on Prop 203.

Thomas Stoxen, Prescott Valley

Prop 203 is not just about “medical” marijuana. Hidden in the many pages of legal jargon are early Christmas presents for drug cartels, dope dealers and other criminals involved in methamphetamine, cocaine, heroine and other hard drugs.

If Prop 203 were just about “medical” marijuana, why does it hamper a prosecutor from letting a judge know about a defendant’s prior convictions for possession of methamphetamine, cocaine and other hard drugs? Why does Prop 203 practically abolish the State’s ability to shut down methamphetamine labs, cocaine and drug traffickers through forfeiture of assets and drug profits? Why does Prop 203 lower criminal sentences for possession of paraphernalia associated with methamphetamine, heroine and cocaine? And why does Prop 203 weaken consequences for those using marijuana without a “medical condition?”

If Prop 203 were truly about a health issue, why doesn’t it warn of the medical side effects of marijuana such as addiction, cancer, schizophrenia, etc., while apparently allowing it to be prescribed for medical conditions such as the pain of a sprained ankle, nausea of pregnancy or even gauntness resulting from excessive methamphetamine use? The number of “medical conditions” which can be imagined is unlimited and sure to be litigated at taxpayer expense. For example, Prop 203 allows a person who illegally possesses marijuana without a “medical condition” to escape prosecution if he is able to present evidence of a “medical condition” after his arrest. This will no doubt require taxpayers to pay the fees of at least one and sometimes two expert witness physicians.

The devil is in the details. It seems the wealthy out-of-state backers of Prop 203 have given Arizona voters a Trojan horse filled with social experiments they don’t want you to know about. Vote “NO” on Proposition 203.

Sheila S. Polk, Yavapai County Attorney, Prescott

As a mother of four, concerned about our increasingly permissive attitude and downward slide into drug abuse, I urge you to vote NO on this initiative. If you want to encourage your children to use drugs you will vote for it.

I have read all 13 pages of this initiative which “acknowledges that there is a legitimate medical use for marijuana.” Who acknowledged? Was it a group of cancer experts? It does not say. I called the American Cancer Society, 1-800-ACS-2345, and they said, “The American Cancer Society does not advocate the use of inhaled marijuana for medical use. And the ACS does not support the legalization of marijuana.”

Dr. Philip Kanof, director of the substance-abuse program at the VA Hospital in Tucson, has said that tolerating marijuana for medical use allows it to escape the rigorous scrutiny applied to prescription drugs. Dr. Kanof has seen the dangers of smoking marijuana, what seems to be an innocent recreation, lead to more ominous drug use, especially among young people. Marijuana is a gateway drug among adolescents who go on to use harder drugs, to drug-addiction careers. (Interview 1-7-99 AZ Republic.)

We have already legalized two drugs, tobacco and alcohol, which cost us so much in ruined lives, ruined health, more deaths than wars, and billions of dollars. Why in the world would we want to legalize another drug when substance abuse is already our nation’s number one health problem. Get informed, start with www.health.org.

Let’s stand together and help each other keep our homes, schools, and workplaces clean and drug-free. Thank you for voting NO.

Carolina C. Butler, Scottsdale

Proposition 203 would enrich drug dealers by making most forfeitures of drug proceeds impossible. It creates a forfeiture exemption unless the “owner” of property is convicted of the very drug offense that caused particular drug proceeds; if not, those drug proceeds are absolutely exempted.

A drug dealer could “give” his property to a friend, relative, or other “strawman” owner, who is then the person the state must convict to obtain the forfeiture. The drug dealer would naturally select an “owner” uninvolved in his drug dealing. Anyone could keep any amount of drug money, even though convicted, just by “giving” property to strawmen.

If a drug dealer’s hidden millions are found after his sentencing, they could never be forfeited. A criminal punishment and a civil sanction cannot be assessed for the same conduct if the civil sanction is “punishment,” because this is constitutionally “double jeopardy.” A forfeiture contingent upon a criminal conviction is “punishment,” so once a person is sentenced in a criminal case, there could never be a forfeiture later.

A convicted drug dealer would get to keep everything he made before he got caught. Drug dealers don’t get convicted of the very crimes that made them rich. The successful deals happened before they got caught. Under Proposition 203, forfeiture would require conviction of the earlier crimes, exempting earlier profits.

Drug proceeds taken from money couriers would rarely be forfeited. The courier (the “owner”) can claim he didn’t know about the money at all, or was doing a favor for someone by carrying the luggage, driving the car, etc. Overwhelming proof that someone got the money from drug dealing does not prove that this “owner,” the courier, did, so the drug money must be returned.

This proposition exempts drug money from forfeiture in almost all cases.

Cameron Holmes, Phoenix

NO ON PROPOSITION 203

Proposition 203 would make it child’s play for a convicted drug dealer to keep any amount of drug money. He would have many easy choices. He could “give” his proceeds or criminal property to a relative, a friend, or a corporation, or get a “loan” from them. These new “owners/interest holders” would, of course, be selected because they are not involved in any drug crime, so they could not be convicted. The property would be forever exempted from forfeiture. Here are a few examples of the unfairness this proposition would create:

Drug dealer “**Smith**” makes \$1 million dealing cocaine. He purchases an office building and deeds it to a family member. Police convict “**Smith**” and prove he bought the building with drug money. The building is exempt because the family member is the owner and the family member and cannot be convicted.

“**Smith**” uses a warehouse to store cocaine. He deeds it to a friend. When “**Smith**” is caught with a ton of cocaine in the warehouse, there’s no forfeiture because the friend cannot be convicted.

“**Smith**” “borrows” money from a family member, friend, or professional money launderer, in a fake transaction in which “**Smith**” actually provides the money for the loan to himself out of his drug money. The fake “lender” files a deed of trust security interest in **Smith’s** vaca-

tion home. Suppose **Smith's** guilt and his purchase with drug money are both proven beyond any doubt. Under Proposition 203, this fake lender is the person, the "interest holder," that the state must convict, even though no real loan occurred, so no forfeiture is possible.

Proposition 203 would attract more major drug importers to Arizona, where their drug profits would be safe.

Laura Reckart, Laveen

Whatever benefits other parts of this initiative may claim, its section 10 change in state forfeiture law scuttles this proposition. We are a border state with a monstrous drug trafficking industry. Murderous organized drug gangs flush with cash use our state as a big factory and loading platform to tranship dope across North America. They're in it for the money, make it like a mint and use it to buy people and property ... weapons, vehicles, airplanes, the best technology, front businesses, securities, jewelry, real property, homes and buildings of all kinds. This flood of illegal dope and drug money contaminates and corrupts where we live and work. The Sammy Gravano ecstasy drug gang reached into Chandler high schools. Even the chief drug prosecutor at our Attorney General's office was targeted this year by an assassination attempt at her home.

Drug trafficking gangs use drug money to acquire property in the names of others ... front individuals and dummy companies. Forfeiture is how law enforcement takes it away from them, even when concealed behind strawmen. Under current law, such property can be forfeited in a non-criminal civil case. But section 10 helps the gangs keep their property from forfeiture so long as the titleholder is not prosecuted and convicted of a drug crime. Since that titleholder "owns" in name only for a drug trafficker, the property becomes shielded from forfeiture so long as its titleholder avoids prosecution for drug crimes. The gangsters thus keep the property gained from drug trafficking and this proposition strengthens their incentive to grow their drug empires.

Proposition section 10 is a "sleeper" chokehold on forfeiture that goes way beyond offenders possessing marijuana for personal use. It benefits all offenders, especially the dangerous wholesale traffickers accumulating substantial property from their crime.

Mark Knops, Tempe

Proposition 203 is not about relieving pain for sick people. It's about allowing drug traffickers to keep their ill gotten gains. Currently, people suffering from serious or terminal illnesses can legally obtain marijuana to help relieve their pain. We don't need Proposition 203 to do this.

Proposition 203 allows drug dealers to keep their ill gotten gains by requiring a drug conviction, not of the drug dealer, but of the owner of the property, before forfeiture is possible. This robs the people of the State of Arizona of forfeited property, which is used to protect the people of this state through funding drug treatment, education and prevention programs; investigations and prosecutions.

Drug dealers hide their interests in property by placing the property in the names of others, such as family members, corporations, friends, or other persons not involved in drugs. By doing this, the drug dealer protects his drug money from forfeiture because, under Proposition 203, it's not the drug dealer's conviction that is required for forfeiture, it is the conviction of the owner of the property.

In addition, under Proposition 203 any drug trafficker could keep all his drug money, even if he is the owner of the property, if the drug dealer cannot be located or identified; dies before conviction; or pleads to a non-drug offense. This is true whether the quantity sold was two ounces or two tons.

Money is power. Your vote on Proposition 203 is a vote on who should control the power of drug money: drug dealers or the honest people of the State of Arizona.

Vote NO on Proposition 203 if you want to deprive drug dealers of this money and keep that power in the hands of honest people.

Sandra Janzen, Sedona

Vote NO on 203 because, as a conscientious voter, when you read the fine print, you will find out that this initiative does not do what its flowery title implies.

Its supporters call it the "Drug Medicalization, Prevention, and Control Act." Sounds nice, but it does not reflect the law that you will be enacting if you vote yes.

In these extremely difficult budget times, when we are short of child care workers, police officers, nurses, and teachers, this proposition plans to use our scarce taxpayer money to require the state to provide free marijuana to certain citizens. It would also make your Department of Public Safety one of the largest drug suppliers in the state.

Inside their complex, lengthy verbiage, there are provisions that:

- Will allow all drug abusers, including those on heroin, cocaine and PCP, not just marijuana, to avoid any jail time no matter how many times they violate probation and no matter how many times they fail their treatment programs.
- Will allow children under 18 years of age to use "medical marijuana."
- May prohibit regulatory agencies from disciplining licensees who acted improperly while taking "medical marijuana".
- Will have your Department of Public Safety collect, package and distribute marijuana for free and may hold DPS liable if the quality is poor.

As the criminal justice advisor to Governor Hull, I have real problems, as you should, with taking valuable resources that the DPS currently uses to keep our streets and neighborhoods safe, fight gangs, and investigate terrorism, and shifting them to establish a state-run drug distribution center.

Please, please, please read all the sections of this proposition. Remember, if you vote yes, you vote for all of these provisions, including the outrageous ones above. Vote "NO."

George Weisz, Office of the Governor, Scottsdale

I hope voters in Arizona will take the time to think whether we want marijuana legalized in any way. Do we want airline pilots, school bus driver's, doctors, nurses, teachers, and school age children able to use marijuana legally?

With all the legal drugs and advanced science we have today, why would you want to add the unproven long term health effects of marijuana to a list of drugs with questionable value.

With all the rehabilitation program going now why would you want to allow early release of drug offenders onto our streets?

If medical use of marijuana is a good plan doctors, lawyers, and scientists should debate it during a legislative hearings. We could get the facts and make an honest assessment of this plan. However this plan has had no debate or assessment by scientists, criminal justice

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

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experts, law enforcement or my fellow Arizonan’s.

Until I have more facts, I cannot support this proposition. Please vote NO on PROP 203. See more at www.MarilynJarrett.com or email me at mjarrett3@cox.net

Senator Marilyn Jarrett, District 19, Mesa

Here we go again; those that would legalize drugs under the banner of Medical purposes are at it again. There is **no** evidence that Marijuana has any medical or social benefit. However, there is evidence that drugs, including Marijuana do much damage to our communities and certainly destroys lives. There are drugs already on the market that are safe and do exactly what they are trying to convince you Marijuana will do. What we don’t need is wider use of Drugs of any kind.

- Most domestic violence acts are linked to drugs and alcohol.
- Most serious juvenile problems are linked to drugs and alcohol.
- Look at the highway carnage due to drugs and alcohol.
- Most of the serious problems we have in society today are linked to drugs and alcohol.

We spend millions and millions of dollars on drug treatment. We spend millions and millions of dollars on the social ills that are drug caused. What we don’t need is the increased use and abuse of drugs, especially among our youth.

I have spent over 30 years in the criminal justice system and have seen the terrifying effects of drugs on families, our communities and the destruction of lives. One of the greatest threats of this plague is the destruction to our families, our community, and our safety created by the use and abuse of drugs. This needs honest debate and should be carefully reviewed at the legislature where the debate can take place with good and accurate information.

Representative Russell K. Pearce, District 18, Mesa

Paid for by “Pearce Campaign 2002”

As parents, citizens and commissioners, we are concerned this proposition encourages and makes it easier for children to acquire and use dangerous and currently illegal drugs, while reducing critically needed funding for law enforcement and crime prevention. This proposition is confusing, deceptive and misleading in name/title and content. We cannot support a proposition that does the following:

- Removes critically needed funding from law enforcement, crime victims and community-run crime prevention programs;
- Exploits the emotional “medical marijuana” issue in order to provide legal access to marijuana for persons without any serious or terminal illness or disease;
- Requires Arizona Department of Public Safety to supply marijuana at taxpayers expense;
- Repeals minimum mandatory sentences for drug dealers;
- Severely hampers innovative programs like Drug Court which uses jail time to required repeat drug offenders undergo drug rehabilitation and counseling;
- Paroles drug dealers who plea bargained to possession charges;
- Decriminalizes possession of small but saleable amounts of marijuana.

Statistics show that increased acceptance of drugs leads to increased levels of drug use, and increased drug use and drug availability worsens our crime problems and puts public safety at risk. Legalization of marijuana sends a harmful and very wrong message to the youth of our state.

We the undersigned members of the Pima County Crime and Public Safety Commission strongly oppose Proposition 203. We urge its defeat.

Rabbi Joseph Weizenbaum, Chair, Tucson

William Gilkinson, Former Tucson Police Chief, Tucson

Reverend Ron Hart, First Southern Baptist Church, Tucson

James H. Click, Jr., President, Jim Click Automotive, Tucson

Anna Jolivet, Ed. D., Retired Assistant Superintendent, TUSD, Tucson

Dorothy Finley, President, Finley Distributing, Tucson

Honorable Lew Murphy, Former Mayor, City of Tucson, Tucson

Katie Dusenbery, Horizon Moving and Storage, Tucson

Joel D. Valdez, Former City Manager, City of Tucson, Tucson

Bishop Manuel Moreno, Diocese of Tucson, Tucson

Paid for by Dorothy H. Finley

Prop 203 will hurt neighborhoods – Vote NO

Proponents of Prop 203 would have you believe that legalizing marijuana will somehow magically eliminate crime and make our neighborhoods safer. Nothing could be further from the truth. As a 20-year resident of central Phoenix who has been at the frontlines of the neighborhood revitalization effort, I’ve seen the devastation that hard drugs can bring to a neighborhood. There’s no reason to think that making marijuana more accessible will do anything to help.

For years, proponents of drug legalization have pointed to Amsterdam as the model that other cities should emulate. Unfortunately, after 30 years of de facto marijuana legalization, Amsterdam has the worst problem with hard drugs of any European city. Instead of finding a bunch of happy pot smokers, tourists are literally stumbling over stoned heroin addicts on the city’s sidewalks.

Do we want Arizona to be the magnet for every drug user in America, with government-provided pot for anyone who has an “in” with a doctor? I hope not. Please vote NO on Prop 203.

Bill Scheel, Neighborhood activist and former school board member, Phoenix

BALLOT FORMAT

PROPOSITION 203

PROPOSED BY INITIATIVE PETITION

OFFICIAL TITLE

AN ACT AMENDING TITLE 13, CHAPTER 6 BY ADDING SECTION 13-610, ARIZONA REVISED STATUTES; AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 34, BY AMENDING SECTION 13-3413 AND ADDING SECTIONS 13-3405.01, 13-3413.01 AND 13-3423, ARIZONA REVISED STATUTES; AMENDING SECTION 13-4304, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 3, ARTICLE 2 BY ADDING SECTION 31-411.02, ARIZONA REVISED STATUTES; AMENDING TITLE 36, BY ADDING CHAPTER 27.1, SECTIONS 36-2601, 36-2602, 36-2603, 36-2604, 36-2605, 36-2606, 36-2607, 36-2608, 36-2609, 36-2610, 36-2611, 36-2612, 36-2613 AND 36-2614 ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1 BY ADDING SECTION 41-1604.18, ARIZONA REVISED STATUTES; RELATING TO DRUGS.

DESCRIPTIVE TITLE

DECRIMINALIZES MARIJUANA POSSESSION FOR PERSONAL USE; \$250 CIVIL FINE; REQUIRES STATE TO DISTRIBUTE MARIJUANA FREE OF CHARGE UPON PHYSICIAN’S WRITTEN DOCUMENTATION; INCREASES MAXIMUM PENALTY FOR VIOLENT CRIMES COMMITTED UNDER INFLUENCE OF DRUGS; ELIMINATES MANDATORY MINIMUM SENTENCES; REQUIRES PAROLE IF CONVICTED OF PERSONAL POSSESSION OF CONTROLLED SUBSTANCE UNLESS DANGER TO PUBLIC.

PROPOSITION 203

<p>A “yes” vote shall have the effect of decriminalizing marijuana possession for personal use, providing for a \$250 civil fine, requiring distribution of marijuana free of charge by the Department of Public Safety if a person’s physician provides written documentation, increases the maximum sentence for violent crimes while committed under the influence of drugs, eliminates mandatory minimum sentences, requires parole for persons convicted of personal possession of a controlled substance unless they are a danger to the public.</p>	<p>YES <input type="checkbox"/></p>
<p>A “no” vote shall have the effect of retaining the current criminal penalties for possession of marijuana and other controlled substances.</p>	<p>NO <input type="checkbox"/></p>

Appendix B: IRB Submission Package

Form 4 - EXPEDITED

IRB Proposal Review #: _____

Appendix B. IRB Submission Package

Request for Expedited Approval of Research Involving Human Subjects

[please print or type responses below]

Principal Investigator (Faculty or Faculty Advisor and primary contact): Karen Hult

Co-Investigators(Faculty or Student): Anne McDonald Pritchett

Department(s): Hult: PSCI Mail Code: 0130 (CPAP Blacksburg 0520); Pritchett: CPAPAlexandria Mail Code: _0362_____ E-mail: khult@vt.edu; apritche@ondcp.eop.gov
Phone: K. Hult: 540-231-5351; A. Pritchett: 202-395-9865

Project Title: _State Drug Policy Ballot Measures # of Human Subjects: 30

Source of Funding Support: _X_ Departmental Research Sponsored Research (OSP No.: _____)

[X] All investigators of this project are qualified through completion of the formal training program or web-based training programs provided by the Virginia Tech Office of Research Compliance.

Note: To qualify for Expedited Approval, the research activities must: (a) present not more than minimal risk to the subjects, (b) not involve any of the special classes of subjects, except children as noted, and (c) involve only procedures listed in one or more of the following categories. The full description may be found in the Expedited Review section of the Virginia Tech "IRB Protocol Submission Instructions Document" or 45 CFR 46.110 (<http://ohrp.osophs.dhhs.gov/humansubjects/guidance/45cfr46.htm#46.110>)

Please mark/check the appropriate category below which qualifies the project for expedited review:

- 1. Clinical studies of drugs and medical devices when proscribed conditions are met [see item (1), page 8 of the "Instructions" document].
- 2. Collection of blood samples by finger, heel or ear stick, or venipuncture subject to proscribed limitations [see item (2), page 9 of the "Instructions" document].
- 3. Prospective collection of biological specimens for research purposes by noninvasive means. Examples: hair and nail clippings, deciduous teeth, permanent teeth, excreta and external secretions, uncannulated saliva, placenta, amniotic fluid, dental plaque, muscosal and skin cells and sputum [see item (3), page 9 of the "Instructions" document].
- 4. Collection of data through noninvasive procedures routinely employed in clinical practice, excluding procedures involving x-rays or microwaves [see item (4), page 9 of the "Instructions"].
- 5. Research involving materials (data, documents, records or specimens) that have been collected or will be collected solely for non-research purposes (such as medical treatment or diagnosis [see item (5), page 10 of the "Instructions" document].
- 6. Collection of data from voice, video, digital, or image recordings made for research purposes [see item (6), page 10 of the "Instructions" document].
- 7. Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language communication, cultural beliefs or practices, social behavior), or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies [see item (7), page 10 of the "Instructions" document].

Karen Hult	Anne Pritchett	
Investigator(s)	Print Name	Date

Departmental Reviewer	Print Name	Date
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Chair, Institutional Review Board

Date

This project is approved for ____ months from the approval date of the IRB Chair.

1. Justification/Purpose of the Project

The purpose of this research is to gain insight into how the drug problem in the United States has been defined through the use of the state ballot initiative process between 1996 and 2004. The primary research question is: how, if at all, have definitions of the drug problem in the U.S. evolved with the use of the ballot measures in the states between 1996 and 2004? The focal variables are the extent and nature of the changes in definitions of the drug problem. My dissertation seeks to unpack the concepts and language used in ballot measures to define the drug problem. Before research can be conducted to develop explanations for the passage or failure of particular ballot measures or to assess their impact on national policy, a better understanding is needed of the drug problem and solutions inherent in how the problem has been defined in ballot initiatives. The proposed research is descriptive in nature and intended to inform future explanatory research efforts. The intent is to systematically collect and analyze information in order to understand problem definition via the initiative process and make descriptive inferences (King et al. 1994) about drug problem definition and legalization. The descriptive inferences to be drawn and questions framing the conduct and presentation of analysis are discussed in the data analysis section.

The research design involves analyses of state ballot initiative language, official voter information statements, National Drug Control Strategies, related U.S. Supreme Court cases, and electoral outcomes and other archival data to obtain insight into how the definition of the drug problem has evolved. To obtain further insight, key informant interviews are proposed.

As King et al. (1994) state, describing a problem or its conceptualization constitutes a research contribution. A key contribution of my research will be illuminate how the drug problem has been defined and evolved through state ballot measures and how legalization has been conceptualized. The research will contribute to policy scholarship by adding to what is known about the use of the initiative process to shape drug policy in the U.S. The proposed research will extend the current drug policy and problem definition literatures, providing insight into how “individuals package their ideas, build coalitions in support of those ideas, and use political opportunities to drive their policy preferences home” (Mintrom and Vergari 1998:431). The research addresses a topic not currently addressed in the drug policy literature—drug problem definition in the initiative process—and contribute to systematic study in this area. The research will inform drug policy practitioners about the strategies used and their implications for research practice.

2. Procedures

Key informant interviews will be used to supplement data collection efforts if needed. The primary purpose of the interviews will be to obtain additional insights about the context in which these state ballot measures were considered, the strategies used, and perceptions regarding problem definition efforts. Interviews/requests for information will be conducted to understand uncertainties or questions arising from the analysis of the other data sources. Interviews will be conducted after the other data collection efforts and analyses have been substantially completed. The interviews also are intended to enhance validity, serving as another data source to support the other data collection efforts.

The initial interview target list was developed based on a review of the national initiative sponsors, a cursory review of the national media coverage conducted for the White House Drug Policy Office by Bulletin News over the past 2 years, my professional experience as a senior policy analyst/evaluation advisor for the White House Drug Policy Office, and discussions with my contacts in the area of national drug control policy. Additional interview targets will be solicited from those interviewed (that is, snowball sampling). The preliminary list below reflects those who have been active in ballot measure campaigns between 1996 and 2004:

- George Soros, John Sperling, and/or Peter Lewis (the philanthropists funding the new legalization movement) (or their principal representatives);
- Ethan Nadelmann (primary spokesperson for the “legalization through ballot initiatives movement”);
- Bill Zimmerman (professional campaign strategist who developed and implemented the first ballot measure efforts);

- Barry McCaffrey (former national drug czar), John Walters (current drug czar), Bob Weiner (former press chief), Jim McDonough (former head of strategy and current Florida drug czar), and MaryAnn Soldberg (current deputy director, White House Drug Policy Office, and former national and state anti-drug coalition leader from Michigan) (or their principal representatives).
- Senior officials from the Marijuana Policy Project, NORML, and Americans for Medical Rights.
- Sponsors of state drug policy ballot initiatives
- Authors of voter information statements
- Other key actors identified through interviews or data analysis at the state and national levels.

No more than 30 total sessions are anticipated and the response burden should not exceed 1 hour per interview. The interview location will vary and will include: private offices, federal agency meeting rooms, or coffee shops and will be conducted via telephone, in-person, and via email as necessary.

Key informant interviews are supplemental to the research design for my dissertation and will be conducted if needed to obtain answers to specific questions that may arise from the content and archival data analyses and to gain insight into key actors' perceptions. A discussion guide was drafted with elements adapted from Mintrom's (1997b) interview guide from his study of school choice initiatives. The guide focused on such areas as obtaining insights into specific strategies used by proponents and opponents of ballot measures, eliciting elite perspectives on key national and state level actors, perceived effectiveness of various strategies, and perceived importance or significance of particular ballot measures or definitions used and implications for policy.

Five formative interviews with federal agency and representatives of two national legalization organizations have been conducted. Based on these interviews, unstructured interviews will be employed because the knowledge base and role of the various actors vary greatly. The structured discussion guide was not conducive to obtaining the desired insights, and ultimately discussion guide topics were used as prompts only. The more senior the person interviewed, the more desirous they were to tell their story in a free-flowing manner from their own perspective. A key lesson from the formative interviews is that open-ended questions and unstructured interviews would yield more useful results. As discussed by Aberbach and Rockman (2002:674), an open-ended approach is appropriate when the desire is to explore "complex issues in a relatively uncharted area at the time and that validity can be maximized by allowing the respondents to organize their answers by their own frameworks."

As mentioned previously, the key informant interviews may be used to obtain answers or clarification resulting from the analysis of the other data sources. These clarification questions will focus on clarifying uncertainties arising from the data analysis and may pertain to obtaining contact information for a person listed as a voter information statement sponsor, to obtain perceptions from interviewees regarding how to interpret specific ballot language, and to obtain insight from the interviewees regarding perceived success or failure of particular language strategies in the initiative process. All questions will be focused on the initiative process and its use to define the drug problem.

Interviews will not be recorded but rather detailed notes will be taken and types in at the end of each day. The hard copy and electronic files of the interviews will be secured in the home and work offices of Anne Pritchett. The White House Drug Policy Office's General Counsel has approved interviews onsite but specifically requested that interviews not be audio- or video-taped for security reasons. While the research is not sponsored by a federal agency, support has been provided to use agency office space to conduct interviews.

3. Risks and Benefits

In terms of benefits, the benefits are to the field of drug policy—that the responses will contribute to a better understanding of how the drug problem is defined and may lead to more informed policy making and increased attention to the use of ballot initiatives. No physical risks or benefits to interviewees are anticipated. Minimal risk to interviewees is anticipated, with the primary risk being potential identification of interviewees based on their responses to questions. Efforts will be made to minimize such risks by more generally classifying particular responses or by summarizing or categorizing types of responses to reduce potential identification.

4. Confidentiality/Anonymity

Approval to identify interviewees will be requested. The ability to identify those interviewed is a critical aspect as the interview subjects are purposely selected due to their position and role as a policy elite

in this domain—obtaining and conveying the perspective of elites is a critical value added of the interviews. For those that approve disclosure, their preferred name, title, and affiliation will be requested. For those that do not approve the use of their names or affiliations, they will be informed of the minimal risk that persons in the drug policy field may be able to identify them based on their responses. For those who do not wish to be identified, the type of interviewee will be generally categorized (e.g., federal agency representative or spokesperson for a citizens' group). All materials and notes related to the interviews will be secured by the researchers at all times. Only the principal researchers will have access to the interview information. No audio or video recordings will be used. The interview materials (i.e., notes and electronic files of the interviews) will be securely maintained for 3 years following completion of the research as required by the IRB process. Each interviewee will be assigned an alphanumeric code for purposes of file management and ensuring confidentiality. During the formative interviews conducted, discomfort or concern over whether interviews would be considered as expressing professional or personal views and whether they would be shared with superiors. Interviewees were informed that the research was not agency sponsored and that the typed notes of interviews would not be shared but that information from the interviews may appear in the published dissertation and subsequent journal articles and other publications. This was used as an opportunity to once again ascertain whether interviewees wanted to remain anonymous.

5. Compensation

No monetary compensation will be provided.

6. Informed Consent

Interviewees in the formative interviews raised concern regarding providing written consent and requested that I discuss the matter with the White House Drug Policy Office's General Counsel. The recommendation was to obtain informed verbal consent but to offer to allow interviewees to request to review a summary of the interview if they had specific concerns. (This is the procedure that is currently followed for several federal data collection efforts that investigator Anne Pritchett currently manages which were approved by OMB and Executive Office of the President Legal Staff.) In the formative interviews, the Federal agency staff approved identification of themselves but were not comfortable providing written consent noting that anything they are being asked to sign would be subject to review by the General Counsel's Office. To avoid creating a legal review process for interviews with members of federal agencies, it was recommended that interviewees be clearly informed that the research was not sponsored by the Agency and that those who give permission for their names and affiliation to be used, be informed that the information could appear in journal articles or other publications. (The view was that persons may not necessarily think if they are being interviewed for a dissertation that the information may become widely disseminated and that they should be made aware that additional documents/publications may be based on the interview data.) If interviewees do not wish their names and affiliations to be used, they will be informed that while their names and affiliations will not be used there is a risk in that the drug policy community is small and based on their specific answers, some in the field may still be able to recognize or identify them and if concern is expressed, how they will be referenced will be discussed further with the interview subjects.

7. Copies of Applicable Study Documents

- A. Discussion guide topics/questions
- B. Informed consent process

A. Discussion Guide Topics

The primary open-ended probe is to query regarding the interviewees' knowledge and involvement in drug policy and initiative efforts and to let them "tell their story."

The primary purpose of the discussions will be to obtain answers to specific questions that may arise from the content and archival data analyses. To gain additional insight and key actor perspectives regarding strategies employed, probes such as those below may be used.

1. Name, title, affiliation, role in drug policy (describe involvement in drug issue and ballot initiatives)
2. Ask them to identify those they feel have been influential in state and national drug control policy (in efforts to change and maintain current approach to illegal drugs).
3. Ask for identification of key milestones or changes over the past decade and potential precipitating events to creation of active opposition or support for drug policy change.
4. Ask about personal knowledge of use of the following strategies by those seeking change and those opposing (if possible, get names and affiliations of any specifics mentioned as key):
 - A. Established an organization to promote drug policy reform
 - B. Produced policy advice for state and congressional legislators advocated drug policy reform
 - C. Wrote articles for newspapers
 - D. Funded ad campaigns promoting drug policy reform
 - E. Funded initiatives
 - F. Funded ad campaigns promoting initiatives
 - G. Conducted polls on the topic
 - H. Wrote a book
 - I. Funded research
 - J. Other, please specify
5. Probe regarding strategies of those seeking change:
 - A. established a coalition of concerned citizens
 - B. established a private business coalition
 - C. established a broad based coalition of dif. groups, e.g., a grassroots coalition of business, govt, and minority leaders
 - D. Used an established drug policy reform related coalition to advocate for reform (what group)
 - E. Other, please specify
6. Politicians and advocates use a variety of techniques to keep their coalitions together, did those seeking policy change or opposing policy change use the following:
 - A. Information devices such as newsletters
 - B. A stress on public policy goals
 - C. The ability to make others feel as though they were part of a team that was trying to accomplish an important job for the state/nation
 - D. Possible professional or personal payoffs from being part of a successful coalition
 - E. The friendship of individuals in the coalition
 - F. Benefits from belonging to a group, such as group insurance or travel benefits
7. Did those seeking and opposing change use the following (how effective on scale of 1-5 for those indicating they used these):
 - A. Inspiring like minded people
 - B. Presenting their message through the media
 - C. Establishing wide support from the general public
 - D. Developing and maintaining good relations with : State governors, State legislators, Congressional legislators, Private business groups, Medical organizations, Law enforcement organizations, and Parent organizations
8. How important do you think each of the following strategies were for those seeking to redefine the drug problem via initiatives:
 - A. Collecting evidence from other drug policy reform efforts to demonstrate the merits of the idea
 - B. Collecting evidence from research to demonstrate merits of idea
 - C. Finding out about attitudes toward drug policy reform among the policy elite at the state or national level
 - D. Finding out about public opinion at the state and/or national levels (indicate scale for both state and national)

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- E. Team building among subordinates and colleagues to inspire commitment
 - F. Networking with others in and around government and using these contacts to help achieve policy goals
 - G. Networking with advocates from neighboring states
 - H. Networking with advocates from nonneighboring states
 - I. Using or developing perceptions of crises to increase interest in and support for position/policy choice
 - J. Framing problems to make the policy choice an appealing choice (e.g., working to make legalization appear an appealing alternative)
 - K. Presenting problems in a way that leads to realignment of interests into a new coalition supporting the groups policy view
9. Who do you think is most appropriate for making drug policy decisions and why? A. voters; B. local government; C. state government; D. national government; E. other
- 10a. What do you perceive as the greatest threat of illegal drugs and why?
- 10b. How would you characterize the ballot measures, as harm reduction, legalization, other?
11. For those that worked on counterinitiatives, please rank in order of importance the following factors in defeat:
- A. Organization of counter/opposition effort
 - B. Involvement of national officials (Executive Branch)
 - C. (open-ended question, specify agencies and involvement)
 - D. Involvement of state government officials
 - E. Involvement of national organizations/associations (e.g., patients' rights groups)
 - F. Involvement of national professional organizations/associations (e.g., law enforcement)
 - G. Involvement of strong incumbent republican governor up for reelection
 - H. Involvement of state or local organizations/associations (e.g., citizen groups)
 - I. Involvement of state or local professional organizations/associations (e.g., law enforcement or physicians)
 - J. Other (list)
12. What do you perceive is the motivation for the state ballot initiatives challenging national policy?
- A. Change state drug control policy
 - B. Change national drug control policy
 - C. Change public opinion
 - D. Other (probe)
13. How effective do you perceive this venue for pursuing policy change?
14. Do you review the use of ballot initiatives as a positive or negative tool for policy change, why or why not?
15. How successful have the initiative campaigns been in impacting agenda access and control influenced by new or changing policy images in the media?
16. Researchers contend that the following is necessary for policy change: vote in favor of policy change/innovation; adoption of policy change/innovation; related legislation introduced; diffusion of innovation to other states; issue raised at national level/public opinion nationally favorable; influence future legislation. Please describe the extent to which you think these events have occurred and whether you think national policy change may occur in the near future.
17. Ask for them to share their experiences and opinions with the state ballot initiatives on illegal drugs (probes may include: have you been involved in efforts to support or oppose particular ballot initiatives, can you tell me what your involvement was, and perceived impact of your efforts)
18. How important do you think how the drug problem is defined to the success of ballot efforts? What do you perceive as the key strategies in problem definition, e.g., use of symbols, attack on existing symbols, use of legitimate authorities, use of alternative venues, etc.)
19. Who or what kind of actors do you think have been most successful in defining the drug problem and why?
20. Are there any key aspects or perspectives on the use of state ballot initiatives that I have not considered or that you feel are important to consider?
21. Any last thoughts or experiences you'd like to share with me?
22. Are there any other persons you feel I should be talking to—that are key actors—that you feel I may not have considered?

B. Informed Consent Script for Participants

Study Title: State Drug Policy Ballot Measures

Researcher: Anne Pritchett

Interview Subject: _____

Project Purpose

Hello. My name is Anne Pritchett. I am a doctoral student at VA Tech conducting research on how the problem of illicit drugs has been defined through state ballot initiatives or measures over the past decade (1996-2004). As a representative of (name organization), (sponsor of statement or initiative), (give name of person who suggested I speak to you), (or otherwise identify why you selected the person,) I'd like to talk to you about drug policy and how the drug problem has been defined over the past decade. I'd like to tell you about my research and type of questions I'd like to ask and answer any questions you have. I'd then like to obtain your consent or agreement to be interviewed. I anticipate interviewing between 20 and 30 key actors in this policy domain.

As I said, my name is Anne Pritchett, and I am a doctoral student in the Center for Public Administration and Policy at Virginia Tech. (For those who are with Federal Agencies or who I have identified through my professional experience or who know where I work, I will then tell them that this research is not part of my job and is not being conducted on behalf of the Executive Office of the President.)

As you may know, over the past decade there have been almost 30 state ballot initiatives focusing on different aspects of drug control policy. The topics range for medical marijuana to mandating treatment vs. incarceration. Many of these efforts have been approved by voters and are perceived by some to pose a real challenge to how the drug problem is defined and what the national approach should be to this problem. The primary research question to be addressed by my dissertation is: how, if at all, have definitions of the drug problem in the U.S. evolved with the use of the ballot measures in the states between 1996 and 2004? I am focusing on understanding the extent and nature of the changes in definitions of the drug problem. A key contribution of my research will be to illuminate how the drug problem has been defined and evolved through state ballot measures and how legalization has been conceptualized. The research will contribute to policy scholarship by adding to what is known about the use of the initiative process to shape drug policy in the U.S. The proposed research will extend the current drug policy and problem definition literatures, providing insight into how "individuals package their ideas, build coalitions in support of those ideas, and use political opportunities to drive their policy preferences home."

Procedures

If you agree to be interviewed, I'd like to talk to you for about an hour maximum asking you about your knowledge and involvement in drug policy, focusing on state ballot initiatives on illegal drugs. I'll be asking you some specific questions to obtain your insights into the drug policy debate and state ballot initiatives. I'll be taking notes but I will not be video or audio taping our conversations. I'd like to obtain your permission to use your name, title, and affiliation in my dissertation and subsequent publications that may be based on this research. If you are not comfortable with being identified, I'd still like to interview you and I simply will not identify you by name or title.

Risks and Benefits of Being in the Study

No physical risks or benefits are anticipated. Minimal risk is anticipated, with the primary risk being potential identification of interviewees based on their responses to questions. If you do not wish to be identified, I will seek to minimize such risk by more generally classifying responses from the same type of interviewee to reduce potential identification and will use very general references to you, such as federal agency representative or citizen group representative.

In terms of benefits, the benefits are to the field of drug policy—your responses will help contribute to a better understanding of how the drug problem is defined and may lead to more informed policy making and increased attention to the use of ballot initiatives.

I can make no promises or guarantees of benefits for your participation. Do you understand?

Compensation:

You will not receive payment for your participation.

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Confidentiality:

The records of this study will be kept private. In the dissertation and any subsequent publications based on this research, if you request not to be identified, I will make every effort not to include any information that will make it possible to identify you. Interview records will be stored securely and access to the interview records restricted. I will not be audio or videotaping this interview.

Voluntary Nature of the Study:

Your participation is voluntary. Your decision whether or not to participate will not affect your current or future relations with me (ONDCP or VA Tech). If you decide to participate, you are free to not answer any question or withdraw at any time with out affecting those relationships.

Contacts and Questions:

You may ask any questions you have now. If you have questions later, please contact me at 202-395-9865 during the day or in the evening at 571-434-6873 or via email: luv2dive@verizon.net or you may contact my faculty advisor: Karen Hult, Professor of Political Science at Va Tech 540-231-5351. (This information will be provided to participants on a sheet of paper along with the study title and statement of purpose.)

Informed Consent Discussion:

Do you agree to participate? May I use your name, title, and affiliation? Please provide me with the correct spelling of your name, official title, and affiliation. I will not be collecting your social security number or any other personal identification information. If you do not wish you name, title, and affiliation to be used, your responses will be categorized generally, e.g., as a senior White House official, or as representative of a state-level legalization group (attempts will be made to provide them with the exact general classification to ensure their comfort level).

Freedom to Withdraw:

If during the interview or within 2 weeks of the interview, you change your mind and do not wish to be interviewed or vice versa, please contact me through the contact information I am leaving with you. Do you understand and are you comfortable with proceeding?

At the end of the interview, I will be asking you for recommendations of other persons to talk to. I'd like your permission to use your name and affiliation in contacting these persons.

I may wish to contact you again if when transcribing I have any additional questions or need further clarification. May I have permission to contact you again? What is the best way and best times to contact you?

Again, if you have any questions, or concerns, regarding consent or any aspect of the interviews or my research, please do not hesitate to contact me.

Verification of Participation and Consent:

Do you voluntarily agree to participate in this interview?

May I use your name, title, and affiliation? Please provide that information to me now:

I have provided you with the contact sheet and purpose of the study. I just want to verify that you know and are aware you can contact me at any time and can withdraw at any time. Do you understand?

Appendix C: Ballot Element Descriptive Tables by State

Appendix C: Ballot Element Descriptive Tables by State

4AK98: Meas. 8: Medical Use of Marijuana

This bill would allow patients to use marijuana for certain medical purposes. A doctor must find that the patient has a debilitating medical condition that might benefit from marijuana. An eligible minor could use medical marijuana only under the consent and control of a parent. There would be limits on how much medical marijuana a patient could possess. Patients and their primary caregivers who comply with this law would not be guilty of a crime. The state would create a confidential registry of patients who may use medical marijuana. Non-medical use of marijuana would still be a crime. Should this initiative become law? yes , no

Actors	Attributes	Purpose/Solution/tools
department	authorized employees and law enforcement can use to verify only legitimate users	shall create and maintain confidential registry of patients who have applied for and are entitled to a registry card; verifies information from patients; if fail to issue card within 35 days, application deemed approved; can collect administrative fees no later than January 1999 shall promulgate regulations for considering adding other medical conditions by petition
patient	to provide written documentation stating diagnosed with a debilitating medical condition and the physicians' conclusion patient might benefit from medical use; and other written information; 1 card per patient every 6 mos.; return card once better; limited to 1 oz marijuana; no more than 6 plants w/no more than 3 mature at any one time (if larger quantity patient or primary caregiver must prove medically justified); sets rules of where can and can't use; medical use approved by minor if meet criteria	
care giver and patient	not penalized or found guilty if legitimately have medical diagnosis from doctor and was advised by patient in context of bona fide physician-patient relationship of benefit of medical use	
physician	not subject to any penalty, arrest, etc., for advising of risks and benefits and saying may benefit from marijuana nor for providing written documentation based on assessment that patient would benefit	
property interest	used in connection to marijuana medical use	shall not harmed if seized an shall not be forfeited unless convicted of criminal offense; if seized in connection w/claimed medical use, will be returned; patient/ primary caregiver entitled to protection

13AK00: Meas. 5: Uses of Hemp, Marijuana

This bill would do away with civil and criminal penalties for persons 18 years or older who use marijuana, or other hemp products. These products include hemp used for paper, fiber, food, fuel, medicine, or personal use in private. Marijuana would be regulated like an alcoholic beverage. Doctors could prescribe marijuana. The bill allows for laws limiting marijuana in some cases to protect public safety. It grants amnesty to persons convicted of past marijuana crimes. The bill creates an advisory group to study restitution for those persons. Should this initiative become law? yes or no

Actors	Attributes	Purpose/Solution/tools
persons, 18 years or older	not prosecuted, denied any right or privilege, nor be subject to criminal or civil penalties for the possession, cultivation, distribution, or consumption of hemp stuff.	
hemp	industrial hemp, hemp medicinal preparations, hemp products for nutritional use, hemp products for personal use in private	to be regulated in a similar manner of alcoholic beverages (1/2 oz cured hemp flowers and/or leaves shall be considered equiv to one gallon of dry wine) sale between adults not prohibited
attorney general	act retroactive; amnesty and clear all criminal records of cannabis/marijuana related acts no longer illegal AG—within 60 days to provide application for destruction of records to all district and city attorneys and all police departments; people can pay fee of no more than \$15 to have records destroyed and then truthfully say never convicted	
legislature	authorized to enhance legislation to determine impairment to regulate or prohibit persons under influence of hemp from operating motor vehicle, heavy machinery, or otherwise engaging in conduct that may affect public safety Government and attorney general directed to challenge federal government prohibitions conflicting with the initiative within 120 days to establish advisory panel to study feasibility and methods of making restitution to all persons for cannabis related acts which are no longer illegal; est. whose on panel and established meetings to be held and report to be submitted	
business/government	testing for cannabis metabolites not required for employment or insurance or for determining impairment	
no law enforcement funds to be used to assist enforcement of federal cannabis laws which are no longer legal in AK		
Concludes w/ purpose statement		
<p>AK2504: Cannabis Decriminalization “This bill would remove civil and criminal penalties under state law for persons 21 years or older who grow, use, sell or give away marijuana or hemp products. State or local government could not require a permit or license for personal cultivation or distribution of marijuana, but could regulate marijuana like alcohol or tobacco. It removes all existing state restrictions on prescription of marijuana by a doctor for all patients including children. It allows for laws limiting marijuana use in public and to protect public safety. Should this initiative become law?”</p>		
Actors	Attributes	Purpose/Solution/tools
state local government	remove civil criminal penalties; can regulate marijuana like alcohol or tobacco; no restrictions on access or use; can restrict use in public or to protect public safety	

1AZ96: Proposition 200: Drug Med., Prev., and Control/ 3WA97: Initiative 685		
establish parent commission on drug ed; makes drug possession eligible for parole, allows use of Schedule I drugs for medical purposes; probation for possession or use; establishes drug treatment fund; luxury taxes		
Actors/subject/topic	Attributes	Purpose/Solution/tools
state	established by state; contracting authority; fund programs to increase parent involvement “about serious risks and public health problems caused by abuse of alcohol and controlled substances”	creates AZ parents commission on drug education and prevention (prescribes membership, terms, purpose)
person convicted of violent crime committed while under influence of controlled substance	not eligible for parole	must serve 100% of sentence; violent crime: any criminal act which results in death of physical injury or any criminal act which results in death of physical injury or any criminal use of weapons or dangerous instruments
persons who are in receipt, possession or use of controlled substance or involved in providing it	pursuant to prescription	is not subject to prosecution/punishment
medical doctor licensed to practice in AZ/WA		may prescribe a Schedule I drug to treat a disease or to relieve the pain and suffering of a seriously ill patient or terminally ill patient; shall comply w/professional standards; must document scientific research exists to support use; doctor prescribing must have written opinion of 2nd doctor that it’s appropriate treatment, written opinion to be kept in patients official med file if don’t comply, subject to disciplining action by board of medical examiners
person previously convicted of personal possession or use not serving another sentence	doesn’t include for sale, production, or transport	eligible for parole
director of state department of corrections		w/in 90 days of act, provide list of parole eligible to board of executive clemency departments revolving fund: establishes monies to go to drug

		treatment and education fund and that money not to revert back to state general fund
parole for every person previously convicted	require to pay for participation in program to best of ability remain on parole unless revoked	shall be released upon parole (as long as board of clemency declares no danger); board shall order as parole condition, participation in "appropriate drug treatment or education program administered by qualified agency or organization"
probation eligible	personal possession and use of controlled substances excludes sale and those committing violent crime eligible for 1st and 2nd offense	court shall suspend imposition or execution of sentence and put on probation; court requires participation in drug treatment or education program; if violate probation, court can institute other conditions
administrative office of supreme court shall distribute drug treatment and education fund		50% to superior court probation departments for placing in drug treatment/education; formula for distribution established by supreme court; 50% transferred to parents commission; each fiscal year prepare accountability report to include cost savings realized from diversion for governor and legislature

5az98: Prop. 300: Medical Use of Sched. I Drugs

(countermeasure) allows doctor to prescribe Schedule I drug to patients; would have to document scientific research supporting, get a second opinion; if prescribed, not subject to criminal prosecution; if passed (yes vote), allows Schedule I prescription only after FDA approves or U.S. Congress authorizes; if not passed, under state law could continue to prescribe Schedule I drugs without any further authorization from Congress or FDA

Actors	Attributes	Purpose/Solution/tools
Schedule I drugs	lists heroin LSD, marijuana, and certain analogs of PCP	"notwithstanding any law to the contrary, including the fed food drug and cosmetic and the controlled substances act"
AG		will notify director of AZ legislative council when FDA or congress authorizes medical use of marijuana and DEA reschedules marijuana to a schedule other than Schedule I
licensed physician	may prescribe Schedule I drug	must comply w/professional medical standards document scientific research exists get 2nd written opinion and maintain in official patient file
allopathic board of medical examiners or board of osteopathic examiners in medicine and surgery may investigate any physician not complying w/provisions		
<i>seriously ill: suffering from debilitating or life threatening condition</i> <i>terminally ill: seriously ill and who will die as a result of that illness</i>		

6az98: Prop. 301: Probation Eligibility		
"specifies those convicted of 1st or second offense involving possession of marijuana: "a dangerous drug or narcotic drug" would be eligible for probation and must receive drug treatment or education" (legislative council analysis)		
"would provide voters w/ choice of restoring original act of 1996 or permitting provisions of Senate Bill 1373 to take effect"		
Actors	Attributes	Purpose/Solution/tools
person 1st/2nd possession/use offense of Schedule I		eligible for probation; not eligible if 2 or more felonies not involving possession of marijuana or Schedule I or historical conviction for violent offense; eligible unless rejects probation and has prior felony for Schedule I possession
court	if offender doesn't meet conditions above	as probation condition shall require participation in appropriate drug treatment or ed program and person must pay to extent of person's ability; must notify owner of forfeiture proceedings in timely manner
attorney for state	can stipulate interest holder has interest	exempt from forfeiture and have property released
on probation		if violate, new conditions can be imposed by court (allows incarceration as a sanction)
threshold amounts: if single or multiple offenses lead to threshold amt exceeded, shall be sentenced as if combination of unlawful substances consisted entirely of unlawful substance of the greatest proportionate amount; if equal proportionate amounts, sentenced as if the unlawful substances consisted entirely of unlawful substance constituting highest class of offense		
property forfeiture exemptions: exempts cars from forfeiture; no forfeiture if threshold amt not exceeded; no owner or interest holder's interest forfeited if establish: acquired prior to conduct resulting in offense; didn't give person subject to forfeiture legal or equitable power to convey the interest; didn't or couldn't know offense would occur; if acquired property after offense; didn't knowingly take part in illegal transaction.		

20AZ02: Prop. 203: Drug Med., Prev., and Control

require law enforcement agency seizing marijuana grown, cultivated or produced in AZ to retain and give to public safety dept who would be required to provide not more than 2 oz. of marijuana for those qualifying for medical purposes; decriminalize possession of 2oz. or less marijuana and paraphernalia (civil fine waived if complete drug ed program); provide not more than 2 oz marijuana free to those qualifying; dept of health services required to establish and maintain registry system (allows those less than 18 to get marijuana w/medical approval); increase the max sentence by 50% for committing violent crime under the influence; requires probation for 1st/2nd offense of controlled substance (not Schedule I only based on this language); requires parole or community supervision for those convicted of personal possession or use of controlled substance if not serving another sentence; seized property not forfeited until conviction and court provides clear and convincing evidence either property was instrumental in committing offense or was the proceeds of offense.

This initiative: creates medical marijuana registry card system authorizing medical use of marijuana for people diagnosed with a debilitating medical condition; increases drug offender maximum sentences for violent crimes committed while on drugs by 50%; punishes personal possession of marijuana with a civil fine; requires a drug related conviction before forfeiture of property seized incident to possession or use of drugs; establishes state administered system for distribution of marijuana to qualifying medical patients; requires supervised release of non-violent offenders convicted of simple possession or use of controlled substances, unless such release poses a public danger.

A "yes" vote shall have the effect of decriminalizing marijuana possession for personal use, providing for a \$250 civil fine, requiring distribution of marijuana free of charge by the Department of Public Safety if a person's physician provides written documentation, increases the maximum sentence for violent crimes while committed under the influence of drugs, eliminates mandatory minimum sentences, requires parole for persons convicted of personal possession of a controlled substance unless they are a danger to the public.

A "no" vote shall have the effect of retaining the current criminal penalties for possession of marijuana and other controlled substances.

YES

Actors	Attributes	Purpose/Solution/tools
persons convicted of possession & use		eligible for probation; excludes those involved in sale; if convicted three times not probation eligible; parole or community supervision allowed for persons previously convicted of personal possession or use of a controlled substance
court		can't impose any sanction that includes incarceration in prison or jail; shall require appropriate drug treatment or ed program administered by qualified agency or organization; if offender doesn't comply can impose sanctions up to but not incarceration; not a conviction if program completed sentence enhancement and probation or other release non-eligibility; violent crime under the influence of a controlled substance
marijuana use	marijuana possession defined as 2 oz.	possession for personal use is a civil violation punishable by civil fine only not a criminal offense fine waived if person completes drug ed program
		attending physician provides marijuana to those w/ valid registry identification card; get 2 oz. marijuana and two marijuana plants to mitigate symptoms or effects of persons' debilitating medical condition

state		deposits money from fines to drug treatment and education fund; doesn't restrict ability to restrict criminal prosecution for possession, production, or transportation of marijuana or marijuana plants if amount of marijuana possessed exceed 2 oz. or two marijuana plants; will maintain marijuana in secure location w/in public building in at least three counties with greatest population in state
dir public safety		shall request NIDA and Univ. of Miss to send quarterly shipments of marijuana; marijuana grown in state to be distributed within state for med purposes; maintain safety of buildings w/ marijuana in them; will distribute marijuana to those w/ valid identification cards; shall make public where people can get marijuana
	forfeiture	subject to forfeiture for criminal offenses that are can be charged and indicted if offense occurred in state; if more than 10 lbs seized of marijuana or any other substances seized retain for trial; for state grown marijuana, keep for distribution for medical purposes; limits forfeiture: not cars used for businesses, if crime wasn't committed for financial gain, didn't involve unlawful substance greater than statutory threshold
health department		health services department: issues registry identification card
21AZ02: Proposition 302: Drug Probation		
House concurrent resolution 2013 related to probation; would expand current law so person convicted for 1st time of personal possession or use of drug paraphernalia also eligible for probation and drug treatment and not subject to incarceration" (from impartial analysis)		
Actors	Purpose/Solution/Tools	
court	"allowed to impose term of incarceration on person on probation for 1st offense only if offender violated probation by committing another drug-related offense or violated a court order relating to drug treatment" "allow probation dept or prosecutor to petition curt to revoke offender's probation if offender fails or refuses to participate in drug treatment while on probation" if court revokes probation, offender sentenced under AZ drug laws	
person convicted of personal possession	regardless of # of prior convictions	subject to incarceration not eligible for probation if refuses drug treatment as term of probation or rejects it as "sentencing alternative" even if not eligible for probation under personal possession, may still impose can impose probation if otherwise eligible for probation under general probation laws for convicted persons

2CA96: Proposition 215: Compassionate Use Act		
Exempts from criminal laws patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician. Provides physicians who recommend use shall not be punished. Fiscal Impact: Probably no significant fiscal impact on state and local governments.		
A YES vote on this measure means: Persons with certain illnesses (and their caregivers) could grow or possess marijuana for medical use when recommended by a physician. Laws prohibiting the non-medical use of marijuana are not changed.		
A NO vote on this measure means: Growing or possessing marijuana for any purpose (including medical purposes) would remain illegal		
Actors	Problem	Purpose/Solution/Tools
Patients With serious illnesses	Suffering	Allow cultivation, use and possession use of marijuana

For whom medical marijuana could benefit	Can be punished for having or using marijuana	Personal amount not defined Medical conditions warranting use not specified
Primary caregivers designated by patient	Can be punished for helping patient	Allow cultivation and possession of marijuana
Physicians know best what medical treatment should be	Can be punished for recommending	Establish as authority to assess marijuana benefits and prescribe marijuana Protect physician from punishment
State government	Not appropriate decision-maker	Recommend development of plan for distribution Limit authority
Federal government	Not appropriate decision-maker	Recommend development of plan for distribution Limit authority

14CA00: Proposition 36: Drugs Probation Act	
DRUGS. PROBATION AND TREATMENT PROGRAM. (act shall be known as SA and Crime Prevention Act of 2000) INITIATIVE STATUTE. Put on the Ballot by Petition Signatures. SUMMARY: Requires probation and drug treatment, not incarceration, for possession, use, transportation of controlled substances and similar parole violations, except sale or manufacture. Authorizes dismissal of charges after completion of treatment. Fiscal Impact: Net annual savings of \$100 million to \$150 million to the state and about \$40 million to local governments. Potential avoidance of one-time capital outlay costs to the state of \$450 million to \$550 million. WHAT YOUR VOTE MEANS YES A YES vote on this measure means: Adult offenders convicted of being under the influence of illegal drugs or using, transporting, or possessing illegal drugs for personal use would generally be sentenced to probation and drug treatment. NOA NO vote on this measure means: Adult offenders convicted of being under the influence of illegal drugs or using, transporting, or possessing illegal drugs would generally continue to be sentenced to prison, jail, or probation. There would be no requirement that they be sentenced to drug treatment.	
Actor/subject	Solution/Tools
person convicted of nonviolent drug possession offense	shall receive probation after treatment can petition for dismissal of charges; if granted conviction set aside and arrest deemed never to concur (and can mark conviction never occurred) arrest and conviction upon which probation based may be recorded by department of justice and disclosed to peace officer's for law enforcement inquiries violate probation, state can revoke; hearing to determine if drug-related probation, can revoke if certain conditions met
parole	parole not suspended or revoked for commission of a nonviolent drug possession offense or for violating any drug-related condition of parole
court	may impose vocational training, family counseling, literacy training, and/or community service; may not impose incarceration
trial judge	not otherwise limited in type of probation conditions; may require person to "contribute to cost" of placement in a drug treatment program
does not apply to	defendant previously convicted of one or more serious violent felonies unless nonviolent drug

	possession was 5 yrs after from prison custody; defendant w/one or more nonviolent drug possession offenses who has been convicted of misdemeanor in same preceding not related to drugs; defendant w/fire arm or any amount of other Schedule I drugs; who refuses drug treatment as probation condition; w/two separate nonviolent possession offenses, had two courses of treatment and court finds not amenable to treatment (sentenced to 30 days in jail)
probation dept	notifies drug treatment provider or program w/in 7 days of imposing order; if treatment provider recommends dif course, probation department can reassign offender; if treatment didn't work can have revocation hearing
treatment provider	develop treatment plan and report quarterly to probation department; if treatment not working, alert probation department; treatment not to exceed 12 mos.; if aftercare, only up to 6 mos.
state treasury	sets up substance abuse treatment trust fund; allocates \$60 mil for 1st fiscal year and funds thru 06 from general fund; doesn't preclude appropriations by legislature; distributed by sec of health and human services agency through state dept of alcohol and drug programs; funds not used to supplant funds from any existing fund source or mechanisms currently used to provide substance abuse treatment
act can only be amended by 2/3 roll call vote of both houses of legislature; all amendments shall be to further the act and be consistent w/its purposes	

7CO98/15CO00: Amend. 19: Medical Use of Marijuana/ Amend. 30: Medical Use of Marijuana		
shall there be an amendment authorizing medical use of marijuana for persons suffering from debilitating conditions and give patients and caregivers affirmative defense		
yes vote is a vote in favor of changing constitutional or statutory law; no vote is a vote against changing constitutional or statutory law		
Actors	Attributes	Purpose/Solution/Tools
patient or caregiver	charged w/violation from state's criminal laws regarding marijuana	deemed to have affirm defense if diagnosed by physician w/debilitating medical condition "advised by" physician in context of bona fide physician/patient relationship to benefit possessed amt permitted must have lawful possession of registry identification card to engage or assist in medical marijuana protected during transport or acquisition of marijuana patient must provide documentation and other information for registry no more than 2 oz. or 6 plants with three or fewer mature if under 18, need two physicians sign off and parents' consent
physician	not subject to criminal laws if advise patient of risks and benefits provided based on current assessment and bona fide relationship; provide patient w/ written documentation	
state health agency	create and maintain confidential registry of patients; must maintain confidentiality but provide to authorized employees or law enforcement to verify legitimate users; if fail to provide card in reasonable time, automatic approval; denial of registry identification is final decision; to be notified by other agencies of willful violations; to make available form for registration by January 1999	
government	to designated state agency responsibilities; no government, private, or any other health insurance provider liable for	

	any claim for reimbursement for med use of marijuana; no requirement to allow use marijuana workplace; establish criminal penalties for certain offenses
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16MA00: Ques. 8: Drug Treatment/Forfeiture		
creates state drug treatment trust fund for treatment of drug dependent persons		
“do you approve of a law summarized below, on which no vote was taken by the Senate or House of Representatives before May 3, 2000?”		
Yes vote would change state laws governing drug dependency treatment and fines paid and money and property forfeited in connection w/drug crimes		
Problem: changes state law governing forfeiture and treatment		
Actors	Purpose/Solution/Tools	
state leg	appropriate funds for state drug treatment trust fund (fines pd under criminal drug laws, money forfeited in connection w/drug crimes; proceeds from selling property forfeited because of connection w/ drug crimes	
state director rehabilitation	administer program; program not to replace existing government programs	
court	expands eligibility for those w/drug crime requesting treatment	
offender	if complete treatment, charges dismissed	
state inspector general	could audit and investigate “these activities”; official who concealed or diverted any forfeited \$ or property can be punished or imprisoned	
state	forfeiture limited: land and buildings can’t be forfeited if used in manner “that was merely incidental to a drug crime” and “property owner could then try to prove by a preponderance of evidence that \$ or property was legally exempt from forfeiture; forfeited \$ would be put in fund (not used for law enforcement); keep records of forfeiture activities and make public	
12ME99: Ques. 9: Permit Medical Marijuana.		
Do you want to allow patients w/ specific illnesses to grow and use small amounts of marijuana for treatment, as long as such use is approved by a doctor?		
Actors	Attributes	Purpose/Solution/Tools
possession	possession of usable amount of marijuana is a civil violation fro which forfeiture of not less than \$200 and not more than \$400 adjudged for 1st offense; \$400 for second and subsequent offenses w/in 6 yr pd	
property	not subject to forfeiture based on med use of marijuana if person meets requirements for medical marijuana use	
eligible patient	person authorized to possess marijuana for medical purpose	has authenticated copy of medical record or other written documentation from physician that suffering from one of several conditions if under 18, need signed authorization from person’s parent or legal guardian
physician	person licensed as	discussed possible risks and benefits of marijuana and based on info from clinical studies

	osteopathic physician by board of osteopathic licensure	and other research provides professional opinion it can help patient advised that person may benefit
usable amt.marijuana	1 ¼ oz or less of harvested marijuana and a total of 6 plants, of which no more than 3 may be mature, flowering plants	
caregiver	can possess usable amount if acting within the scope of care giving responsibilities for patient	
prohibits use in public and workplace		

26MT04: Initiative 148	
This initiative would allow the production, possession, and use of marijuana by patients with debilitating medical conditions.	
FOR allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.	
AGAINST allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.	
Actors	Attributes/Purpose/Solution
patients	w/symptoms of conditions include cancer, glaucoma, HIV/AIDs or other conditions or treatments that produce wasting, severe, or chronic pain, severe nausea, seizures, severe muscle spasms, or other conditions defined by state allow production, possession, and use of marijuana gives written certification from physician to state
patient/caregiver	can register to grow and possess limited amts
state	defines eligible conditions implicit that state sets up registry system
physician	provides written certification that patient has debilitating medical condition that would benefit from using marijuana provides medical supervision to patient
8NV98/17NV00: Ques. 9: Cannabis for Med. Purposes /Ques. 9: Use/Possession of up to 3 oz. Shall the Nevada Constitution be amended to allow the possession and use of a plant of the genus cannabis (marijuana) for the treatment or alleviation of certain illnesses upon advice of a physician, to require parental consent for such use by minors, and to authorize appropriate methods of supply to patients authorized to use it? yes, no	
Actors/subject	Attributes/Purpose/Solution/Tools
"The Legislature shall provide by law for":	
patient	upon advice of physician shall use plant of genus cannabis for treatment or alleviation of cancer, glaucoma, AIDS, severe, persistent nausea of cachexia resulting from these and other chronic or debilitating medical conditions; epilepsy and other disorders characterized by seizure, multiple sclerosis and other disorders characterized by muscular spasticity; or other conditions approved pursuant to law for such treatment
minor	medical use restricted requires diagnosis and written authorization by physician, parental consent, and parental control of acquisition and use of plant

22NV02: Ques. 9: Use/possession of Up to 3 oz. of marijuana

shall the NV constitution be amended to allow the use and possession of 3 oz or less of marijuana by persons 21 and older, to require the legislature to provide or maintain penalties for using, distributing, selling, or possessing marijuana under certain circumstances, and to provide a system of regulation for the cultivation, taxation, sale and distribution of marijuana? Yes or no

Actors	Attributes	Purpose/Solution/Tools
NV constitution	"currently authorizes the use of marijuana for medical purposes"	amended to allow use or possession of marijuana without subject to arrest, civil or criminal penalty, or seizure, or forfeiture of assets
Legislature	required to provide or maintain penalties for driving dangerously or operating heavy machinery while under influence of marijuana; for distributing or selling marijuana to persons under 21, for persons under 21 using or possession, for using in vehicle or public place; and for distributing, using, selling, or possessing on premises of jail, prison, or public school	
state	required to establish system of regulation for cultivation, taxation, sale and distribution of marijuana marijuana advertising prohibited to include low cost distribution to those medical authorized transportation out of state prohibited unless authorized by federal law license fees and taxes to be same as for tobacco products retail sales tax same for other products generally	

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treasury		services responsible for implementing program
Gen. assembly		\$19 mil. from general revenue fund to treatment fund; transfer annually \$38 mil in constant 2003 dollars; maintain prior efforts for treatment and rehab for at least first six fiscal years; determine county allocations

9or98: Meas. 57: Marijuana Class C Misdemeanor		
makes possession of limited amt of marijuana class c misdemeanor”		
result of yes vote: yes vote makes possession of less than one ounce of marijuana a class c misdemeanor result of no vote: no vote retains statute making possession of less than one ounce of marijuana a violation		
Actors	Attributes	Purpose/Solution/Tools
current law: 1oz possession is a violation: \$500-\$1,000 fine; charges against 1st offender may be dismissed upon completion of marijuana diversion agreement measure: makes it punishable by up to 30 days imprisonment plus \$500-\$1,000 fine; failure to complete diversion agreement grounds for 6-mos driver license suspension; allocates \$600,000 for enforcement of measure Note of failure to complete diversion sent to dept of transportation. Agencies supervising diversion must meet standards set by asst dir for alcohol and drug abuse programs; parent of youth will pay for participation		
18OR00: Meas. 3: Conviction Before Forfeiture		
will prohibit asset forfeiture unless property owner first convicted of a crime involving seized property Amends constitution; requires conviction before forfeiture; restricts proceeds usage; requires reporting, penalty. result of yes vote: yes vote requires conviction before property forfeiture; restricts use of proceeds; requires reporting; declares penalty. result of no vote: no vote rejects: requiring conviction before forfeiture; restricting use of proceeds; requiring reporting; declaring penalty.		
problem currently can have property seized when not convicted and forfeiture not proportionate to crime		
Actors	Attributes	Purpose/Solution/Tools
people	declarations	
innocent property owners	in a civil proceeding w/interest in property	not subject to forfeiture unless: forfeiting agency provides clear evidence or conviction obtained
state or political subdivision	1. no judgment unless or until convicted of a crime in Oregon and property was instrumental in committing or facilitating crime 2. can't transfer proceedings to federal govt. unless approved by state court judge 3. shall make all efforts to obtain shared property or proceeds from Justice 4.if “any person acting under color of law, official title or position who takes any action intending to conceal, transfer, withhold, retain, divert or otherwise prevent value” of things forfeited from being applied shall be subject to civil penalty 5. all forfeiting agencies shall report on disposition of property 6. creates asset forfeiture oversight committee to prepare annual report to public assuring proceedings “are handled in a manner that is fair to innocent property owners and interest holders”	
property	1.any interest in	1.any sale shall be done in “commercially reasonable manner”

	anything of value 2. forfeited	2. prescribes distribution: not for law enforcement purposes but to pay any financial interests in property, to state for "reasonable expenses related to forfeiture proceeding" not to exceed 25% 3. to state exclusively for drug treatment "unless another disposition is specially provided by law"
governor	doesn't affect govt. power to remit fines/forfeitures under state constitution	
10OR98: Meas. 67: Medical Use of Marijuana allows medical use of marijuana within limits; establishes permit system		
result of yes vote: yes vote allows medical use of marijuana within specified limits; establishes state-controlled permit system no vote retains Oregon criminal, civil forfeiture laws prohibiting possession, delivery and production of marijuana		
Actors	Attributes	Purpose/Solution/Tools
person engaging in or assisting in medical use of marijuana	exempt from criminal laws for possession, delivery or production of marijuana, aiding and abetting another, if person has a registry identification card; person who as a debilitating medical condition and his/her caregiver are collectively in possession of delivering or producing marijuana for medical use	
division (health)	shall establish and maintain program for issuance of registry identification cards to issue card for person w/valid, written documentation from person's attending physician that person diagnosed w/debilitating medical condition and medical use of marijuana mitigates symptoms or effects establishes conditions for those under 18 access shall define by rule when marijuana plant is mature and when immature;	
county health department	processes and maintains registry	
person w/registry card	can have 3 mature plants, 4 immature plants, and 1 oz usable marijuana per mature plant supply if can provide valid documentation of authorization by a physician; shall be precluded from presenting a defense of choice of evils patients or guardians could possess marijuana solely for the medical use of qualified patients under 18 misdemeanor if use in public, at school, employment, etc., not authorized to use where it would endanger someone	
physician	lawfully provide documentation of qualifying patient's medical history, and medical condition and benefits outweighing risks of marijuana use	exempt from criminal laws and penalties for "advising qualifying patients about the risks and benefits of marijuana use"
property interest	used in connection to marijuana medical use	shall not be harmed if seized and shall not be forfeited unless convicted of criminal offense; if seized in connection w/claimed medical use, will be returned; patient/primary caregiver entitled to protection
does not require government medical assistance program or private insurer to reimburse for costs associated w/ marijuana; of employer to		

allow use in workplace		
27OR04: Measure 33. Oregon Medical Marijuana Act		
"amends Oregon Medical Marijuana Act: increases marijuana amount patients may possess; allows sales; creates dispensaries		
result of yes vote: yes vote amends OMMA to permit sale of marijuana to registered patients, increases amt patients can possess, and create licensed marijuana dispensaries		
no vote retains current OMMA, which allows registered patients to possess limited amts of marijuana for medical purposes and prohibits marijuana sales		
problem: current law prohibits marijuana sales, including sales to registered patients		
Actors	Attributes	Purpose/Solution/Tools
marijuana amount	changes "small" in OMMA to "adequate" amounts	increased to 10 mature plants, any number immature plants, 1 lb usable marijuana (6 lbs if patient grows only one crop yearly); can't use in public, at school, employment etc. not authorized to use where it would endanger someone (such as driving)
health division	establish licensing program from medical marijuana dispensaries to provide up to 6 lbs marijuana per patient % proceeds used to fund program; provide marijuana to indigent patients; requires county health departments in counties w/no licensed dispensaries to become dispensaries, provide marijuana to registered patients; decide when plant mature/immature; establish income eligibility for medical marijuana; shall issue licenses for dispensaries meeting conditions; establish dispensary reporting conditions (quarterly reports); shall promulgate rules for dispensaries and serving indigent; establish audit system; shall collect information for scientific research and annual report on safety and efficacy; establish rules for considering additional conditions—petition process	
person engaged in assisting in medical use	excepted from state criminal laws if meet conditions; if person has registry identification card; person who has a debilitating condition and his/her caregiver are collectively in possession of delivering or producing marijuana for medical use; possession of card does not constitute probable cause	
physician	lawfully provide documentation of qualifying patient's med history, and medical condition and benefits outweighing risks of marijuana use	exempt from criminal laws and penalties for "advising qualifying patients about the risks and benefits of marijuana use"
property interest	used in connection to marijuana medical use	shall not harmed if seized an shall not be forfeited unless convicted of criminal offense; if seized in connection w/claimed med use, will be returned; patient/primary caregiver entitled to protection
state	established OMMA commission	oversee management of program; authority to propose administrative rules; veto staff decisions, suggest future legislation changes to act; staff must follow directive of commission; establishes membership of commission

“if provisions declared unconstitutional, then enforcing laws against delivery of marijuana for consideration to cardholding patients shall be the lowest priority for law enforcement”
patient registry and their attendants: includes those authorized to use plants; allows law enforcement to verify claim of authorization that’s otherwise confidential
supply of plants: authorizes appropriate methods for supply for authorized patients
doesn’t require reimbursement; nor authorize use for other than medical purpose or use in public

SD2402: Measure 1: any person may plant, cultivate, harvest, possess, process, transport, sell or buy industrial hemp (cannabis) or any of its by-products with a THC content of 1% or less		
A vote yes would adopt the state law. A vote no would leave state law as is		
Actors	Attributes	Purpose/Solution/tools
AG explanation: “would make it legal under state law, but not under federal law”		
SD2802: Constitutional Amendment		
Amend section 7 of SD constitution to read as follows: “In all criminal prosecutions, the accused shall have right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf; to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed; and to argue the merits, validity, and applicability of the law, including the sentencing laws” (latter is addition)		
a vote yes would change the constitution		
a vote no would leave the constitution as is		
Actors	Attributes	Purpose/Solution/tools
AG explanation: “.currently guarantees certain rights to a person accused of crime...would amend to state that a criminal defendant may...”		

19UT00: Init. B: Utah Property Protection Act		
established uniform forfeiture procedures		
problem: yes or no as to whether law should be amended to forbid forfeiture of property in crime where innocent owner neither knew of or consented to crime; create uniform procedures; req. addl. govt. proof; require proceeds to schools, clarify valuation methods for property and require tracking and reporting of money from its sale		
Actors	Attributes	Purpose/Solution/tools
agency	seizing property	<ol style="list-style-type: none"> 1. w/in 30 days detail inventory; 2. transfer property to designated official to hold and maintain pending court order 3. notify prosecuting attorney of items, place and seizure, and persons arrested 4. notify owners in writing & include outline of proceedings in which goods forfeited 5. if seizing agency fails to provide notice, owner can void forfeiture by bringing motion before court 6. if legally seized, proceeds go to Uniform School Funds

court		<ol style="list-style-type: none"> 1. shall void under 5 if seizing agency doesn't demonstrate good cause for failing to give notice; that owner otherwise was notified 2. if prosecuting atty. doesn't file timely complaint court gives goods back to owner 3. court shall take reasonable steps to expedite forfeiture proceedings 4. may appoint counsel for indigent claimants in civil and criminal forfeiture proceedings
attorney		30 days to file a complaint w/district attorney
innocent property owners	<ol style="list-style-type: none"> 1. did not have actual knowledge of conduct subjecting property to seizure 2. took reasonable steps to prohibit use of property when found out 3. no owner req. to take steps that believes would harm someone 	<ol style="list-style-type: none"> 1 property not forfeited civilly under any provision of state law 2. prosecuting attorney burden of proof 3. hardship release of seized property under certain conditions, incl. if prevents an individual from working, prevents minor child or student from attending school 4. rt. to take action against seizing agent for compensation for damaged property rt. to jury trial
<i>prosecuting attorney</i>		when owner criminally prosecuted must adhere to long list of rules increases burden of proof

11WA98: Initiative 692: Medical Use of Marijuana		
shall the medical use of marijuana for certain terminal or debilitating conditions be permitted, and physicians authorized to advise patients about medical use of marijuana?		
current law: use of marijuana for research into its possible therapeutic value; patients in research program only may receive marijuana from state board of pharmacy and may use it as part of research program		
Actors	Attributes	Purpose/Solution/tools
patients	w/certain terminal and debilitating conditions & other conditions approved by state medical quality assurance board	eligible to use marijuana
qualified patients and caregivers		can possess no more than 60 day supply if can provide valid documentation of authorization by a physicians patients or guardians could possess marijuana solely for the med use of quality patients under 18 misdemeanor if use in public, at school, employment, etc., not authorized to use where it would endanger someone
licensed physicians	lawfully provide documentation of qualifying patient's medical history, and	exempt from criminal laws and penalties for "advising qualifying patients about the risks and benefits of marijuana use"

	medical condition and benefits outweighing risks of marijuana use	
state	not liable for any damaging effects from permitted marijuana use	

**Appendix D: National Drug Control Strategy Goals and
Paragraphs Referring to Legalization
or State Ballot Measures, 1996-2004**

Appendix D: National Drug Control Strategy Goals and Paragraphs Referring to Legalization or State Ballot Measures, 1996-2004

2004 Strategy

p. 7 Legalization proponents dismiss such facts, even as they minimize the harm drug users inflict on themselves, and on family and community. They focus instead on the supposed harm inflicted on the individual and community by the government, particularly law enforcement. Yet the cost of drug use overwhelmingly falls not simply on the drug user—although users certainly pay a high price—but also on spouses, parents, society, and taxpayers. We invite the skeptics to attend a few meetings of a local AI-Anon chapter and listen to what families in their own communities are going through on a daily basis. They should listen closely to what has helped these families' drug-using loved ones start to get well. As psychiatrist Robert DuPont notes, "They are unlikely to hear that the answer was more drugs in their neighborhoods."

2003 Strategy

Worse, well-funded legalization groups have spread misinformation about the effects of drugs. They have even insinuated to young people that drug use is an adolescent rite of passage and that adults who tell them otherwise are seeking to limit opportunities for personal growth that are rightfully theirs.

Such misinformation has taken on the force of law in states where legalization groups have pushed through a series of state referenda to legalize "medical" marijuana. Legalization lobbyists have portrayed their agenda as a representation of popular will, as though parents and communities were seeking to bring more drugs into their schools and homes. Operating with the benefit of slick ad campaigns, with virtually no opposition, and making outlandish claims that deceive well-meaning citizens, campaign proponents have tallied up an impressive string of victories.

That is, until now: in 2002, the movement lost key referenda and similar efforts in four states (Nevada, Arizona, Ohio, and South Dakota), and otherwise failed to proceed with efforts in Florida and Michigan.

Prevention efforts are our first line of defense against illegal drug use. Such efforts hold out the promise of preventing drug use before it starts and sparing families the anguish of watching a loved one slip into the grasp of addiction. Although we face a major challenge in driving down drug use—with 16 million past-month (current) users and six million in need of drug treatment—our Nation's strategy for preventing the use of illegal drugs has much to recommend it. The fact is that although 7 percent of Americans use an illegal drug on a current basis, 93 percent do not. Legal substances such as alcohol are inherently more difficult to control, and the numbers show it, with 109 million current users, 13 million of whom need help. Similarly, alcohol use among young people is more prevalent than use of illegal drugs.

Drug prevention programs—particularly those programs that are research-based and involve the community—are invaluable in educating young people about the dangers of drug use and reinforcing a climate of social disapproval of drug use. The Federal Government supports such programs both with funding and by supplying the best available evidence, technology, and tools. But drug prevention makes for a difficult public policy discussion because prevention activities are not, for the most part, discrete, government funded programs. In fact, they can best be understood as the sum of the efforts parents and communities make in bringing up young people.

The sheer comprehensiveness of the failure is impressive: losses ranged from a Nevada effort to legalize possession and use of marijuana, to an Ohio proposal that would have gutted that state's ability to incarcerate drug dealers and provide drug treatment to prisoners, to a greatly expanded medical marijuana initiative in Arizona.

A small band of wealthy backers spent millions of dollars on various campaigns last year; their across-the-board defeat suggests something of what citizens in targeted states actually think of

the deceptions they were offered. The record of 2002 also suggests that the mood of national seriousness following the September 11 attacks is less open to self-indulgent social engineering than some had hoped.

The ultimate direction of that mood is significant, and probably critical, to the success of our Nation's drug control efforts, which, like efforts to regulate smoking and alcohol use, owe much to public awareness and an engaged citizenry. As examples, the charts on these pages illustrate the major reductions in smoking that followed the 1964 Surgeon General's report linking cigarettes with health problems, and the imposition of federal restrictions on tobacco sales to minors in 1992.

Similarly, the data on the prevalence of drug use shows the steep reductions in use that followed the national mobilization started in 1985 by Nancy Reagan's "Just Say No" campaign. Like smoking and other social pathologies, drug use is a problem that responds to societal pressure; when we push against this problem, it gets smaller.

p. 27 Drug legalization advocates who suggest that drug use is "victimless" are brought up short when confronted with the grief of a family that has lost a parent or child to a driver who was high on marijuana. The problem is real: research indicates that in 2001, some eight million drivers got behind the wheel of a car after using drugs, and the problem is particularly acute among younger drivers (see Figure 10).

p. 14 (referenda) Such misinformation has taken on the force of law in states where legalization groups have pushed through a series of state referenda to legalize "medical" marijuana. Legalization lobbyists have portrayed their agenda as a representation of popular will, as though parents and communities were seeking to bring more drugs into their schools and homes. Operating with the benefit of slick ad campaigns, with virtually no opposition, and making outlandish claims that deceive well-meaning citizens, campaign proponents have tallied up an impressive string of victories. That is, until now: in 2002, the movement lost key referenda and similar efforts in four states (Nevada, Arizona, Ohio, and South Dakota), and otherwise failed to proceed with efforts in Florida and Michigan.

2002 Strategy

p. 7 The easy cynicism that has grown up around the drug issue is no accident. Sowing it has been the deliberate aim of a decades-long campaign by proponents of legalization, critics whose mantra is "nothing works," and whose central insight appears to be that they can avoid having to propose the unmentionable—a world where drugs are ubiquitous and where use and addiction would skyrocket—if they can hide behind the bland management critique that drug control efforts are "unworkable."

p. 8 Progress toward reducing illegal drug use has been frustrated not only by the deliberate efforts of legalization proponents, but also by well-intentioned advocates of various schools of thought concerning drug control; advocates who do not always appreciate the complexity of the drug problem or the ways in which differing drug control efforts reinforce one another.

p.15 This real work of reducing drug use is opposed by armchair theorists who want to define the problem away and normalize drug use. The outright legalization of drugs—a goal that is opposed by a solid majority of Americans—rests on the flawed premise that because some people will inevitably make bad choices, society should supply the means for those choices and pay for their consequences. Those consequences would be devastating—starting with what even proponents acknowledge would be an increase in drug use. Whether in their undiluted form or in other guises, such as "harm reduction," efforts to legalize drugs represent the ultimate in disastrous social policy. This Administration will oppose them.

p. 5As self-styled drug policy "reformers" never tire of pointing out, people who use marijuana or cocaine once or twice do not invariably graduate to a life of drug addiction—just as not every teenager who drives drunk ends up in the emergency room. Yet a large percentage do in fact remain drug users. Recent data from Columbia University's National Center on Addiction and Substance Abuse show that roughly 60 percent of children who try cocaine and LSD during high

school are still using drugs at graduation.

2001 Strategy

p.63 The Administration has provided information to states considering ballot initiatives on “medical marijuana” so that citizens will be informed about the ways such measures undermine the scientific process for establishing safe and effective medicines. These initiatives also contradict federal law and are potential vehicles for the legalization of recreational marijuana use. Ballot initiatives to date generally have not limited use of marijuana to a small number of terminally-ill patients, as most voters envisioned.. Rather, they commonly allow marijuana to be obtained without prescription and used indefinitely without evaluation by a physician.

p. 63The IOM study concluded that there is little future in smoked marijuana as medication. Although marijuana smoke delivers THC and other cannabinoids to the body, it also contains harmful substances, including most of those found in tobacco smoke. The long-term harms from smoking make it a poor drug delivery system, particularly for pregnant women and patients with chronic diseases. In addition, cannabis contains a variable mixture of biologically active compounds. Even in cases where marijuana can provide symptomatic relief, the crude plant does not meet the modern expectation that medicines be of known quality and composition. Nor can smoked marijuana guarantee precise dosage. If there is any future for cannabinoid medications, it lies with agents of certain composition and delivery systems that permit controlled doses. Medical marijuana must conform to classical pharmacological practices that characterize clinical research.

p. 63 The United Nations’ International Narcotics Control Board (INCB), which ensures an adequate world supply of drugs for medical purposes, has stressed that research must not become a pretext for legalizing cannabis. If the drug is determined to have medicinal value, the INCB maintains that its use needs to be subjected to the same stringent controls applied to cocaine and morphine. “Should the medical usefulness of cannabis be established,” the 1998 INCB annual report states, “it will be a drug no different from most narcotic drugs and psychotropic substances. Those drugs, however, must continue to be used for medical purposes only, in line with the requirements of the international drug control treaties.”¹⁵ The INCB report concluded: “Political initiatives and public votes can easily be misused by groups promoting the legalization of all use of cannabis for recreational use under the guise of medical dispensation.”

2000 Strategy

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Countering Attempts to Legalize Drugs

Given the negative impact of drugs on society, the overwhelming majority of Americans reject illegal drug use. Indeed, millions of citizens who once used drugs have turned their backs on such self-destructive behavior. While most people remain steadfast in condemning drugs, small elements at either end of the political spectrum argue that prohibition — not drug abuse — creates problems. These groups offer solutions in various guises, but one of the most troublesome is the notion that eliminating the prohibition against dangerous drugs would reduce the harm drugs cause. Such legalization proposals are often presented under the euphemism of “harm reduction.”

All drug policies claim to reduce harm. No reasonable person advocates a position consciously designed to be harmful. The real challenge is to determine which policies actually decrease harm and increase good. The approach chosen by some people who say they favor “harm reduction” — when they are really supporting drug legalization — would in fact hurt Americans.

The theory behind what legalization advocates call “harm reduction” is that illegal drugs cannot be controlled by law enforcement, education, public-health interventions, and other methods. Therefore, proponents say, harm should be reduced by the decriminalization of drugs, heroin maintenance, and other intermediate measures. The real intent of many harm-reduction supporters is the legalization of drugs, which would be a mistake. Some people maintain that they are not calling for the legalization of all drugs but only “soft” drugs. Since many users enter treatment every year to help recover from chronic abuse of marijuana and other “soft” drugs, this idea overlooks the danger posed by such substances.

Groups that support decriminalization of drugs, so that drug use would remain against the law but penalties would be minimal, want use of illegal drugs to resemble minor indiscretions like jay-walking. Other defenders emphasize the therapeutic value of specific drugs or economic viability of drug-related products. By making drug use more acceptable, these people argue, society would reduce the harm associated with drug abuse.

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p. 27 The government is concerned that hemp cultivation may be a stalking horse for the legalization of marijuana. According to a recent report by the Department of Agriculture, U.S. markets for hemp fiber (specialty textiles, paper, and composites) and seed (in food or crushed for oil) are, and will likely remain, small and thin.²⁹ U.S. imports of hemp fiber, yarn, and fabric and seed in 1999 could have been produced on less than 5,000 acres of land. Also, the potential exists for these markets to quickly become oversupplied. Uncertainty about long-run demand for hemp products and the potential for oversupply discounts the prospects for hemp as

an economically viable alternative crop for American farmers.

p.99 **Consultation with Congress** The development, implementation, oversight, and funding of a comprehensive national drug strategy is an objective we undertake in tandem with Congress. In response, the Strategy provides detailed long-term plans for addressing domestic and international trends in drug use, production, and trafficking. Only the federal government has the mandate to pursue international supply-re d u c t i o n targets. Congress has been concerned about accountability in counter-drug efforts and the long-standing absence of serious performance standards for success. The Strategy includes specific benchmarks for the base year (1996) and h a r d data on results in 1997, 1998, and 1999 (where such data is available). F i n a l l y, the Strategy includes initiatives to reinforce parents and families as they work to keep you n g people drug-free, expand treatment, counter drug legalization, and target international criminal organizations responsible for much of the world's drug trade.

p. 99 ONDCP was pleased to testify at fourteen hearings in 1999 and take part in numerous events with substantial Congressional involvement. ONDCP officials appeared before Congress on all aspects of drug control policy and implementation, including the Strategy, the federal drug control budget, the Youth Anti-Drug Media Campaign, emerging global threats, the drug legalization movement, reauthorization of the Safe and Drug Free Schools program, the cocaine and heroin crisis in Colombia, the So u t h west border, and the use of performance-enhancing drugs in Olympic competition.

1999 Strategy

p. 52 Countering Attempts to Legalize Drugs

Given the negative impact of drugs on American society, the overwhelming majority of Americans reject illegal drug use. Indeed, millions of Americans who once used drugs have turned their backs on such self destructive behavior. While most Americans remain steadfast in condemning drugs, small elements at either end of the political spectrum argue that prohibition — and not drugs — create problems. These people offer solutions in various guises, but one of the most troublesome is the argument that eliminating the prohibition against dangerous drugs would reduce the harm that results from drug abuse. Such legalization proposals are often presented under the guise of “harm reduction.”

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p. 54 Permitting hemp cultivation would result in de facto legalization of marijuana cultivation because both hemp and marijuana come from the same plant — Cannabis sativa, which contains THC, the active ingredient in marijuana. Chemical analysis is the only way to differentiate between cannabis variants intended for hemp production and hybrids grown for their psychoactive properties.⁸ In June 1998, a New Hampshire magistrate determined that the

Controlled Substances Act unambiguously prohibits the cultivation of hemp. The magistrate found that hemp is marijuana under the statute's definition.

p. 54 Given concerns about encroaching efforts to justify legalization of harmful psychoactive drugs, the 1999 Strategy outlines specific steps to counter the potential harm such activities pose. Such measures, which have been elaborated throughout this document, include:

- (1) Presenting information that demonstrates the harm caused by substance abuse.
- (2) Teaching youth that substance abuse is detrimental to their health and well-being.
- (3) Supporting established scientific procedures to ensure that only safe and effective drugs are used for the treatment of medical ailments.
- (4) Informing state and local government as well as community coalitions and civic organizations about the techniques associated with the drug legalization movement.
- (5) Ensuring the rule of law.
- (6) Working with the international community to reinforce mutual efforts against drug legalization.

p.93 **Consultation with Congress** The development and implementation of a comprehensive national drug strategy has long been a major congressional concern. In response, this Strategy provides detailed long-term plans for addressing domestic and international trends in drug use, production, and trafficking. It also recognizes that it is only the federal government that can undertake international supply reduction. Congress has been particularly concerned about accountability in our counter-drug efforts and the long-standing absence of any serious presentation of performance standards or measures of success. This congressional concern for achieving measurable results was heightened by the dramatic increases in drug use among youth. Accordingly, this Strategy includes specific benchmarks for the base year (1996) and hard data on results in 1997 and 1998 (where such data is available). Finally, this Strategy includes initiatives to reinforce parents and families as they work to keep our young people drug free; expands treatment; counters drug legalization at home and abroad; and takes aim at the growing problem of the major international criminal organizations responsible for much of the world's drug production and trafficking.

p. 94 ONDCP was pleased to testify and brief the Congress on all aspects of drug control, including prevention, treatment, drug legalization, interdiction, international drug control, bilateral cooperation with Mexico, the federal drug-control budget, and the National Drug Control Strategy's supporting Performance Measures of Effectiveness system, drug abuse prevention and treatment, Counterdrug cooperation in the Western Hemisphere, interdiction of illegal drugs, and Southwest Border and Intelligence Architecture. ONDCP also welcomed and incorporated suggestions from senators, representatives, and supporting staff in the 1999 National Drug Control Strategy.

1998 Strategy

Permitting hemp cultivation would result in de facto legalization of marijuana cultivation because both hemp and marijuana come from the same plant—*Cannabis sativa*. Chemical analysis is the only way to differentiate between cannabis variants intended for hemp production and hybrids grown for their psychoactive properties.¹⁶ According to the Department of Agriculture, hemp is not an economically-viable crop. For every proposed use of industrial hemp, there already exists an available product, or raw material, which is cheaper to manufacture and provides better market results. The ready availability of other lower-cost raw materials is a major reason for a 25 percent drop in worldwide hemp production over the past three decades.

Consultation with Congress ONDCP representatives appeared before numerous congressional committees in 1997. Hearings addressed drug-control priorities, the federal drug control budget, drug abuse prevention and treatment, counterdrug cooperation in the Western Hemisphere, interdiction of illegal drugs, and drug legalization. ONDCP also participated in congressional field hearings. The views of senators, representatives, and supporting staff were solicited by ONDCP.

1997 Strategy

Countering Attempts to Legalize Marijuana

The United States has the highest rate of drug use of any nation in the industrialized world. Approximately 50 percent of American youth will have used an illegal drug by the time they graduate from high school; the vast majority are using marijuana. This psychoactive substance has become almost a rite of passage for those who end up as cocaine and heroin users. A 1994 survey by the Center on Addiction and Substance Abuse at Columbia University found that a twelve to seventeen-year-old who smokes marijuana is eighty-five times more likely to use cocaine than a non-marijuana smoking peer. Clearly, if we want to reduce the rate of teenage drug use and prevent American youth from using dangerous drugs like cocaine, we must continue to oppose efforts to legalize marijuana.

NO MENTION IN FOLLOWING but relevant: [Marijuana is a Schedule I drug under the provisions of the Controlled Substance Act, Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970. It is similarly controlled on an international basis through inclusion on Schedule I of the Single Convention on Narcotic Drugs. Marijuana is placed in Schedule I because it has a high potential for abuse and no currently accepted medical use in the United States.

Nonetheless, our medical-scientific process should not close the door on any substance that could have therapeutic uses. Thus, in response to anecdotal claims about marijuana's medicinal effectiveness, the Office of National Drug Control Strategy is funding a comprehensive review of the drug by the National Academy of Science's Institute of Medicine. This review will consider scientific evidence of marijuana's pharmacological effects; the state of current scientific knowledge; the drug's psychic or physiological dependence liability; risks posed to public health by marijuana; its history and current pattern of abuse; and the scope, duration, and significance of abuse. The ultimate purpose of this review is to protect the American people by ensuring that science, not ideology, is the basis of drug control policy. The government has an obligation to ensure that regulatory systems do not prevent safe and effective medicines from being made quickly available to the sick. It also has a responsibility to protect the American people from unsafe, ineffective medicines.

Integrating Ideas, Concepts, and Strategies

In the national effort to counter the effects of illegal drugs and substance abuse, there has been no shortage of proposals, ideas, and papers. The plethora of studies is an indication of the degree to which the country is troubled by the issue and determined to confront it. As such, the energy displayed is a healthy and helpful approach to common goals.

However, such efforts would be more fruitful if coordinated. There is no room for parochialism in the endeavor to reduce illegal drugs and their consequence. Drug abuse is a national problem that must be solved through collective efforts. While argumentation among good people is merely ideas in the making, there comes a time when different perspectives must be synthesized and channeled into a cooperative venture.

This document constitutes the overall strategy for the nation's effort against drug abuse. It leaves room for growth, incorporation of new advances in science and technology, better operations, intellectual expansion, and logical rejection of well-intentioned but counterproductive activities. The National Drug Control Strategy will undoubtedly adapt over the years as conditions change. It will, however, organize our efforts toward the stated goals and objectives.]

Under consultation activities the agency listed: California Proposition 215/Arizona Proposition 200 Briefing. Washington, D.C., November 14, 1996. State, local, and community leaders briefed federal department and agency representatives on the recently-passed ballot initiatives as the federal response to both measures was being formulated.

1996 Strategy

(president's letter) There are many reasons why young people do continue to use drugs. Chief among these are ignorance of the facts about addiction and the potency of drugs, and complacency about the danger of drugs. Unfortunately, all too often we see signs of complacency about the dangers of drug use: diminished attention to the drug problem by the national media; the glamorization and legitimization of drug use in the entertainment industry; the coddling of professional athletes who are habitual drug users; avoidance of the issue by parents and other adults; calls for drug-legalization; and the marketing of products to young people that legitimize and elevate the use of alcohol, tobacco, and illicit drugs.

(president's letter) The National Drug Control Strategy is designed to prevent a new drug use epidemic through an aggressive

and comprehensive full-court press that harnesses the energies of committed individuals from every sector of our society. As I said in the State of the Union, we must step up our attack against criminal youth gangs that deal in illicit drugs. We will improve the effectiveness of our cooperative efforts among U.S. defense and law enforcement agencies, as well as with other nations, to disrupt the flow of drugs coming

into this country. We will seek to expand the availability and improve the quality of drug treatment. And we will continue to oppose resolutely calls for the legalization of illicit drugs. We will increase efforts to prevent drug use by all Americans, particularly young people.

p. 14 A Reaffirmation of Anti-Legalization Sentiments.

ONDCP helped to reaffirm the sentiment of millions of Americans who oppose the legalization of drugs. In May 1995, the Office, in coordination with other Federal agencies, cosponsored the 1995 "American Cities Against Drugs" conference in Atlanta, Georgia. Officials representing dozens of American cities, large and small, signed a declaration of resolute opposition to the legalization of illicit drugs.

**Appendix E: Official Wording Appearing on State Ballots
by Year and State**

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1996

Arizona Proposition 200

Official title : Amending title 13, title 41, and title 42,of the Arizona revised statutes; amending title 41, chapter 11, by adding §41-1604.16; relating to establishment of the Arizona parents commission on drug education and prevention; amending title 41, chapter 11, by adding §41-1604.14; relating to persons not eligible for parole; amending title 13, chapter 13, by amending §13-3412 and adding §13-3412.01; relating to permissible use of controlled substances by seriously ill or terminally ill patients; amending title 41, chapter 11, by adding §41-1604.15 and amending title 31, chapter 3, by adding §31-411.01; relating to parole for persons convicted of personal possession or use of controlled substances; amending title 13, chapter 9, by adding §13-901.01; relating to probation for persons convicted of personal possession or use of controlled substances and by adding §13-901.02; relating to the establishment of the drug treatment and education fund; and amending title 42, chapter 12, by adding §42-1204.01; relating to luxury privilege taxes; and providing for severability.

Descriptive title: Requiring persons on drugs committing violent crimes to serve entire sentence; providing parole/probation and treatment as alternative to incarceration for persons convicted only of personal possession of controlled substance on first two offenses; allowing doctors to prescribe otherwise illegal substances for certain patients; creating drug-related fund and commission.

A "yes" vote shall have the effect of requiring entire sentence to be served by persons who commit violent crimes while on drugs, changing sentences for persons convicted of possession or use of controlled substances, and allowing doctors to prescribe otherwise illegal substances for certain patients.	Yes
A "no" vote shall have the effect of retaining the current laws on controlled substances.	No

California Proposition 215

Summary: Exempts from criminal laws patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician. Provides physicians who recommend use shall not be punished. Fiscal Impact: Probably no significant fiscal impact on state and local governments.

A YES vote on this measure means: Persons with certain illnesses (and their caregivers) could grow or possess marijuana for medical use when recommended by a physician. Laws prohibiting the nonmedical use of marijuana are not changed.

Laws prohibiting the nonmedical use of marijuana are not changed.

A NO vote on this measure means: Growing or possessing marijuana for any purpose (including medical purposes) would remain illegal

1997

Washington Measure 685

Shall penalties for drug possession and drug-related violent crime be revised, medical use of Schedule I controlled substances be permitted, and a drug prevention commission established?

1998

Alaska Measure 8

This bill would allow patients to use marijuana for certain medical purposes. A doctor must find that the patient has a debilitating medical condition that might benefit from marijuana. An eligible minor could use medical marijuana only under the consent and control of a parent. There would be limits on how much medical marijuana a patient could possess. Patients and their primary caregivers who comply with this law would not be guilty of a crime. The state would create a confidential registry of patients who may use medical marijuana. Non-medical use of marijuana would still be a crime.

Should this initiative become law?

Arizona Proposition 300

OFFICIAL TITLE

A referendum ordered by petition of the people ordering the submission to the people of an act amending section 13-3412, Arizona revised statutes; amending section 13-3412, Arizona revised statutes, as amended by section 1 of this act; repealing section 13-3412.01, Arizona revised statutes; amending title 13, chapter 34, Arizona revised statutes, by adding a new section 13-3412.01; relating to drug offenses; providing for conditional enactment.

Descriptive title requiring authorization by the federal food and drug administration or the united states congress for the medical use of marijuana before doctors may lawfully prescribe schedule I drugs, including heroin, LSD, marijuana and analogs of PCP, to seriously ill or terminally ill patients in Arizona.

A "yes" vote shall have the effect of requiring authorization from the Federal Food and Drug Administration or the United States Congress for the medical use of marijuana before it will be lawful for doctors to prescribe Schedule I drugs, including heroin, LSD, marijuana and analogs of PCP, to seriously or terminally ill patients in Arizona.

A "no" vote shall have the effect of retaining the provisions of state law allowing doctors to prescribe Schedule I drugs, including heroin, LSD, marijuana and analogs of PCP, to seriously or terminally ill patients without the authorization of the Federal Food and Drug Administration or the United States Congress.

Arizona Proposition 301

A referendum ordered by petition of the people ordering the submission to the people of an act amending sections 13-901.01, 13-3420, 13-4304 and 13-4314, Arizona revised statutes; relating to drug offenses.

Descriptive title: Providing for 1st or 2nd convictions for possession/use of marijuana, dangerous or narcotic drugs, a person shall be probation eligible unless previously convicted of 2 or more felonies, a violent or dangerous offense; shall receive probation if the person has 1 drug possession/use conviction or no prior felonies.

A "yes" vote shall have the effect of providing that a person convicted of a 1st or 2nd offense of possession or use of marijuana or dangerous or narcotic drugs shall be eligible for probation unless previously convicted of 2 or more prior felonies or of a violent or dangerous offense, and the person shall be placed on probation if the person has 1 drug possession or use conviction or no prior felonies.

A "no" vote shall have the effect of retaining the requirement that a person convicted of a 1st or 2nd offense of possession or use of marijuana or dangerous or narcotic drugs shall be placed on probation unless the person was previously convicted of a violent offense.

Colorado Amendment 19/Colorado Amendment 20 (considered in 1998 and 2000)

Shall there be an amendment authorizing medical use of marijuana for persons suffering from debilitating conditions and give patients and caregivers affirmative defense
Yes vote is a vote in favor of changing constitutional or statutory law; no vote is a vote against changing constitutional or statutory law

Nevada Measure 9/ Nevada Question 9 (considered in 1998 and 2000)

Shall the Nevada Constitution be amended to allow the possession and use of a plant of the genus cannabis (marijuana) for the treatment or alleviation of certain illnesses upon advice of a physician, to require parental consent for such use by minors, and to authorize appropriate methods of supply to patients authorized to use it?

Oregon Measure 57

“Makes possession of limited amt of marijuana Class C misdemeanor”

Result of yes vote: yes vote makes possession of less than one ounce of marijuana a Class C misdemeanor

Result of no vote: no vote retains statute making possession of less than one ounce of marijuana a violation

Oregon Measure 67

“Allows medical use of marijuana within limits; establishes permit system”

Result of yes vote: yes vote allows medial use of marijuana within specified limits; establishes state-controlled permit system

Result of no vote: retains Oregon criminal, civil forfeiture laws prohibiting possession, delivery and production of marijuana

Washington Initiative 685

Shall the medical use of marijuana for certain terminal or debilitating conditions be permitted, and physicians authorized to advise patients about medical use of marijuana?

1999

Maine Question 9

Do you want to allow patients w/ specific illnesses to grow and use small amounts of marijuana for treatment, as long as such use is approved by a doctor?

2000

Alaska Measure 5

Initiative Petition

Allowing Uses of Hemp, Including Marijuana

BALLOT LANGUAGE

This bill would do away with civil and criminal penalties for persons 18 years or older who use marijuana, or other hemp products. These products include hemp used for paper, fiber, food, fuel, medicine, or personal use in private. Marijuana would be regulated like an alcoholic beverage. Doctors could prescribe marijuana. The bill allows for laws limiting marijuana use in some cases to protect public safety. It grants amnesty to persons convicted in the past of marijuana crimes. The bill creates an advisory group to study restitution for those persons.

SHOULD THIS INITIATIVE BECOME LAW? YES or NO

California Proposition 36

DRUGS. PROBATION AND TREATMENT PROGRAM. (Act shall be known as SA and Crime Prevention Act of 2000)

INITIATIVE STATUTE. Put on the Ballot by Petition Signatures.

SUMMARY: Requires probation and drug treatment, not incarceration, for possession, use, transportation of controlled substances and similar parole violations, except sale or manufacture. Authorizes dismissal of charges after completion of treatment. Fiscal Impact: Net annual savings of \$100 million to \$150 million to the state and about \$40 million to local governments. Potential avoidance of one-time capital outlay costs to the state of \$450 million to \$550 million.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Adult offenders convicted of being under the influence of illegal drugs or using, transporting, or possessing illegal drugs for personal use would generally be sentenced to probation and drug treatment.

NO A NO vote on this measure means: Adult offenders convicted of being under the influence of illegal drugs or using, transporting, or possessing illegal drugs would generally continue to be sentenced to prison, jail, or probation. There would be no requirement that they be sentenced to drug treatment.

Massachusetts Question 8

Creates state drug treatment trust fund for treatment of drug dependent persons

“Do you approve of a law summarized below, on which no vote was taken by the Senate or House of Representatives before May 3, 2000?”

Yes vote would change state laws governing drug dependency treatment and fines paid and money and property forfeited in connection w/drug crimes

Oregon Measure 3

Amends constitution; requires conviction before forfeiture; restricts proceeds usage; requires reporting, penalty.

Result of yes vote: yes vote requires conviction before property forfeiture; restricts use of proceeds; requires reporting; declares penalty.

Result of no vote: no vote rejects: requiring conviction before forfeiture; restricting use of proceeds; requiring reporting; declaring penalty.

Utah Initiative B

Shall a law be amended to:

(1) forbid forfeiture (seizure and sale) of property involved in crime where an innocent property owner neither knew of nor consented to the crime

(2) create uniform procedures to protect property owners where forfeiture is sought by the government

(3) require the government to prove property is subject to forfeiture, and to reimburse owners for damage to property in custody

(4) require distribution of forfeiture proceeds, after deductions for court costs and victim losses, to schools instead of counties or the state;

(5) clarify valuation methods for forfeited property, and require tracking and reporting of all money from its sale?

2002

Arizona Proposition 203

PROPOSED BY INITIATIVE PETITION

OFFICIAL TITLE

AN ACT AMENDING TITLE 13, CHAPTER 6 BY ADDING SECTION 13-610, ARIZONA REVISED STATUTES; AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 34, BY AMENDING SECTION 13-3413 AND ADDING SECTIONS 13-3405.01, 13-3413.01 AND 13-3423, ARIZONA REVISED STATUTES; AMENDING SECTION 13-4304, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 3, ARTICLE 2 BY ADDING SECTION 31-411.02, ARIZONA REVISED STATUTES; AMENDING TITLE 36, BY ADDING CHAPTER 27.1, SECTIONS 36-2601, 36-2602, 36-2603, 36-2604, 36-2605, 36-2606, 36-2607, 36-2608, 36-2609, 36-2610, 36-2611, 36-2612, 36-2613 AND 36-2614 ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1 BY ADDING SECTION 41-1604.18, ARIZONA REVISED STATUTES; RELATING TO DRUGS.

DESCRIPTIVE TITLE

DECRIMINALIZES MARIJUANA POSSESSION FOR PERSONAL USE; \$250 CIVIL FINE; REQUIRES STATE TO DISTRIBUTE MARIJUANA FREE OF CHARGE UPON PHYSICIAN'S WRITTEN DOCUMENTATION; INCREASES MAXIMUM PENALTY FOR VIOLENT CRIMES COMMITTED UNDER INFLUENCE OF

DRUGS; ELIMINATES MANDATORY MINIMUM SENTENCES; REQUIRES PAROLE IF CONVICTED OF PERSONAL POSSESSION OF CONTROLLED SUBSTANCE UNLESS DANGER TO PUBLIC.

PROPOSITION 203

A "yes" vote shall have the effect of decriminalizing marijuana possession for personal use, providing for a \$250 civil fine, requiring distribution of marijuana free of charge by the Department of Public Safety if a person's physician provides written documentation, increases the maximum sentence for violent crimes while committed under the influence of drugs, eliminates mandatory minimum sentences, requires parole for persons convicted of personal possession of a controlled substance unless they are a danger to the public. YES

A "no" vote shall have the effect of retaining the current criminal penalties for possession of marijuana and other controlled substances. NO

Arizona Proposition 302

BALLOT FORMAT

PROPOSITION 302

REFERRED TO THE PEOPLE BY THE LEGISLATURE

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2013

AN ACT AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES; RELATING TO PROBATION.

DESCRIPTIVE TITLE

ALLOWS COURT TO IMPOSE TERM OF INCARCERATION IF PERSON CONVICTED OF PERSONAL POSSESSION OR USE OF CONTROLLED SUBSTANCE OR DRUG PARAPHERNALIA VIOLATES PROBATION BY COMMITTING ANOTHER DRUG-RELATED OFFENSE OR REFUSING TO PARTICIPATE IN DRUG TREATMENT, OR IF THE PERSON REFUSES DRUG TREATMENT OR REJECTS PROBATION AT THE TIME OF SENTENCING.

PROPOSITION 302

A "yes" vote shall have the effect of allowing a court to impose a term of incarceration if a person convicted of personal possession or use of a controlled substance or drug paraphernalia violates probation by committing a drug-related offense or violates a court order relating to drug treatment, or if the person refuses drug treatment or rejects YES

probation at sentencing.

A "no" vote shall have the effect of not allowing a court to impose a term of incarceration for persons convicted of possession of a controlled substance for personal use. NO

Nevada Question 9

“Shall the Nevada Constitution be amended to allow the use and possession of 3 oz or less of marijuana by persons 21 and older, to require the leg to provide or maintain penalties for using, distributing, selling, or possessing marijuana under certain circumstances, and to provide a system of regulation for the cultivation, taxation, sale and distribution of marijuana? Yes or no”

Ohio State Issue 1

Ballot Language for the November 5, 2002 General Election

PROPOSED CONSTITUTIONAL AMENDMENT

(Proposed by Initiative Petition)

To adopt Section 24 of Article IV of the Constitution of the State of Ohio.

In order to provide for persons charged with or convicted of illegal possession or use of a drug, in certain circumstances, to choose treatment instead of incarceration, to require the state to spend two hundred forty-seven million dollars (\$247,000,000) over seven (7) fiscal years to pay for the drug treatment programs, to allow the applicable records of offenders who complete treatment instead of incarceration for illegal drug use and possession to be sealed and kept confidential for most purposes, and to limit the maximum sentence to ninety (90) days incarceration that eligible first-time, second-time, and certain repeat illegal drug possession or use offenders could serve, this amendment would:

1. Require a court to order treatment instead of incarceration for first-time or second-time offenders charged with or convicted of illegal possession or use of a drug who request treatment, have not been convicted of or imprisoned for a violent felony within five years of committing the current offense, have not been sentenced to a term of incarceration that would interfere with participation in treatment, and in the same proceeding have not been convicted of or charged with other drug-related offenses or misdemeanors involving theft, violence or the threat of violence.
2. Allow a court to order treatment instead of incarceration for eligible repeat offenders charged with or convicted of illegal possession or use of a drug who request treatment, and for offenders charged with or convicted of illegal possession or use of a drug who are also charged with or convicted of other nonviolent offenses resulting from drug abuse or addiction and who request treatment.
3. Create a Substance Abuse Treatment Fund and require the state to spend a total of two hundred and forty-seven million dollars (\$247,000,000) to pay for the treatment, breaking down to nineteen million dollars (\$19,000,000) for the remainder of the 2003 fiscal year and thirty-eight million dollars (\$38,000,000) annually through fiscal year 2009, in addition to requiring the state to maintain its current spending to fund existing substance abuse treatment programs through fiscal year 2009, and to require the state to continue to provide adequate resources for these purposes after fiscal year 2009.
4. Limit the period of treatment a court may impose to not more than twelve (12)

months, allow an extension of the treatment period for not more than six (6) more months, and allow court supervision of an offender for up to ninety (90) days after treatment.

5. Limit the sentencing of first-time, second-time, and certain repeat offenders who are eligible for treatment but who either do not request treatment or do not meet the terms of the treatment to a maximum of ninety (90) days incarceration for illegal possession or use of a drug.
6. Limit the authority of judges who place eligible offenders into treatment to remove those offenders from the programs.
7. Require a court to dismiss legal proceedings against an offender without a finding of guilt if the offender completes the treatment.
8. Allow an offender who successfully completes the treatment to have applicable records sealed and to have the conviction that prompted the request for treatment expunged, and require that the sealed or expunged records be kept confidential except for specified law enforcement and court related purposes.

If adopted, provisions of this amendment related to funding for the remainder of fiscal year 2003 will be effective immediately; otherwise this amendment will be effective July 1, 2003, and will apply to all qualifying charges, convictions and criminal sentences pending before the court from that day forward.

A majority yes vote is necessary for passage.

	YES	SHALL THE PROPOSED AMENDMENT BE ADOPTED?
	NO	

South Dakota Measure 1

Full text: any person may plant, cultivate, harvest, possess, process, transport, sell or buy industrial hemp (cannabis) or any of its by-products with a THC content of 1% or less A vote yes would adopt the state law.

A vote no would leave state law as is

South Dakota Constitutional Amendment

Full text: :Amend section 7 of South Dakota Constitution to read as follows: “In all criminal prosecutions, the accused shall have right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf; to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed; and to argue

the merits, validity, and applicability of the law, including the sentencing laws” (latter is addition)

A vote yes would change the Constitution

A vote no would leave the Constitution as is

2004

Alaska Cannabis Decriminalization and Regulation Act

“This bill would remove civil and criminal penalties under state law for persons 21 years or older who grow, use, sell or give away marijuana or hemp products. State or local government could not require a permit or license for personal cultivation or distribution of marijuana, but could regulate marijuana like alcohol or tobacco. It removes all existing state restrictions on prescription of marijuana by a doctor for all patients including children. It allows for laws limiting marijuana use in public and to protect public safety. Should this initiative become law?”

Montana Initiative No. 148

A LAW PROPOSED BY INITIATIVE PETITION

This initiative would allow the production, possession, and use of marijuana by patients with debilitating medical conditions. Patients could use marijuana, under medical supervision, to alleviate the symptoms of conditions including cancer, glaucoma, and HIV/AIDS, or other conditions or treatments that produce wasting, severe or chronic pain, severe nausea, seizures, severe muscle spasms, or other conditions defined by the State. A patient or the patient’s caregiver could register to grow and possess limited amounts of marijuana by submitting to the State written certification by a physician that the patient has a debilitating medical condition and would benefit from using marijuana.

There would be no measurable cost to state government from the approval of this initiative.

FOR allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.

AGAINST allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.

Oregon Measure 33

“Amends Oregon medical marijuana act: increases marijuana amount patients may possess; allows sales; creates dispensaries

Result of yes vote: yes vote amends OMMA to permit sale of marijuana to registered patients, increases amt patients can possess, and create licensed marijuana dispensaries.

No vote retains current OMMA, which allows registered patients to possess limited amts of marijuana for medical purposes and prohibits marijuana sales

Appendix F: Ballot Measure Political Preambles

Appendix F: Ballot Measure Political Preambles

Arizona Proposition 200

Official title: an initiative measure

This act shall be known and may be cited as the "drug medicalization, prevention, and control act of 1996."

Section 2. FINDINGS AND DECLARATIONS

The people of the state of Arizona find and declare the following:

Arizona's current approach to drug control needs to be strengthened. This is evidenced by the fact that, according to the Arizona criminal justice commission, between 1991 and 1993 marijuana use doubled among elementary school students and, between 1990 and 1993 quadrupled among middle-school students. In addition to actively enforcing our criminal laws against drugs, we need to medicalize Arizona's drug control policy: recognizing that drug abuse is a public health problem and treating abuse as a disease. Thus, drug treatment and prevention must be expanded.

We must also toughen Arizona's laws against violent criminals on drugs. Any person who commits a violent crime while under the influence of illegal drugs should serve 100% of his or her sentence with absolutely no early release.

Thousands of Arizonans suffer from debilitating diseases such as glaucoma, multiple sclerosis, cancer, and aids, but cannot have access to the necessary drugs they need. Allowing doctors to prescribe schedule I controlled substances could save victims of these diseases from loss of sight, loss of physical capacity, and greatly reduce the pain and suffering of the seriously ill and terminally ill.

The drug problems of non-violent persons who are convicted of personal possession or use of drugs are best handled through court-supervised drug treatment and education programs. These programs are more effective than locking non-violent offenders up in a costly prison. Pilot programs in Arizona that provide treatment alternatives to prison for low level drug offenders have a 73% success rate and cost roughly 1/8 as much as prison. Over the next decade hundreds of millions of dollars can be saved by using mandatory drug treatment and education programs as an alternative to prison.

Violent offenders are not adequately punished due to the prison over-crowding crisis in Arizona. Placing non-violent persons who are convicted of personal possession or use of drugs in court-supervised drug treatment and education programs will free up space in our prisons so that there is room to incarcerate violent offenders and drug dealers.

The missing link in drug education and prevention is parental involvement. The tax dollars saved by eliminating prison time for non-violent persons convicted of personal possession or use of drugs should be used for drug treatment and education, targeted at programs that increase parental involvement in their children's drug-education.

Section 3. PURPOSE AND INTENT

The people of the state of Arizona declare their purposes to be as follows:

To require that any person who commits a violent crime under the influence of drugs serve 100 percent of his or her sentence and not be eligible for parole or any form of early release.

To permit doctors to prescribe schedule I controlled substances to treat a disease, or to relieve the pain and suffering of seriously ill and terminally ill patients.

To require that non-violent persons convicted of personal possession or use of drugs successfully undergo court-supervised mandatory drug treatment programs and probation.

To require that non-violent persons currently in prison for personal possession or use of illegal drugs, and not serving a concurrent sentence for another crime, or previously convicted or sentenced or subject to sentencing under any habitual criminal statute in any jurisdiction in the united states, be made eligible for immediate parole and drug treatment, education and community service.

To free up space in our prisons to provide room for violent offenders.

To expand the success of pilot drug intervention programs which divert drug offenders from prison to drug treatment, education, and counseling.

Arizona Proposition 203

Be it enacted by the People of the State of Arizona:

Section 1. Title .

This Act shall be known and may be cited as the "Drug Medicalization, Prevention, and Control Act of 2002."

Section 2. Findings and Declarations.

The people of the State of Arizona find and declare the following:

A. The Drug Medicalization, Prevention, and Control Act of 1996 approved by 65.4% of the voters is saving the state money and making our neighborhoods safer by diverting non-violent drug users into treatment rather than incarcerating them. The 1996 Act was overwhelmingly re-approved in 1998 after the Legislature attempted to thwart the will of the people.

B. According to a Report Card prepared by the Arizona Supreme Court, the 1996 Act is "resulting in safer communities and more substance abusing probationers in recovery." The most recent annual Report Card showed:

1. 5,385 non-violent offenders participated in the program;

2. Almost two-thirds of the offenders successfully participated in their treatment program;

3. Those offenders who could not be incarcerated for drug violations complied more successfully with drug treatment programs than those who could be incarcerated if they did not comply with the drug treatment programs.

4. Arizona's annual cost-savings as a result of placing offenders in treatment versus jail or prison is at least \$6,711,714.

C. The Drug Medicalization, Prevention, and Control Act of 2002 will expand the benefits of the 1996 Act by increasing the funding for drug treatment and expanding sentencing reforms for non-violent drug users. This will result in greater cost-savings to the state, safer communities, and more prison space for violent offenders.

D. The Drug Medicalization, Prevention, and Control Act of 2002 will also correct any further circumvention or misunderstanding of the 1996 Act by the courts, county attorneys, and federal government by clarifying the medical marijuana and sentencing reform provisions of the 1996 Act.

E. The Drug Medicalization, Prevention, and Control Act of 2002 acknowledges that there is a legitimate medical use for marijuana. The legitimate use of medical marijuana has been affirmed twice by Arizona voters and has been affirmed by medical and scientific research. The People of Arizona want to preserve the autonomy of Arizona residents and their physicians and allow them to utilize all legitimate medical alternatives to preserve their health, relieve pain, and alleviate suffering.

Section 3. Purpose and Intent.

The people of the State of Arizona declare their purposes to be as follows:

A. Those convicted of drug offenses will pay for drug treatment and prevention themselves.

Drug fines should be placed in the Drug Treatment and Education Fund.

B. Tougher punishments will be provided for violent drug felons. The maximum sentence for violent crimes causing serious injury or death committed while under the influence of drugs will be increased by 50%, but mandatory minimum sentences will be removed for non-violent drug offenders.

C. Arizona marijuana laws, which currently provide that someone caught with a small amount of marijuana could be charged with a felony and possible jail time, will be changed. Possession for small amounts of marijuana will be changed to a civil violation with a fine.

D. Those persons charged with drug offenses will not have their property forfeited unless and until they are found guilty of a crime.

E Sentencing provisions of the 1996 Act requiring mandatory treatment and probation/parole for those convicted of drug possession will be clarified. The courts have not always understood that the 1996 Act clearly stated that first- and second-time offenders should not be incarcerated in jail or prison. In addition, some prosecutors have been trying to circumvent the mandatory treatment provisions of the 1996 Act by invoking paraphernalia laws. The Drug Medicalization, Prevention, and Control Act of 2002 remedies both these situations and will restore the parole provisions repealed by the Legislature in 1997.

F. Medical marijuana patients will no longer be forced to obtain their medicine on the streets. A state distribution system will be established. Only marijuana that can be identified as having been cultivated and produced in Arizona or provided by the federal government will be distributed to patients and the number of patients who will be eligible for medical use will be limited. The medical use of marijuana cultivated and distributed will not have any substantial effect upon interstate commerce. Patients who qualify for medical use will not be able to sell or otherwise distribute the marijuana provided to them by the state. Qualified patients must also be Arizona residents. The measure will not permit distribution of marijuana to patients except by state officials under regulated or controlled conditions that will ensure no commercial transactions and strictly limit the possession and use of marijuana by qualified patients to Arizona. Strict sanctions will be provided for those who violate the terms of the agreement.

California Proposition 215: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Health and Safety Code; therefore, new provisions proposed to be added are printed in italic type to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 11362.5 is added to the Health and Safety Code, to read:

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b)(1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for

medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

California Proposition 36

SECTION 1. Title

This Act shall be known and may be cited as the "Substance Abuse and Crime Prevention Act of 2000."

SECTION 2. Findings and Declarations

The People of the State of California hereby find and declare all of the following:

(a) Substance abuse treatment is a proven public safety and health measure. Non-violent, drug dependent criminal offenders who receive drug treatment are much less likely to abuse drugs and commit future crimes, and are likelier to live healthier, more stable and more productive lives.

(b) Community safety and health are promoted, and taxpayer dollars are saved, when nonviolent persons convicted of drug possession or drug use are provided appropriate community-based treatment instead of incarceration.

(c) In 1996, Arizona voters by a 2-1 margin passed the Drug Medicalization, Prevention, and Control Act which diverted non-violent drug offenders into drug treatment and education services rather than incarceration. According to a Report Card prepared by the Arizona Supreme Court, the Arizona law: is "resulting in safer communities and more substance abusing probationers in recovery," has already saved state taxpayers millions of dollars, and is helping more than 75% of program participants to remain drug free.

SECTION 3. Purpose and Intent

The People of the State of California hereby declare their purpose and intent in enacting this Act to be as follows:

- (a) To divert from incarceration into community-based substance abuse treatment programs non-violent defendants, probationers and parolees charged with simple drug possession or drug use offenses;
- (b) To halt the wasteful expenditure of hundreds of millions of dollars each year on the incarceration – and re-incarceration – of non-violent drug users who would be better served by community-based treatment; and
- (c) To enhance public safety by reducing drug-related crime and preserving jails and prison cells for serious and violent offenders, and to improve public health by reducing drug abuse and drug dependence through proven and effective drug treatment strategies.

18or00

(2) Statement of Principles. The People, in the exercise of the power reserved to them under the Constitution of the State of Oregon, declare that:

- (a) a basic tenet of a democratic society is that a person is presumed innocent and should not be punished until proven guilty;
- (b) The property of a person should not be forfeited in a forfeiture proceeding by government unless and until that person is convicted of a crime involving the property;
- (c) The value of property forfeited should be proportional to the specific conduct for which the owner of the property has been convicted; and
- (d) Proceeds from forfeited property should be used for treatment of drug abuse unless otherwise specified by law for another purpose.

Maine Question 9

Question 2: Citizen Initiative

Do you want to allow patients with specific illnesses to grow and use small amounts of marijuana for treatment, as long as such use is approved by a doctor?

STATE OF MAINE

"An Act to Permit the Medical Use of Marijuana."

Preamble. The People of the State of Maine declare their purposes and intent in enacting the Maine Medical Marijuana Act of 1998 to be the following:

Use of marijuana has been found to provide important therapeutic and palliative benefits to many patients who suffer from debilitating conditions resulting from certain diseases or treatment of these diseases. Patients should be allowed to use small amounts of marijuana without civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use.

This Act is intended to permit patients who may benefit from the medical use of marijuana to be able to discuss freely with their physicians the possible risks and benefits of medical marijuana use and to have the benefit of their physicians' professional advice.

Persons who have been legally designated as care givers to medically needy patients should not be in violation of civil or criminal laws when they assist these patients in using permissible amounts of marijuana.

As there is currently no legally available supply of marijuana for medically needy patients, these patients or their care givers should be allowed to grow a small amount of marijuana to meet the patient's medical requirements.

Enactment of this Act is intended to make only those changes to existing Maine laws that are necessary to allow use of marijuana by medically needy patients, and is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

Enactment of this Act is not intended to permit use of marijuana in public places nor change any laws governing the duty of care owed to others, including laws governing operating a motor vehicle.

Ohio State Issue 1

Section 24

(A) Intents and purposes. The purposes and intent of the voters in adding this section to the Ohio constitution are as follows:

(1) To break the cycle of drug use, addiction and crime as early as possible by guaranteeing the opportunity for treatment and rehabilitation services to non-violent drug users entering the criminal justice system.

(2) To halt the wasteful expenditure of millions of dollars each year on the incarceration and reincarceration of non-violent drug users who would be better served by more cost-effective treatment and rehabilitation, and to promote medical and public health responses to drug abuse that reject incarceration for non-violent defendants charged with drug possession or use.

(3) To provide substance abuse treatment and rehabilitation programs to non-violent defendants charged with drug possession or use, in order to reduce or eliminate substance abuse and addiction and increase the employability of such persons.

(4) To enhance public safety by reducing drug-use-related crime and by preserving jail and prison cells for serious and violent offenders, and to improve public health by reducing drug abuse and dependence through professionally supervised drug treatment programs.

(5) To rest responsibility for the treatment and supervision of non-violent defendants charged with drug possession or use with qualified treatment professionals, with appropriate links to the criminal justice system, and to ensure that drug testing is used as a treatment tool, with relapse understood to be often a part of the process of recovery signaling the need for a consequence or increase in the level of care, and not discontinuation of treatment.

(6) To maintain existing efforts in Ohio to prevent drug use and to provide treatment and rehabilitation to substance users and abusers, whether or not they are involved in the criminal justice system, without reducing funding for such efforts in order to pay for treatment and rehabilitation programs made necessary by this measure.

Oregon Measure 67

SECTION 1. Sections 1 through 19 of this Act shall be known as the Oregon Medical Marijuana Act.

SECTION 2. The people of the state of Oregon hereby find that:

(1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions, and therefore, marijuana should be treated like other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use small amounts of marijuana without fear of civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use;

(3) Sections 1 to 19 of this Act are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice; and

(4) Section 1 to 19 of this Act are intended to make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

Oregon Measure 33

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 475.300 is amended to read: 475.300. The people of the state of Oregon hereby find that:

(1) [Patients and doctors have found marijuana to be] Marijuana is an effective treatment for suffering caused by debilitating medical conditions[,] and, therefore, patients using marijuana should be treated like patients using other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use [small] adequate amounts of marijuana without fear of civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use;

(3) ORS 475.300 to 475.346 are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice; [and]

(4) ORS 475.300 to 475.346 are intended to make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes[.];

(5) The State of Oregon has a right to regulate the public health and safety of its citizens pursuant to the police power reserved to the sovereign States by the Tenth Amendment to the United States Constitution. This includes the right to regulate the licensing of the wholly intrastate distribution of marijuana for medical purposes;

(6) Citizens of Oregon have the fundamental personal privacy right to use marijuana for medical purposes to ameliorate pain, prolong life, and/or maintain bodily integrity, and for other medical purposes as guaranteed by the Ninth Amendment to the United States Constitution and as further affirmed by the people of the State of Oregon by this Act;

(7) Patients for whom the medical use of marijuana is beneficial have a personal privacy right to a safe affordable supply of this medicine. No such supply can be guaranteed to these patients unless the persons providing the marijuana can be adequately compensated. No adequate supply of medical marijuana can be assured for all patients who could benefit from medical marijuana unless medical marijuana can be safely and lawfully dispensed in a regulated intrastate market; and

(8) Oregon citizens have a right to the best available scientific information regarding the safety and efficacy of medical marijuana. Experiments to determine the best information cannot occur unless data is collected from patients and licensed dispensaries. The people recognizing this right enact amendments necessary to conduct these scientific experiments.

Utah Initiative B

24-1-1. Title. This chapter shall be cited as the "Utah Uniform Forfeiture Procedures Act."

Section 2. Section 24-1-2 is enacted to read:

24-1-2. Purpose. It is the intent of this chapter to:

- (1) provide for a uniform set of procedures and substantive standards for the criminal and civil forfeiture of property within the State of Utah;
- (2) permit law enforcement personnel to deter crime by lawfully seizing and forfeiting contraband and the instrumentalities and proceeds of criminal conduct;
- (3) protect innocent owners from the wrongful taking of their property;
- (4) ensure that seizures and forfeitures of property from private citizens are not disproportionate to the violation or crime committed;
- (5) ensure direct control and accountability over the use and sale of forfeited property and the proceeds generated there from; and
- (6) direct that any and all revenues resulting from the sale of forfeited property be contributed to the Uniform School Fund.

Washington Initiative 692

Sec. 2. PURPOSE AND INTENT.

The People of Washington state find that some patients with terminal or debilitating illnesses, under their physician's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The People find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their physicians' professional medical judgment and discretion.

Therefore, The people of the state of Washington intend that:

Qualifying patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as primary caregivers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana; and

Physicians also be excepted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the physician's professional judgment, medical marijuana may prove beneficial.

Washington Initiative 685

AN ACT Relating to the drug medicalization and prevention act of 1997; amending RCW 9.95.116; adding new sections to chapter 69.50 RCW; adding new sections to chapter 9.95 RCW; adding a new chapter to Title 69 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

{+ NEW SECTION. +} Sec. 1. TITLE. This act may be known and cited as the "drug medicalization and prevention act of 1997."

{+ NEW SECTION. +} Sec. 2. FINDINGS AND DECLARATIONS. The people of the state of Washington find and declare the following:

(1) Washington's current approach to drug control needs to be strengthened. This is evidenced by the fact that drug use among youth has more than doubled over the past five years. In addition to actively enforcing our criminal laws against drugs, we need to medicalize Washington's drug control policy and recognize that drug abuse and addiction are public health problems that should be treated as diseases. Thus, drug treatment and prevention must be expanded;

(2) We must also toughen Washington's laws against violent criminals on drugs. Any person who commits a violent crime while under the influence of illegal drugs should serve one hundred percent of his or her sentence with absolutely no early release;

(3) Thousands of Washington citizens suffer from debilitating diseases such as glaucoma, multiple sclerosis, cancer, and AIDS, but cannot have access to the necessary drugs they need. Allowing doctors to recommend Schedule I controlled substances such as marijuana could save victims of these diseases from loss of sight, loss of physical capacity, and greatly reduce the pain and suffering of the seriously ill and terminally ill;

(4) The drug problems of nonviolent persons who are convicted of personal possession or use of drugs are best handled through court-supervised drug treatment and education programs. These programs are more effective than locking up nonviolent offenders in a costly prison. Over the next decade, hundreds of millions of dollars can be saved by using drug treatment and education programs as an alternative to prison;

(5) Violent offenders are not adequately punished due to the prison overcrowding crisis in Washington. Placing nonviolent persons who are convicted of personal possession or use of drugs in court-supervised drug treatment and education programs will free up space in our prisons so that there is room to incarcerate violent offenders and drug dealers; and

(6) The missing link in drug education and prevention is parental involvement. The tax dollars saved by eliminating prison time for nonviolent persons convicted of personal possession or use of drugs should be used for drug treatment and education, targeted at programs that increase parental involvement in their children's drug education.

{+ NEW SECTION. +} Sec. 3. PURPOSE AND INTENT. The people of the state of Washington declare their purposes to be as follows:

(1) To require that any person who commits a violent crime under the influence of drugs serve one hundred percent of his or her sentence and not be eligible for parole or any form of early release;

(2) To permit doctors to recommend Schedule I controlled substances to treat a disease or to relieve the pain and suffering of seriously ill and terminally ill patients;

(3) To require that nonviolent persons convicted of personal possession or use of drugs successfully undergo court-supervised drug treatment programs and probation;

(4) To require that nonviolent persons currently in prison for personal possession or use of illegal drugs, and not serving a concurrent sentence for another crime, or previously convicted or sentenced or subject to sentencing under any habitual criminal statute in any jurisdiction in the United States, be made eligible for immediate parole and drug treatment, education, and community service;

(5) To free up space in our prisons to provide room for violent offenders; and

(6) To expand the success of pilot drug intervention programs that divert drug offenders from prison to drug treatment, education, and counseling.

**Appendix G: Voter Information Statements: Authors of Support
and Opposition by State Ballot Measure and Year**

Appendix G: Voter Information Statements: Authors of Support and Opposition Statements by Ballot Measure and Year

State, Year, No.	Initiative Title	Support statements	Opposition statements
1996 Arizona Prop. 200*	Drug Medicalization, Prevention, and Control Act of 1996	1. John Norton, former US Dep. Sec Ag, Chairman, Arizonans for Drug Reform, Paradise Valley 2. Marvin Cohen, Former Chairman, Civil Aeronautics Bd, Treasurer, Arizonans for Drug Policy Reform, Phoenix (pd for by Norton) 3. 21 physicians (pd for by Norton) 4. Dennis DeConcini, US Senator, Ret., Bethesda, MD (pd for by Norton) 5. Steve Mitchell, Former Asst US Attorney and Law Enforcement Officer, Phoenix (pd for by Norton) 6. Rudolph Gerber, Judge, Court of Appeals, Phoenix (pd for by Norton) 7. Dr. John Sperling, President, Apollo Group, Phoenix (pd for by Norton)	1. 10 libertarian candidates for U.S. Congress, State representative, Pima County supervisor, State senate
1996 California Prop. 215*	Compassionate Use Act of 1996	1. Richard Cohen, MD, consulting medical oncologist, Cal. pacific med center, SF; Ivan Silverberg, MD medical oncologist; Anna Boyce, RN, Orange County 2. Rebuttal to argument:: Terence Hallinan, SF, DA; John Vasconcellos, Assemblyman, 22 nd District author, 1995 Medical Mj bill; James Canter, Cancer survivor, Santa Rosa	1. Sheriff Brad Gates, past president cal. state's sheriff's assn.; Eric Voth, MD, FACP, Intl. Drug Strategy Institute; Glenn Levant Exec. Dir. DARE Am. 2. James Fox, Pres, Cal. District Attorney's Assn; Michael Meyers, MD, medical dir., drug and alcohol treatment program, Brotman Medical Ctr; Sharon Rose, Red Ribbon Coord., Californians for drug free youth
1997 Washingt on Init. 685*	Drug Medicalization and Prevention Act of 1997	(statement for and rebuttal) 1. sponsor: Robert Killian, physician and Dr Rob Thompson cardiologist, Rev. Mullins, episcopal church Comm.: lawyer Citizens for Drug policy reform, cancer patient, surgeon, addiction physician	(Statement against and rebuttal) 1. Dr. Seaman, Dr. Tremblay, Dr. Robertson, addiction med. and medical toxicologist Advisory committee: Brad Owen, Lt. gov, King County prosecutor, state superintendent of public instruction, state representative

1998 Alaska* Meas. 8	Bill Allowing Medical Use of Marijuana	1. Alaskans for Medical Rts. Dr. Johnson, Dr. Hippel and Dr. Hillman	1. Wevley William Shea, Anchorage
1998 Arizona Prop. 300	Referendum Ordered by Petition of the People relating to the Medical Use of Schedule I Drugs (countermeasure)	Against Prop. 1. John Norton; Marvin Cohen, Former US Dept. Sec former Chair of Ag Civil Aeronautics Bd 2. 32 physicians pd for by people have spoken Chair: People have spoken 3. Grant Woods, AZ Atty Gen; pd for by people have spoken 4. John Jack La Sota, Former Atty Gen; pd for by people have spoken 5. 20+ pastors 6. John Sperling, Apollo Group, pd for by people have spoken 7. 16 people incl. Alfredo Guterrez, people who have spoken	For Prop. 1. Arizona Pharmacy Assn. 2. Richard Romley, Maricopa County Atty 3. Calvin Hensley, SOS, Save our Society from Drugs, St. Petersburg, FL 4. David Iwanski, Exec Vice President, Agri-Business Council of AZ 5. Alex Romero, Phoenix 6. Nathan Sproul, Exec Dir, AZ Christian Coalition 7. TJ DeBoer Dobrotka, Exec Dir, AZ Assn. Chiefs of Police AZ Assn. Chiefs of Police 8. 2 women: VP and COO Dir, Drugs Don't Work in AZ: EAP Preferred Phoenix 9. John McCain, Jon Kyl, US Senators; Bob Stump; Jim Colby; Matt Salmon, John Shadegg; JD Hayworth, Congress 10. Michael Minnaugh; John Petterson; President and CEO, Peak Insurance Group; Paradise Valley Peak Insurance Group 11. John Kaites, Senator 12. Jane Dee Hull, Gov, Phoenix 13. Phoenix Suns, AZ Cardinals, AZ Diamondback, Phoenix Coyotes 14. Senator Soloman, state senator pd for by AZ Against Heroin; Stan Barnes Jr. Chairman 15. Stan Barnes, Chair, AZ Against Heroin 16. Richard Horne, MD, PHD, pd for by AZ against heroin 17. CE Edwards, AZ for a Drug-Free Workplace 18. Barbara Zugor, Phoenix 19. Len Munsil, Pres. Bd of Dir, Ctr. for Arizona Policy

<p>1998 Arizona Prop. 301</p>	<p>Referendum ordered by petition of the people relating to probation eligibility for drug possession or use (countermeasure)</p>	<p>Against Prop. 1. John Norton, Marvin Cohen, People Have Spoken 2. 11 physicians, people have spoken 3. Grant woods, people have spoken 4. John Jack La Sota, Former Atty Gen, people have spoken 5. Rudolph Gerber, Judge, AZ court of appeals, people have spoken 6. Pastors, people have spoken 7. Dr. John Sperling, chairman, Apollo Group, 8. 16 people incl. Alfredo Guterrez, people have spoken</p>	<p>For Prop. (Remain illegal) 1. John Kaites, Senator 2. Libertarian candidates</p>
<p>1998 Oregon Meas.57</p>	<p>Makes Possession of Limited Amount of Marijuana Class C Misdemeanor (countermeasure)</p>	<p>For Init. 1. John English, Dir, For Our Children's Children \$300 for space 2. Rober Burt, MS, \$300 for space 3. Mike Cahill, Oregon Police Chiefs for Safer Communities</p>	<p>Against Init. 1. Toby Grant, landlord, republican 2. David Smigleski, individual 3. State re. Floyd Prozanski 4. Georff Superman, NO on 57 Comm. 5. Jann Carson, ACLU of Oregon 6. Lleand Berger, No on 57 Comm. 7. Amy Klare, No on 57 Comm/ 8. Charles Grossman MD 9. George Eigmey, State Rep. No on 57 Comm. 10. Sandee burbank 11. Barry Smith 12. Bill Conde</p>
<p>1998 Oregon Meas. 67*</p>	<p>Allows Medical Use of Marijuana Within Limits; Establishes Permit System</p>	<p>1. Stormy Ray, Omr. 2. Richard Bayer, Md, Omr 3. Amy Klare, Omr 4. Geoff Sugerman, Omr 5. Jann Carson, Aclu 6. Edward Glick, Rn (11 Signed) 7. Ricyard Bayer, Md Signed By 6 Mds 8. Jeanelle Bluhm, Omr</p>	<p>1. John English, Dir. Of Our Children's Children 2. Stanley Fields, Recovering Addict 3. Dan Noelle, Multnomah County Sheriff 4. Terry Hensley, Save Our Society From Drugs 5. Roger Burt, Ms 6. Jennifer Hudson, Oregonians Against Dangerous Drugs 7. Stephanie Soares Pump, Exec Dir, Southern Oregon Drug Awareness 8. Mike Cahill, Oregon Police Chiefs For Safer Communities</p>

			<p>9. Mike Howden, Oregon Physicians Resources Council</p> <p>10. Pat Harmon, Oregon Peace Officers Assn.</p> <p>11. Lou Beres, Exec. Dir, Christian Coalition Of Or</p>
1998 Washington Init. 692*	Shall the medical use of marijuana for certain terminal or debilitating conditions be permitted, and physicians authorized to advise patients about medical use of marijuana?	<p>Sponsor: Robert Killian/Karen Peoushek ROB KILLIAN, MD, Family Physician; JO MORAN, RN, Hospice Nurse, NW Hospice. Advisory Committee: BOB Mccaslin, State Senator; JEANNE KOHL, State Senator; WILLIAM ROBERTSON, MD, Past President Of The Washington State Medical Association; RICHARD BENSINGER, MD, Ophthalmologist; CAROL MILLER, Nurse</p>	<p>Statement Prepared By: LARRY SHEAHAN, State Representative; GLENN DUNNAM, Chief Of Police; NORM MALENG, King County Prosecuting Attorney.</p> <p>Advisory Committee: DAN SWECKER, State Senator; GARY EDWARDS, Thurston County Sheriff; WILLIAM PENN, MD, Family Practice; GARY ALEXANDER, State Representative; KIRK WESTENFELDER, R.Ph., Kirk's Medical Services</p>
2000 Alaska Meas. 5*	Initiative Petition: Allowing Uses of Hemp, including Marijuana	<p>1. Free Hemp in Alaska</p> <p>Total contributions: \$503,458</p>	1. Lynda Adams and Wevley William Shea
2000 California Prop. 36*	Drugs Probation and Treatment (Substance Abuse and Crime Prevention Act of 2000)	<p>1. Peter Banyas, Pres, Cal. Medical Soc. of Addiction Medicine; Richard Polanco, Maj. leader Cal. state senate; Kay McVay, Pres, Cal Nurses Assn</p> <p>2. Maxine Waters, Member, US Congress; Peter Banyas, Pres., CA Society of Addiction Med; Tim Sinnott, Pres, CA Assn. of Alcoholism and Drug Abuse Counselors</p>	<p>1. Rebuttal 1 Richard Romley, Maricopa County DA, State of AZ</p> <p>2. Robert Nalett, VP, CA Sexual Assault Investigators Assn</p> <p>3. John Schwarzlose, Pres Betty Ford Ctr; Alan Crogan, Pres Chief, Probation Officers of CA; Thomas Orloff, Pres., CA DA Assn.</p>
2000 Mass. Ques. 8*	An Act to Expand the Scope of the Commonwealth's Drug Treatment Program/Forfeiture	150-wd statement Coalition for Fair Treatment	Martha Coakley, DA for Middlesex County, President, MA DA Assn.

2000 Oregon Meas. 3*	Amends Constitution: Requires Conviction Before Forfeiture; Restricts Proceeds Usage; Requiring Reporting, Penalty	<ol style="list-style-type: none"> 1. Harry Detwiler, Oregonians for Property Protection (OPP) 2. David Smigelski, OPP 3. Ray Heslep, Chief Pretiner, OPP 4. State rep. Floyd Prozanski 5. David Filandque, Exec Dir, John Hellen, ACLU and Oregon Gun Owners 6. Ellen Loew 7. David Hunnicut, Legal counsel Oregonians in action 8. David Smigelski, OPP 9. Amy Klare, OPP 10. Eric Winters, Libertarian Party OR 11. Sandra Adamson, Chief Petitioner, OPP 12. Stephanie Van Zuiden, OPP 	<ol style="list-style-type: none"> 1. Former Gov, Neil Goldschmidt 2. Stephan Otto, Animal Legal Defense Fund 3. Susan Mentley, Operations Director, Oregon Humane 4. Animal Protection Institute, in Defense of Animals 5. Greg Brown, Sheriff, Sheriffs of Oregon Committee, Oregon Police Chiefs for Safer Communities 6. 3 neighbors 7. Sandra Nelson, chair, MADD 8. Earl Blumenauer, Congress 9. state AG plus 11 county district attorneys
2000 Utah Init. B*	Utah Property Protection Act of 2000	<p>Impartial analysis by Office of Legislative Research and General Counsel</p> <p>Argument for:</p> <ol style="list-style-type: none"> 1. Utahns for Property Protection, Peter Kutulis, Former Salt Lake County Commissioner and Sheriff; Nick Morgan, Former Deputy Sheriff, Salt Lake County <p>Rebuttal to the arguments against</p>	<ol style="list-style-type: none"> 1. Rebuttal to argument: Representative Gary Cox (rebuttal) <p>Arguments against: Rep. Gary Cox</p>
2002 Arizona Prop. 203*	Drug Medicalization, Prevention, and Control Act of 2002 (no real title; lang. says can be referred to by title)	<ol style="list-style-type: none"> 1. John Norton, pd for by People Have Spoken, Phoenix 2 Grant Woods, AZ Atty Gen 1991-8, Phoenix, pd for by People Have Spoken 3 Jeffrey Singer, MD, FACS, Phoenix Steven Lipsky, MD, FACEP Greg Morris, MD Joel Colley, MD Jeffrey Steier, MD Steven Yee, MD Abraham Sayegh, MD Pd for by Jeffrey Singer 4 Josh Burner, Mesa, cancer survivor Pd by people have spoken 	<ol style="list-style-type: none"> 1 Tom Rankin Tucson 2 Barbara LaWall, Pima County Atty, Tucson 3 Charles Johnson, Scottsdale 4 Richard Romley, Maricopa County Atty, Phoenix 5 Phil Gordon, Phoneix City Councilman, Phoenix 6 Michale Minnaugh, Phoenix 7 Tom Riethmann, SADD Dir, Brophy College Prep teacher, Phoenix 8 Thomas Stoxen, Prescott Valley 9 Sheila Polk, Yavapai County Atty, Prescott Valley 10 Carolina Butler 11 Cameron Holmes 12 Laura Reckart

		<p>5 Richard Mahoney, AZ Sec of state, 90-94; ind. candidate for gov, Phoenix Pd by people have spoken</p> <p>6 Alfredo Gutierrez, dem. candidate for gov, Pd by people have spoken</p> <p>7 Dr. John Sperling, Chair, Apollo Group, Univ. of Phoenix, Pd by people have spoken</p>	<p>13 Mark Knops</p> <p>14 Sandra Janzen</p> <p>15 George Weisz, Office of the Gov</p> <p>16 Senator Marilyn Jarrett, District 19</p> <p>17 Rep. Russell Pearce, District 18, pd for by Pearce Campaign</p> <p>18 Rabbi Weizenbaum, Gilkinson, former Tucson Sheriff Rev Hart, First Southern Baptist Church Click, Pres. Click Automotive, Jolivet, Ret. asst super., Tucson, Bishop Moreon, Pres. Finley Former mayor, city of Tucson Horizon moving and storage, Valdex, former city manager Tucson</p> <p>19 Bill Scheel, neighborhood activist & former school board member</p>
2002 Arizona Prop. 302	<p>Prop. 302: Drug Probation (no real title other than #)</p> <p>(countermeasure)</p>	<ol style="list-style-type: none"> 1. Richard Romley, Maricopa County Atty, Phoenix 2. Tom Ambrose, VP Phoenix Suns 3. Mayor Skip Rimsza, City of Phoenix pd for by Mr. & Mrs Phelps 4. William Ridenour, managing partner law firm 	<ol style="list-style-type: none"> 1. John Norton, people have spoken 2. Judge Rudy Gerber, ret. people have spoken 3. 7 physicians pd by Jeffrey Singer 4. Josh burner, cancer patient, people have spoken 5. Richard Mahoney, AZ sc of state, 90-94, independent gov. candidate, people have spoken 6. John sperling, Univ. of phoenix, people have spoken
2002 Ohio State Issue 1*	<p>Ohio Drug Treatment Init. (Issue 1 as title)</p>	<ol style="list-style-type: none"> 1. Ohio Campaign for new drug policies, 4 individuals 	<p>1. Committee: sate dir. MADD; exec dir. health recovery services, community assessment and treatment services</p>
2002 South Dakota	<p>Amend. to Article VI, Sec. 7 of the Constitution, relating to the rts of a criminal defendant</p>	<ol style="list-style-type: none"> 1. Bob Newland, freelance writer who authored init. 	<p>1. Robert Frieberg, attorney, past pres. SD state bar, State bd of ed</p>
2004 Alaska *	<p>Cannabis Decriminalization and Regulation Act</p>	<ol style="list-style-type: none"> 1. Tim Hinterberger, Alaskans for Rts. and Revenues; 2 former Alaska state legislators 	<p>1. Charles Herndon, Internal medicine</p>
2004 Montana	<p>Montana Medical Marijuana Act</p>	<p>1. committee appointed to support: Rep. Ron Erickson, Paul Befumo, and Robin Prosser</p>	<p>argument and rebuttal</p> <p>1. committee: Rep. Jim Schokley and Roger</p>

Init. 148*		argument and rebuttal	Curtis
2004 Oregon Meas. 33*	Oregon Medical Marijuana Act	<ol style="list-style-type: none"> 1. James Klahr, Oregon Green Free 2. John Sajo, Life with Dignity Committee 3. John Sajo, Life with dignity comm. ditto 4. Richard Bayer MD (5 other docs) 5. Ken Brown Quad., pd by Life with Dignity Committee 6. Richard Bayer, MD 7. Edward Glick mD 8. Jeanelle Bluhm 9. Nancy Crumpacker, MD 10. Chris Campell, cancer survivor 11. Don DuPay, former Portland police detective 12. John Sajo, life with dignity committee 13. Leland Burger sponsored 10 lawyer statement 14. John Sajo, chief petitioner, life with dignity 	<ol style="list-style-type: none"> 1. Shirley Morgan, Oregon Against Legalization of Marijuana 2. John Moorhead, MD, pres. Or Med. Assn 3. Richard Burke, Exec Dir, Libertarian party of OR 4. Stormy Ray, Chief Petitioner for Meas. 67
2002 South Dakota Init. Meas. 1	An Initiated Measure Adopting a Law Relating to Industrial Hemp (Cannabis)	Bob and Shirley Weber, lifelong farmers in Clear Lake, SD	Major Dan Hostetler, South Dakota Highway Patrol, Pierre, SD
* Direct funding from Soros, Sperling, and/or Lewis			

**Appendix H: Voter Information Statement Issue Framing
Strategies, 1996-2004**

Appendix H: Voter Information Statement Issue Framing Strategies, 1996-2004

No.	Author	Language—definitions, phrases, characterizations	Stories --policy narratives or hidden stories testimonials, myths/parables, blame, other	Numbers and Facts medical/science; other states/programs
1AZ 96	support 1. John Norton, former US Dep. Sec Ag, Chairman, Arizonans for Drug Reform, Paradise Valley	failed drug policies; make govt. more efficient; prison not a disincentive to use drugs; instead of “do drugs, do time” it’s “do time, do drugs”; simple drug possession; low-level drug users	personal exp. w/Reagan Admin. was to reduce size of govt. this is 1 way to do that; drugs are in prison; addicts shouldn’t continue to use drugs at public expense by being in prison; \$ better spent on drug prevention among youth	HBO documentary showed veteran prisoners teaching young prisoners to make meth; costs: \$40,000 for new prison bed and \$30,000 annual maintenance; billions spent to incarcerate low level drug users; treatment costs 1/8 as prison; in fed prison 61% in for drug offenses, 38% simple possession
	2.Marvin Cohen	prohibition doesn’t wk; failed drug war continues; wasting \$ on prison for minor drug users; act is investment in treatment for users and prevention for youth; rational, cost-effective measures; current way “harms society”; govt spending more money situation getting worse	personal exp. as member of Kennedy Admin and Congressman Udall: consensus was criminalization of narcotic drug use doesn’t wk; drug war has failed; \$16 bil. w/80% to criminal justice system, 20% to ed and treat	<ul style="list-style-type: none"> • 1994 Rand study found treatment more effective in reducing cocaine use; \$ wasted
	3. 21 physicians (pd for by Norton)	marijuana (mj)=medical drug, effective; mj=scientific proven benefit; enhances dr ability to help suffering patients; prescribe mj; seriously and terminally ill; mj=medical therapy; follows accepted medical standards; moderate-	story of mj known for decades to help terminally and serious ill; story of when AMA opposed mj tax act of 1937 which stopped mj prescription; physicians drs by govt “edict tying hands” by govt bureaucrats and pol. appointees	facts: modern res. shows medical benefits; “documented scientific evidence of potential benefits”; APHA urged Admin and Congress to make it avail.; 1988 DEA judge said it’s “one of

		well reasoned proposal		safest therapeutically active substances known to man”
	4. Dennis DeConcini, US Senator, Ret., Bethesda, MD (pd for by Norton)	violent offenders will serve 100% of sentence has 3 strikes you're out clause; clear up prison space; strengthen drug control; places “small, personal drug users into treatment and probation”; it's a better way	personal story of former prosecutor & US senator: spent life fighting against drugs, will clear up prisons for violent offenders and drug dealers	<ul style="list-style-type: none"> • facts: violent offenders serve 100% of offenses • includes drug ed for parents and greater parental involvement in drug prevention
	5. Steve Mitchell,	children=next victims; “failure of our drug policies”; afraid if status quo kept; new, effective, smart way; AZ suffering fr immense prison costs; smart investment not wasting it on prison; new and better way; “our” children	personal story; former cop & US atty who has seen failure of drug policy and parent afraid children will be next victims; current “overcrowding had a chilling effect on sentencing”; need to invest in prevention and get parents involved or never will reduce drug use	<ul style="list-style-type: none"> • facts; violent offenders will serve sentences
	6. Rudolph Gerber, Judge, Court of Appeals, Phoenix (pd for by Norton)	medicalize drug policy; current approach not working; medicalization: treat as public health issue; drug abuse= disease; free up prison space; this is not decriminalization; applies only to personal possession or use of a controlled substance; break the cycle of “do drugs do time do drugs”; more crime-effective approach	testimonial: as a judge I feel it deserves support	facts of what init will do; facts of govt #s show youth drug use has increased several hundred % in past few years
	7. Dr. John Sperling, President, Apollo Group, Phoenix (pd for	drugs not just criminal justice problem but first a public health problem; addiction=disease; minor drug offenders fastest growing pop.	if it's really a war, should demand new strategy or court martial the general; Arizonans believe we are losing war on drugs; story of prison as expensive failure & addicted prisoners being	treatment costs 1/8 of prison; costs of prison bed and maintenance; net cost over 2 yrs to state is \$46.7 mil. and cost to cover

	by Norton)	in prison; quotes McCaffrey saying war is wrong metaphor and drug problem as a cancer; rugs in prison system now; "minor drug users"	returned to society; addicts shouldn't be "severed from families who can offer vital support"	existing 1,300 beds
1az 96	multisubject opposition 1. 10 libertarian candidates for U.S. Congress	creates a tax-hungry govt entity; creates compulsory business for lucrative and highly ineffectual "drug treatment" industry (quotes in original); we the taxpayers pick up the tab; proposition is "anti- Freedom" and "anti- responsibility"; "recreational substances"	deceptively appealing, gives less freedom w/one hand than it takes w/another; says this is not the answer, stop prosecuting people for drug use and control drugs like tobacco and alcohol to have room for truly violent offenders; govt should stop treating responsible adults as children	
3W A97	3wa97 multiobj support (statement for and rebuttal) 1. sponsor: Multiauthor Advisory Committee	new more intelligent plan to attack drug problems; stop "wasting \$ on imprisoning drug users"; replace scare tactics w/facts and direct participation by parents; medicalize drugs; suffering can be treated; drug abuse=disease not a war; medical vs. political approach.; initiative=new public health strategy=treat suffering of seriously and terminally ill; rebuttal: opponents resort to deceptive scare tactics rather than reason; voters smart enough to understand	story of war on drugs failing, wasting billions, imprisoning thousands whose only crime is addiction and giving politicians control over medical decisions that should be between drs and patients while drug use has doubled	facts on cost savings of treatment
	3wa97 multisubject opp(Statement against and rebuttal)	this is "bait and switch" tactic that claims to be tough n drugs but legalizes, releases prisoners into communities, makes all current drug laws	<ul style="list-style-type: none"> scare tactics: possession of street narcotics would be crime without punishment; as long as "claim" disease and w/only "recommendation" of dr can have street narcotics; scare story of 	

	1. Dr. Seaman, Dr. Tremblay, Dr. Robertson, addiction med. and medical toxicologist; Advisory committee	unenforceable; smokescreen to real intent of init: has effect of legalizing drugs; heroin, crack, LSD, etc. will be avail on drs. recommendation not an RX—that's a recipe for disaster; this is not about tough laws its about making current laws unenforceable; states disease not defined	patients would have to buy drugs off the st w/no FDA safeguards on quality, dosage, or delivery; frees criminals fr prison—even if previously convicted of felonies including certain rapes and assault	
20A Z02	20AZ02 multi subj support 1. John Norton, pd for by People Have Spoken, Phoenix	move fight to proper battleground; ensure safe and effective med mj program; drug abuse=disease like cancer	testimonial: former Reagan Admin official, supported alt to war on drugs in 1996; politicians have been trying to repeal it; drug treatment saved \$; drug war is failing doesn't mean we have to give up fight against addiction	
	2 Grant Woods, AZ Atty Gen	make program of 1996 a full political reality; reform asset forfeiture for drug cases so that must be proven guilty	as former AG: assures this is "safe and effective complement to our drug policies"	thousands have completed treatment, costs fraction of prison
	3 Jeffrey Singer, MD, FACS, Phoenix, 5 drs.	drug abuse=medical not criminal problem; state supervised system	politicians. trying to thwart will; prevented implementation of voters' decision	
	4 Josh Burner, Mesa, cancer survivor	politicians fail to honor will of voters; mandates state med mj program	cancer survivor; med mj saved me don't deprive terminally and seriously ill people like me from med; you voted for it once, vote for it again	vote from 1996
	5 Richard Mahoney, AZ Sec of state, 90-94	creates system "politicians cannot screw up"; politicians subverting will of people in 96 and 98	former sec of state, ran elections voters approved law we should allow it happen low-level users not incarcerated ensures max safety for everyone will save \$mills	
	6 Alfredo	need alts to prison	incarcerated victims whose only crime	

	Gutierrez, dem candidate for gov, Pd by people have spoken	drug abuse=primarily a disease; drug war good intentions but unintended casualties of war; fixes broken med mj system; protects patients, drs, and public	is addiction; many of unintended casualties are poor, those receiving treatment from prevention 25% are Latino 2/3 complying w/treatment; "it's a good thing and we need to reach out to more of our people so they can benefit"	
	7 Dr. John Sperling, Chair, Apollo Group, Univ. of Phoenix	alt strategy to continuing stupidities of war on drugs. say no to drug abuse the sensible way	legislators were duped by their own arrogance; sick people need med mj protect patients, drs, public from abuse	national poll most think war on drugs failed; stats fr state supreme ct report on treatment finishes and cost savings
	20az02 mulisubj opp 1 Tom Rankin Tucson	detrimental consequences allow guilty drug dealer keep \$ goes too far in allowing them to keep their drug \$	facts of how guilty owners of drug money are not convicted; wealth of intl. traffickers; AZ's forfeiture laws are most imitated in nation; was written by those who knew what they were doing	
	2 Barbara LaWall, Pima County Atty, Tucson	"decrims" mj regardless of offense & in drug-free school zones; in quotes: drs ; "recommendation", "eligible persons", "eligible"; creates cottage industry for med mj recommendations	hampers drug courts; "gives permission to chronic repetitive drug offenders to violate probation repeatedly"; increased acceptance of drug use leads to increased use	stats on how many are killed by drug use; drug use among kids
	3 Charles Johnson, Scottsdale	requires state hand out of mj state can be sued if people using state supplied mj commit a crime; "no credible authority has considered fiscal impact"	gives example of alts fuels program costing millions for citizens and how this is like that; will lead to lawsuits would force state to distribute mj regardless of fiscal impact will lead to higher tax bills	
	4 Richard Romley, Maricopa County Atty, Phoenix	"drugs destroy dreams"	story of 96 init supported by millions by drug legalization advocates and I said it was a smokescreen...this proves me right; purposely mischaracterizing prop as "med mj"; not telling the truth, med	

			mj already on the books, this “advances legalization objectives: decrimis mj, takes away dr prescription, requires “most bizarre” dept of public safety to give free mj to anyone claiming a medical need	
	5 Phil Gordon, Phoenix City Councilman, Phoenix	blatant attempt to legalize sched 1 drugs; is this what we want for future of our state? future of our children? ridiculous plan is frightening and overwhelming	public safety requirements that will cost time, manpower, and \$; won't be fighting crime but “playing pharmacist w/illegal drugs”; “MJ legalization” \$ to come from tax dollars; fact that takes away confiscation of property of a drug abuser doesn't stipulate mj med user says “intelligent person should question how much has to do w/med needs”	
	6 Michale Minnaugh, Phoenix		gives rhetorical questions about whether you want drug abusers released in neighborhood, public officials dispensing mj, undermining court authority, tax dollars spent on cultivation and purchase, potential for legal abuse, AZ to become safe have for illicit drug culture	
	7 Tom Riethmann, SADD Dir, teacher	“just say no” as parents this is misleading deceptive message	laying the groundwork for eventual efforts to legalize drugs prop. has little to do w/medicinal drug use need to learn same lesson as our children: just say no	
	8 Thomas Stoxen,	deceptive crafting that's caused yrs of expense and confusion as Prop. 200; forfeiture provision in on one's best interest	massive loophole: largest kingpin and cocaine dealers ill-gotten property would be forever exempted another loophole: prevents others from having jurisdiction over them; would let large long-time convicted drug dealers keep drug money;” if really about med	

			mj why so many hidden clauses to help meth and cocaine dealers”	
	9 Sheila Polk, Yavapai County Atty, Prescott Valley	not just about “med” mj Christmas presents for drug cartels, dope dealers, and other criminals involved w/other drugs; “devil is in the details” ; “wealthy out of state backers have given voters a Trojan horse filled w/social experiments they don’t want you to know about”	questions if it’s about mj; uses same arguments as above; can illegal possess mj w/out prescription if present evidence of “medical’ condition” at arrest	
	10 Carolina Butler	stand together and keep our homes, schools, and workplaces clean and drug free; mj is gateway drug	as mother of 4, concerned about permissive attitude and downward slide into drug abuse...if you want to encourage children to use drugs vote for it; init. says cancer experts acknowledge legit need for mj but I called ACS and they said no. tobacco and alcohol already have cost us much why would we want to legalize another dangerous drug. dr. says innocent recreation can lead to more ominous drug use part. among youth	
	11 Cameron Holmes	enriches drug dealers; forfeiture impossible; in quotes: owner, giving mj, strawman owner, punishment, courier as owner	story of how to avoid forfeiture under the law	
	12 Laura Reckart	child’s play for convicted drug dealer to keep any amt of drug money	hypothetical of dealer and how he can get away with proceeds and so can his associates; “would attract more drug importers to AZ, where their drug profits would be save”	
	13Mark Knops	whatever benefits claimed,	murderous organized drug gangs flush	

		forfeiture “scuttles this proposition”; “sleeper chokehold on forfeiture that goes beyond offenders possessing mj for personal use..benefits all offenders	w/cash will use our state as big factor and transshipment dope; gives examples of bad consequences fr major drug dealers: chief drug prosecutor targeted for assassination	
	14 Sandra Janzen	not about relieving pain for sick people..about letting drug traffickers keep ill-gotten gains	don’t need measure because those with med need for mj already have that who should control power of drug money: drug dealers or honest people of state	
	15 George Weisz, Office of the Gov	if you vote yes, even outrageous provisions became law	title sounds nice and flowery but would make dept of public safety one of largest drug suppliers in state uses complex lengthy verbiage (translates it); as advisor to gov, I have real problems and you should too with this drug..would prevent resources fr being used to investigate terrorism and gangs...	
	16 Senator Marilyn Jarrett, District 19	do we want mj legalized this way	would allow airline pilots, nurses, teachers, kids to use mj; asks in forms of questions if want early release of drug offenders on streets, if its a good plan, drs, lawyers, and scientists should debate it in hearings to allow honest assessment	
	17 Rep. Russell Pearce, District 18, pd for by Pearce Campaign	here we go again: legalize under banner of medical purposes; “one of greatest threats of this plague is destruction of families” “need honest debate w/good and accurate info”	no evidence to support med mj as medical or social benefit; cites damage of drugs and alcohol to society; \$million in treatment cost and social ills testimonial of 30 yrs cy experience and “terrifying impact” and “destruction of lives”	
	18	legalization of mj sends	as parents, citizens, and commissioners	list of reasons why can’t

	Multiauthored	harmful and very wrong message to youth of our state puts public safety at risk	we are concerned encourages and makes it easier for kids to get dangerous and currently illegal drugs; reduces critically needed funding for law enforcement and crime prev.; confusing, deceptive, and misleading in name/title and content	support and stats on danger to kids
	19 Bill Scheel, neighborhood activist & former school bd member	will be “magnet for every drug users in Am.” w/govt provided pot for anyone who has an in w/a dr.	will hurt neighborhood; legalization will not magically eliminate crime and make neighborhoods safer; will make mj more accessible like in Amsterdam—image of “stumbling over stoned heroin addicts on city’s sidewalks”	
14C A00	14ca00, treat, support 1. Peter Banyas, Pres, Cal. Medical Soc. of Addiction Medicine; Richard Polanco, Maj. leader Cal. state senate; Kay McVay, Pres, Cal Nurses Assn	Prisons are overcrowded Init “strictly limited”; Init: “not a free ride”; “rules are strict”; It’s smart drug policy; “smart alt. to the failed drug war” Not radical...gives “eligible drug users the opportunity for treatment”; If they fail or break the rule they can go to jail “affects simple drug possession only”; “treatment instead of jail wks in AZ and will work in CA”; No mention of probation yet it’s in short title of init.	Story; if keep current way,, very costly, revolving door w/people returning to drugs and crimes—“will reduce future crime more effectively than prison” Story: of how it’s strict, cost effective; “turns addicts into productive citizens, so they pay taxes and stop committing crimes to support their habits”	Facts: CA govt study found \$7-\$1 cost savings; “state’s impartial legislative analyst says prop 26 can save millions a year” AZ passed similar initiative in 1996=Supreme Ct reported millions of dollars in savings; NY implementing sim. Program
	2. US Congress; med/health care	Refutes opponents claims one by one : “opponents claim”	Attacks opponents as thinking drug war working when it’s a failure and the use of scare tactics: “you decide who’s rt. Vote yes” (cites impartial legis. Analyst on costs but nothing else”)	Legis. Analysis of costs savings cited.
14c aoo	treat opp 1. Rebuttal 1 Richard	Not a quote unquote “proven success”..”in fact, it’s created a nightmare”; No consequences	“drug users are thumbing their noses at the court and continuing to abuse drugs”..”as a result, treatment is less	

	Romley, Maricopa County DA, State of AZ	for drug offenders; (pro statement uses “user” this uses “offender”)	effective and drug problems are getting worse	
	2. Robert Nalett, VP, CA Sexual Assault Investigators Assn	Not limited to “nonviolent” ; No “court supervised” treatment Ties hands of judges, hurts legit treatment, and decrim heroin, meth, and other illicit drugs	“date rape” drug offenders and prior convictions for sex crimes like rape and child molesting stay on st.; criminal violence history stay free—can’t be sent to jail no matter how violent the history	
	3. Pres Betty Ford Ctr; \Pres Chief, Probation Officers of CA; Pres., CA DA Assn.	“gives up the fight”; dangerous and misleading; “treatment” programs in quotes	hurts legit treatment programs that work--Highly successful drug courts -Abuse of your money: “flyby night halfway houses run for profit and programs of nothing more than cassettes tapes or internet chat rooms can qualify for tax \$; opens door to fraud; violent offenders on the streets	written by crim defense lawyer and funded by 3 wealthy out of state backers whose ultimate goal is to legalize drugs facts: no real cost savings ultimate cost could be very high; sends wrong message to kids
16M A00	150-wd statement Coalition for Fair Treatment	• smarter drug strategies: “protect” innocent property owners; treatment: more effective	if your son or daughter arrested while driving your car you lose your car & police keep \$; we send thousands of drug dependent offenders to prison	facts: provides for treatment; pays for treatment
16m a00	opp treat DA for Middlesex County, President, MA DA Assn.	“treatment” in quotes (disparage); “cripples” police investigations; “guise” of treatment; can dismiss charges against repeat “drug dealers and cocaine traffickers”; deprives law enforcement of virtually all resources	• is a major step to decrim drug dealing; will nullify laws that penalize drug dealers who carry guns	facts: benefits drug dealers by taking power from police/courts
23O H02	23ohs treat sup 1.Ohio	War on drugs has failed; Status quo leads to ruined	Will help people and provide them w/what they need to become	• Cost: will save \$millions; cost comparison

	Campaign for new drug policies, 4 individuals	lives; Opponents claim it legalizers; it doesn't; pols. are trying to cover up failure to fix war on drugs; Current way doesn't work; Will save lives and save money	productive, taxpaying citizens. & prevent ruined lives	of treatment vs. incarceration (\$3,500 annual est. cost of treat vs. \$23,000); Fact: 3of 4 w/small amt of drugs end up in prison
23o h02	treat opp 1. Committee:	burglary or felony defined as non-violent crime eligible; requires "adequate" spending after init. investment; "wipes the slate clean" of prior drug offenses	story as facts: allows drs, airline pilots, day care workers & others w/sensitive jobs to hide drug history	<ul style="list-style-type: none"> • facts: list of facts re. what meas. does and doesn't do • cost: requires state to spend almost \$250 mil over 7yrs just for offender treatment • all major OH newspapers, prev. treat. court victims groups leaders don't support it
2CA 96	2ca96 med sup 1. medical professionals	not a cure for cancer but can help; not magic but brings relief; if drs can prescribe morphine why not mj?; allows verbal or written recommendation; if verbal dr can be required to verify it under oath; protects patients; mj=medicine	<ul style="list-style-type: none"> • testimonial from physicians that this helps; should govt let people prescribe any medicine capable of relieving suffering? marinol costly and less reliable 	Harvard survey found 1/2 of cancer drs would prescribe it to some patients if legal; polls show support; based on legis. passed 2x by Cal. legislature w/bipartisan support but vetoed by governor
	2. Rebuttal: DA, assemblyman, cancer survivor		San Fran DA story that opponents don't say law enforcement also support init— don't want to send cancer patients to jail; if it were irresponsible wouldn't have been passed by legis. previously; cancer patient: personal story of how marinol didn't help but mj did "saved my life"	
	2ca96 med opp 1. Sheriff Brad Gates, past	mj=dangerous drug=make people sicker; harmful; not FDA approved; would	rebutts claims—not compassionate bec. giving sick people drug that will make them sicker; not FDA approved; no	ACS says no substitute for medicine; will make people sicker; thousands of

	president cal. state's sheriff's assn.; Eric Voth, MD, FACP, Intl. Drug Strategy Institute; DARE Am.	encourage people to break fed law and possess and cultivate; "not one maj med org, law enforcement org, or drug ed group supports it.."it's a scam concocted and financed by drug legalization advocates"	legal documentation required like for morphine and codeine—easily abused drugs	studies say it's harmful
	2. James Fox, Pres, Cal. DA Assn; Michael Meyers, MD, medical dir., AOD treat. program, Brotman Medical Ctr; Sharon Rose, Red Ribbon Coord., CA for drug free youth	it's a cruel hoax; read the fine print; quality, purity, strength unregulated; responsible physicians don't need this init.; will damage efforts of prev groups "to convince young people to remain drug free": "sends our children false message that mj is safe and healthy"; "home grown pot. handrolled joints: does this sound like medicine?"; init=not responsible medicine; it's mj legalization	sponsors "exploit public compassion of sick to legalize and legitimize widespread use of mj in CA"; doesn't restrict use to certain illnesses---could be for anything; even children could smoke pot legally (no prescription required)—no age restriction; no consumer protection w/out FDA approval; will provide legal loopholes for drug dealers to avoid arrest and prosecution; unlimited quantities of mj t o be grown anywhere: in backyards or in schoolyards	<ul style="list-style-type: none"> • fact: active ingredient avail as marinol • NIH says no to smoked mj for medical purposes based on extensive study • AMA, ACS, Natl. MS Society, and Am. Glaucoma Soc and other top med. groups say no • lists law enforcement leaders opposing
4AK 98	4ak98 sup med 1. AK for Medical Rts. Dr. Johnson, Dr. Hippel and Dr. Hillman	eligible: terminally ill; disease= dr authorization; mj=medicine, relief physician option of authorizing= protects patients from being treated like criminals; nonmedical or fraudulent medical=illegal,crime strictly limits amounts only licensed drs can authorize policy of compassion	helps terminally ill patients and others suffering debilitating medical conditions retains current laws; strict controls; commonsense measure; will help thousands; help cancer chemotherapy patients—cites evidence of its benefits est. state registration and id system drs should be able to make recommendations to help patients humane policy for Alaskans suffering extreme pain	dozens of studies support mj as med benefit AK voter poll shows support join other states
	4ak 98 med opp1.Wevley	mj=debilitating illegal drug inept Act; in quotes: patients,	mj users not able to tell "rt fr wrong" burden is on individuals and society	facts on destructive nature of mj; inability to control

	William Shea	caregivers, pot, street grass, medicine, recriminalize, debilitating borders on pure folly; “drs can’t ignore basis tenant of med practice: “quality care in the best interest of patient”; attempt to deceive voters into thinking it’s compassion; attempt to “pry open door to drug legalization”; mj-gateway drug“	legalization tells youth illegal drugs can be used responsibly, must convince youth “doing drugs is bad” youth of AK need your support don’t be fooled not about compassion about protecting those who grow, transport, distribute, sell, possess or use mj	purity; marinol avail.; sends wrong message to youth; negative society; consequences of mj use
100 R98	1. Stormy Ray, OMR (\$300 per statement)	Patients: “rt to use any medical means nec”; mj=medicine’ w/out mj: unbearable suffering mj=gives fighting chance	Personal story of ms patients suffering until got med mj: “only med that helped and restored my dignity..should not have to live in unbearable pain or fear of arrest if use mj”..family needs me	Facts: there are thousand sof patients like me: suffering
	2. Geoff Sugerman, OMR	Quotes: current policy heavy handed and misguided; govt should change mj status; some physicians will have courage; Need for compassion implicit	Cites NEJM quotes from an opinion piece ; story of current situation will eventually result in realization of rts of those at deaths door and absolute power of bureaucrats...decisions based on reflexive ideology and political correctness not compassion”	Uses NEJM quotes as “facts”/authority supporting medical use of mj
	3. Jann Carson, ACLU	“reasonable response to an unreasonable law”; “will ease harassment of patients”; “safe and moderate law”; “reasonable response to unreasonable situation”; “safeguards” included Patients; mj=medicine =beneficial effects=not as dangerous as morphine, codeine and amphetamines	Story of how harder drugs are avail for med use, it can help people and DEA/fed law is obstacle, but WE can decide; Lists safeguards in law to defend it as moderate	Facts: ACLU helped write initiative because patients shouldn’t be arrested and sent to jail Mounting evidence of list of illnesses it helps
	4. Edward	Heading: “nurses stand by	Story of injustice of current law,	Facts: says “vast and ever-

	Glick, RN (11 signed)	their patients by supporting meas. 67” ; “end the injustice” Nurses=compassionate healers who care deeply for our dying and suffering patients”; Med mj patients: suffering and dying, living in fear, debilitated; “for the sake of our patients”	suffering of patients, compassion of nurses, need for OR to stand up story of status quo as “wrong”; “tragic social injustice by people of OR that turning patients into criminals is inconsistent w/ ethics we live by”	expanding medical knowledge details benefits”
	5& 6.Richard Bayer, MD signed by 6 mds	“exam rm is sanctuary, war on drugs doesn’t belong there” Eligible: those w/legit medical need to prevent unnecessary arrests of dying and suffering patients You, like me, are not experts in “politics of mj” or drug policy reform...this is simply to allow use of a medicine w/out fear of arrest and incarceration Mj=medicine=relief for dying and suffering; “moderate law w/clear safeguards to designed to protect dying and suffering patients”; patients	Personal story of physician & that others would prescribe if avail. Story of vomiting being controlled discusses medical conditions to allow visualization.	
	7.Amy Klare, OMR	Permit: approval fr dr. (implies control); “Protect dying and suffering patients” displayed prominently; Has “requirements” that must be met; “legitimate medical need for mj”; Prevent unnecessary arrests of dying and suffering patients”	Whole statement written as facts about the act	Facts: to use legally must have dr approval; must get permit; Lists what act doesn’t use” mj sale, use in public, minors use conditions, no existing criminal laws changed
	8. Janelle Blumm, OMR	Mj=ability to function free of paint and crippling spasms of	Personal story of ms and suffering mj helped I’m not the only one (almost	Facts: has helped other patients; has helped me

		ms; Mj=medicine=prescribed (vs. "recommended" used in other init); "pass it if only to send message to fed govt: drs should be allowed to prescribe med mj to patients"	identical to stormy ray story) Fear of buying from "underground drug dealers in back alleys"; Accuses govt of "political reasons to arbitrarily outlaw the med use of mj"	
9.Grossman and other 5 drs.	"Physicians support" measure as title; "safe harbor"; Patients: afflicted w/ debilitating conditions; Patients: rt to use; lists illnesses and symptoms to be helped, dying and suffering Medicine=mj=works=positive results	Perspective of physicians; Story: for centuries mj allowed as medicine and still can benefit; respected mj journals back up benefits, fed govt irrational in that allows morphine but not this...we agree with NEJM piece...this would provide "safe harbor to protect seriously ill patients from arrest if their physician states mj might help" (implies this is reasonable and not asking for much)	Facts: for centuries it's been allowed; med journals say it works; facts on what can and can't be prescribed.	
10or98 med opp 1.John English, Dir. of Our Children's Children	title" med mj scam"; init sponsor: "lying" "snake-oil salesman wanting to get high" "Don't legitimize mj! Vote no!" Mj=not medicine=causes health problems is dangerous	Quotes Stroup on using issue as red herring to give mj a good name and NORML natl. dir as ley to legalizing being medical access and it's a scam that will lead to full legalization Cites how 60% of those that passed AZ Prop. 200 shown to support repealing it	Gives facts of mj : Marinol avail.; neg health consequences of Provides sources for quotes of legalizers to show legit quotes	
2.Stanley Fields, recovering addict	Uses term legalize throughout Refers to "smoking mj"; "severely misguided people" using medical issue to further legalization cause; Mj=not useful, rob's children's growing and developing minds	Personal story of recovering addict and his start with mj...raises concern about bus drivers and pilots under the influence..."if drugs...legal when I was growing up I'd be dead" (bec. of addiction is legitimate authority). "Don't be fooled by a well-financed campaign of misinformation"		
3. Dan Noelle, Multnomah County Sheriff	Would make mj growers practically immune from prosecution; Possession=no longer police business (easier	Law enforcement perspective of preventing police and prosecutors fr dong their job fighting crime; Attacks sponsor as not about sick	Facts: mj more potent now; mj will be more accessible; no real restriction; could use in workplace and in	

		for kids to access and use) “next door neighbor could grow and self-medicate”; Children can smoke; Mj=bad medicine; Permit system=ruse, “simple” to get mj; “prescription” in quotes to disparage	people; its’ about legalization of dangerous drug by out-of-state backers who want legalization and who are “playing upon OR compassion for serious illness”	schools; youth negatively impacted health and development
	4. Roger Burt, MS	“straight facts about mj” Mj=addictive=harms health and others aspects; “out of state mj promoters” paid for measure to make mj more avail. And eliminate all restrictions; “Smoking mj cigarettes is not good medicine for anyone” (smoking denotes unhealthy	Gives neg statistics on mj by talking about mj as gateway drug based on survey data; Story of neg. consequences of mj and synthetic form already avail.	Research on marinol’s benefits; studies document mj harm
	5. Terry Hensley, Save Our Society from Drugs	“no limits, no controls” Uses lots of #s: no age limit, “medicinal” and “medical supervision” in quotes Sends wrong message to kids “legalizing mj is bad for OR..encouraging you to do it name of medicine is deceptive. It’s not about medicine its about legalizing drugs”	Fear: don’t want neighbors growing pot for whole family”; Juveniles could then get street drugs in the name of medicine; No prescription, no trip to pharmacy=not medical supervision	“Medicine is not smoked” Gives stats on youth drug use including trial as evidence that can’t tell kids mj is medicine. Cites OR school survey that drug use affects scholastic achievement and willingness to stay in school.
	6. Jennifer Hudson, OR against dangerous Drugs	Mj not medicine; OR is compassionate; Uses term legalize mj ; Mult. References to smoked mj; creates workplace hazards; “if you really care vote no”	Story of OR voters as compassionate but this not about compassionate and vote doesn’t mean don’t care...can care for suffering w/out legalizing; Cites other things to care about: children, families, schools, workplace, and health	Facts on neg health states, drug use in workplace, neg health development for kids, high mj use in OR kids, # 1 treatment cause for kids
	7. Stephanie Soares Pump,	Dir of Southern Or drug awareness opposes it; gives	Uses list of facts to show bad idea: high potency, 400 carcinogens, marinol	Fact of 896 joints being ok; Cites opposition of AMA,

	Exec Dir, Southern OR Drug Awareness	list; Measure “isn’t good public health policy .It isn’t good medicine.it isn’t good social policy; SODA opposes it”	avail, allows more than personal use, puts kids at risk	ACS, MS, and glaucoma societies
	8. Mike Cahill, OR Police Chiefs for Safer Communities	Police chiefs call on you to “reject mj as the dangerous drug it is”; Mj=not med, dangerous drug—repeated se. times; “tell those out of state millionaires that OR won’t stand for legalizing dangerous drugs”	Uses stories of how it will destroy safe, livable communities: will be impossible to prosecute, increases youth access	
	9. Mike Howden, OR Physicians Resources Council	““let’ snot make mistake of using ballot box to fashion bad medicine”; Want “real medicine for real medical problems”; Measure “ignores” science/research; “claims of benefits pale when compared to real data”	Cites research to tell story of many sources of valid treatments avail. and that research doesn’t support med mj and that this “attempts to replace sound and effective therapies with a mythological substitute”	Quotes from research on negatives of smoked mj: ACS, research articles, NIH
	10. Pat Harmon, OR Peace Officers Assn.	“reject mj as dangerous drug it is—uses same arguments as #8; “dangerous precedent, undermining FDA’s safe and effective guarantee system that Americans have relied upon for decades”; “don’t let the out of state pro legalization movement make its mark in OR”; “Poorly drafted measure”	Cites FDA as saying its dangerous, law enforcement and medical folks reject it, make it impossible to prosecute , increases youth access	
	11. 10. Lou Beres, Exec. Dir, Christian Coalition of Or	Measure: ill-conceived concept; don’t be fooled, is about legalizing dangerous drugs; Medicinal in quotes “we cannot afford to gable with	Will stop us from fighting crime Not a question of compassion—we care deeply; voters should not be responsible for deciding which drugs work; “supports..majority of \$ is from out	

		our children's future by making drugs more accessible"; "save our children, save our families, save our way of life"	of state drug legalization advocates (per C&E reports..they will be spending millions \$ and in the process destroying lives and families"	
11 WA 98	11wa98 med sup health/medical care	"matter of compassion" (repeated); Patients=criminals now; "pain and suffering" Mj=medicine, beneficial, Rebuttal: Drs and scientists agree—quotes NEJM	Story of sitting by bedsides and seeing suffering & research supporting it and need to protect patients and drs	Lists safeguards in legislation
	11wa98 med opp statement by stat rep & sen, police chief, pros atty, MDS	"safeguards" sound good but are dangerously inadequate Medically approved drugs already avail (note how worded); Legalizes an addictive drug; "patient" in quotes; Poorly drafted and has too many loopholes"	Promotes use of addictive drug; attacks vague language "some" patients "may" benefit; Not compassionate or humanitarian to promote use of addictive drug; Conflicts w/ professional scientific findings	60 day supply not defined—defect in drafting—"intentional or not creates a loophole so large that the likelihood for abuse is substantial"...not worth the risk
13A K00	13ak00med sup 1. Free Hemp in Alaska	mj prohibition: racism and politics not medical science; vast potential as industrial product; need to remove all obstacles fr whether mj beneficial; privacy rights important enormous economic opportunity for AK is no exaggeration	other countries and states have legalized industrial hemp and mj; why does this go further? bec no reason to punish responsible adults for using mj in the privacy of their own homes; opposition focuses on minor issues; mj won't increase illegal use among teens bec in Holland it did not;	claims: low potential for abuse ,not a gateway drug; specifics of leg: panel to explore restitution to those convicted of past mj offenses; hemp benefits for industry
13a k 00	opp 1. Lynda Adams, and Wevley William Shea	title: legalized hemp is legalized mj; purpose it to legalize mj; hemp definition includes mj; legalizes all aspects of mj cultivation and use including trafficking; "Ill-conceived and devastating" for AK	dangerous and misleading to make mj avail to 18 yr olds in high school w/out parent approval or knowledge AK will become drug haven of Am. misleading w/hemp garment industry send a message that our industries have no use for mj/drug users wrong message to young people	gives stats on what act will do: threaten public safety, amnesty for offenders, pay restitution to drug dealers, prohibit drug testing in workplace, cripple law enforcement, put state in opposition w/fed govt
26M	26mt04 med	patients suffering current face	cites polls and other studies and dif.	IOM report as evidence

T04	sup Committee	<p>finer and prison med mj=medical purposes protect patients from arrest/prison similar to laws of other states (restated sev times—patients living in fear and need to prevent it); rebuttal: “politicals made the decision to arrest and jail cancer, ms, and AIDS patients; should use init process to fix the politicians’ mistake”</p>	<p>public health/medical orgs statements supporting med mj under md’s supervision; other statewide laws work fed govt history of providing med mj cited—“fed govt shouldn’t be piling favorites---sends mj to part states should let our patients use med mj”</p>	<p>fed courts ruled against fed govt recently—can’t punish physicians who recommend and can’t arrest patients whose use is intrastate in nature</p>
	26 mt 05 med opp argument and rebuttal committee: Rep. Jim Schokley and Roger Curtiss	<p>mj=legally designated sched 1 drug=dangerous=high potential for abuse=no medical value=unsafe, ineffective drug -creative attempts by those who seek legalization to label use as “compassionate” in medical settings; rebuttal: not FDA approved; IOM report actually says there are better alts as little future in smoked mj as medicine; “Montana patients deserve the best medicine science can provide”</p>	<p>med mj init=undermines drug enforcement priorities and well- designed FDA system and rigorous process; be concerned about legalization advocates’ efforts to confuse public about dif betw mj and legal meds prescribed and monitored by drs; advocates’ assertions have led to drop in perception of harmfulness and increase in use; would still be illegal under fed law.</p>	<p>marinol avail negatives of smoked mj</p>
270 R04	1.James Klahr, Oregon Green Free	<p>mj=used for medicinal purposes is medicine and it works; allows use “legally and safely”; “reasonable”, law enforcement can focus on “more serious crimes” allows more “reasonable amt of mj to be grown”</p>	<p>OR green free a nonprofit org of OR medical mj program patients/caregivers testimonial of not encouraging illegal drug use but wanting “mj as alt med for relief of pain, suffering, and as a substitute for more damaging pharmaceuticals”</p>	
	2.John Sajo,	<p>creates dispensaries to act like</p>	<p>story of most patients to sick to grow it</p>	<p>says cj cost savings, will</p>

	Life with Dignity Com	pharmacies; mj=med qualified patients=get mj at “regulated dispensaries” regulated used repeatedly as are refs to state health dept and creation of a “system” “vote for compassion”	or they need it immediately; if it wasn’t med, wouldn’t have 1,413 drs qualifying their patients (in writing) says system will work for everyone	safe OR money bec won’t need intake of other drugs
	3. John Sajo, Life with dignity com	“compassionate law”; “less suffering for thousands of patients”; med mj from “regulated, licensed, inspected dispensaries”	will pay for itself; safe taxpayers \$-- claim of using savings to do research in OR to come up w/“healthier ways to administer ;mj so patients don’t have to smoke it”; regulates mj; illegal market will dry up	cites 88 voter statement fiscal impact statement savings and reality of surplus; will add to gen. fund
	4. Sajo	mj=medicine; safely , effectively delivered drs’ supervision; safe used repeatedly	lists facts of why should approve emotional appeal: “if you or a loved one needed this med, wouldn’t you want to be able to get it thru safe regulated system”	state of drs who have “supervised” med j use
	5. Richard Bayer MD (5 other docs)	“compassionate drs support measure”; “federal intransigence” that mj can’t be prescribed but morphine can; Not legalization-because health care provider must qualify the patient; dispensary=immediate access=pharmacy; mj=medicine	testimonial of drs know it helps; for centuries mj used as med, state law help over 10,000 patients and 1,400 drs participate; “dying and suffering patients afflicted w/conditions for which ‘responsible’ use of mj helps”	1999 IOM report, numerous reports and articles support med benefits
	6. Ken Brown,	adds “regulated dispensaries”= safe and reliable purchase of mj=improve access to medicine; mj=medicine patient-card holder for mj	spinal cord injury patient on deserving “reliable source of medicine” personal story of mj treating pain, uses mj in cookies baked by caregivers, would get a reliable supply under this act	

7. Richard Bayer, MD	“war on drugs” shouldn’t interfere w/med care moderate proposal improves original act it’s a “patients’ bill of rights”	has med benefits story of suffering that is alleviated; personal story of why because a dr; dispensaries so patients won’t have to wait	
8. Edward Glick	compassionate nurses support measure; provides “reasonable” mj limits; acknowledges respects anyone who suffers from disease; rt to safe use; mj=med that helps; suffering shouldn’t be victimized	testimonial guided by compassion intelligence acceptance, nurses across state recognize mj as med, allows NPs and naturopathic physicians to recommend mj	facts: bill creates dispensaries, increases plant & possession limits, requires dispensaries to pay fees
9. Jeanelle Bluhm	Patients support measure Not legalization bec must have debilitating condition, see dr, get card; compassionate people of OR (so should vote yes); need safe and reliable source of mj; regulated dispensary system=pharmacy	MS patient story who has access but worries of others who deal w/“scary black market”; most wait for months, gardens damaged by pests or burglarized, or may not reach maturity	
10. Nancy Crumpacker, MD	war on mj shouldn’t interfere w/choice in cancer care can be dif. between success and failure of med treatment. mj=med, relief, med. choice qualified patients dispensaries: regulated, self-funded, record keeping required	testimonial of cancer oncologist on effects of chemo, pain management, and research shows mj in combo w/other drugs works better, is another choice to manage pain, allows sick people access (I’ve seen it work)	
11. Chris Campbell, cancer survivor	patients deserve safe access to safe effective med; black market if can’t grow	cancer survivor if used mj needed less of other med, too sick and too poor to get mj, not an adequate amt avail. this will fix that	
12. Don DuPay, former Portland	law enforcement support: if you re loved one who were	less cost to OR, as mj less expensive than other meds; will req law	

	police detective	sick, you'd want reliable access; regulated system=helps criminal justice system; compassionate care and med are avail. in OR; not legalization in disguise must qualify	enforcement to see if people are registered; protect from discrimination or termination of employment for being registered; allows focus on real crimes	
	13. John Sajo, life with dignity com.	patients need enough med to relieve suffering; sets reasonable limits	current law too restrictive proposed law sets reasonable limits more reasonable; fed govt program allowed more mj than this does	
	14. Leland Burger	lawyers support keep issue of med mj in drs' office not the courtroom	simply further refines current law to protect "legitimate" patients oversight emphasized	
	15. John Sajo, chief petitioner, life with dignity	"time to stop arresting and prosecuting patients" legit patients being arrested state regulated; supply= increase patient access	story of patient who was wrongly charged w/felony for mj; would protect him and prevent taxpayer expenses of arresting and prosecuting patients	
	27 or 04 med sup 1. Shirley Morgan, OR Against Legalization of Marijuana	mj=cruel hoax; "crude mj"; "medicine" in quotes	list of why mj not safe and voters not convinced of medicinal values & quotes DuPont on political exploitation of public and compassion for suffering sick people; "legitimizing smoked mj as a medicine is a serious threat to health and safety of all Americans"; fed govt protects citizens from unsafe, FDA not approved	facts: drug use in OR is 5 th highest nationally; quotes DuPont: cynical fraud and cruel hoax; plant amount would be 1 1/2 joints every hr every day of yr; cites mj increase in states w/med mj laws
	2 John Moorhead, MD, pres. Or Med. Assn	"thinly disguised effort to legalize use of mj w/out any medically scientific justification" bad public health policy bad public policy because creates several new govt	OR med assn urges vote no gives reason why to vote no—scientific research; list of findings; safe alt already avail.; expands use of mj for unspecified purposes; legalization under medically unsubstantiated guide of medical need	

		bureaucracies		
	3Richard Burke, Exec Dir, Lib. party of OR	reluctantly urge no vote..good intentions but falls short of bringing true drug policy reform	violates patient privacy and personal choice—no place for govt to tread shouldn't have "special privileges for some" ; urges election of lib. candidates to enact drug laws that will protect society, reduce drug abuse, and protect individual rights provided in constitution	
	4 Stormy Ray, Chief Petitioner for Meas 67	no one has right to jeopardize our program—would destroy heart of OMMA; says it's a legalization bill and should have been stated that way so OR could vote	story of dishonest caregivers using patients mj—dishonest practices would get worse; personal agendas shouldn't be put ahead of patients	
18O R00	180400asset sup 1.Harry Detwiler, OPP	Crime used repeatedly as well as innocent until proven guilty	Personal story of losing life savings despite innocence ..too late to help me but not to late to help others	
	2.David Smigelski, OPP	"trust will come only when a system exists in which justice gets a fair hearing. That system doesn't exist now" "foundations of Am. jurisprudence turned upside down...burden of proof shifted from accuser to accused"	Quotes an editorial on "forfeit liberty" story of who sponsored the petition in 1.	
	3.Ray Heslep, OPP	"our constitution should say people are innocent until proven guilty"; "make sure no one loses property unless found guilty of crime"	story of lack of accountability for law enforcement—who gets the \$	Stats on # forfeitures a day and amounts and no one convicted
	4.State rep. Floyd Prozanski	"reestablished innocent until proven guilty"; "govt shouldn't get a dime, unless they can prove the crime"; Innocent until proven guilty used repeatedly	Testimonial of person who chaired OR asset forfeiture committee Protect innocent land owners and make govt accountable so they don't abuse	

	5. David Filandque, Exec Dir, John Hellen, ACLU and OR Gun Owners	“all of us support taking the profit out of crime” “all of us believe in the constitutional protection innocent until proven guilty”; “turns constitution on its head” “time to restore basic due process”	Story of over past decade the lack of accountability, \$ made by govt, too much power to “police govt bureaucrats”	Facts of millions seized, no reporting by govt
	6. Ellen Loew	Applies “judicial cornerstone of innocent until proven guilty to OR civil forfeiture law” “far too many have suffered tragic personal losses under this flawed and unjust law” Need to place burden of proof on govt”	Horror story of 85% of forfeiture cases no criminal charge or conviction; disadvantaged and minority pops will suffer the most under current system;	
	7. David Hunnicut, OPP	Protect innocent property owners; “in Am, innocent until proven guilty”; “it’s time to end the injustice”	Gives scenario of innocent losing and no way to get property back	
	8. David Smigelski, OPP	reporting is a “secret affair for govt agencies”; imagery of “aggressive”, “overzealous use of civil forfeiture”; “millions seized from innocent property owners” ; “\$ used for high powered military weaponry” title: “myth of financial disclosure under current law” need to “put teeth” in reporting requirements; “shine the light of oversight”; “remind govt that law applies to them too”	narrative of how for 11 yrs no annual reporting of civil asset forfeiture cases...and need to “put teeth” back into reporting requirements to keep “keen eye” on govt; current reporting incomplete—reporting requirements never met	
	9. Amy Klare, OPP		story by list of facts on forfeiture; e.g., 3 yrs required to report , # yrs have, money taken via forfeiture, \$ govt	

			lawyers make (implicit is that govt taken in lot of \$, makes lot of \$ and doesn't report on it, and # people not convicted or arrested)	
	10.Eric Winters, Libertarian Party OR	"inherent conflict of interest.. "we fear this sort of treatment" in totalitarian countries, but we face it here in OR" innocent until proven guilty "one of most cherished doctrines in Am." "loophole"=asset forfeiture=arbitrary practice	narrative of innocence until proven guilty, police seizures based on accusations only, raises q of "who profits fr asset forfeiture?"; talks of horror stories of innocent losing life savings while police and govt lawyers profit; compares police to IRS auditors getting commission for deductions they throw out	70% of people in OR who get property forfeited are never convicted of a crime lg scale abuses across the country
	11.Sandra Adamson, Chief Petitioner, OPP	current system "corrupts system of law" "bankrupts our trust in due process..foundation of our legal system" must return to "basic Am. values upon which country founded"...put system on course "upon which country founded"	story of how current law takes from innocent and new law "will protect innocent prop. owners, protect our constitutional values, and restore our trust in the legal process" "police can show up at your door, search your house for illegal substances, find none, but seizure your cash and valuables"	
	12. Stephanie Van Zuiden, OPP		gives true-false quiz on asset forfeiture refers to police repeatedly and what they can do..gives "grandmother can lose her house if her grandson is arrested for selling mj"	
	180r00 asset opp 1.Former Gov, Neil Goldschmidt	"safeguards" ; task forces would lose \$: "effect will be disastrous"; "critical" to pursuing biggest drug dealers..trafficking in the state" "does not belong in constitution.. should be debated in legislature"	testimonial/story former governor and why worked to have legis passed and how it has nec safeguards; leg. has added innocent persons get atty fees pd criticizes those being init as "wanting to abolish forfeiture" and how if make forfeiture criminal in nature will have to pick between criminal prosecution in	

			forfeiture and “give \$ back to criminal”	
	2.Stephan Otto, Animal Legal Defense Fund	title: “would harm OR animals” “for the sake of OR’s animals, please vote no”; abuse and rescue used a lot	story of animals as property and new law stopping them fr “finding perm., new, loving homes for abused animals. would bankrupt humane societies & shelters; keep abused animals in hands of abusers; limit costs of care recovery for rescued animals	
	3.Susan Mentley, Operations Director, Oregon Humane	title: “bad for pets”; uses cruel, cruelty, neglect repeatedly image of “animals shouldn’t spend months or yrs behind bars for crime didn’t commit” don’t “cripple shelters”	legit actor testimonial (largest oldest animal advocacy org) of need to help animals & how law has helped	fact: cruelty cases happen gives costs of cruelty cases to organization and need for financial compensation that current law has
	4.Animal Proectin Institute, in Defense of Animals	title: “will forfeit the well-being of animals”; “owner” in quotes “loving homes”; “starving abused and neglected animals”; “companion animals more like our children”; “guardians”; “dire consequences” for animals	story of how most don’t think of animals as property but as companions not car—compares to other property under the law and how authors didn’t think of animals..gives recent abuse case where dozens of animals found dead & how homes found for them but under new law animals wouldn’t be adoptable until conviction being too costly	
	5. Sheriffs of Oregon Committee, OR Police Chiefs Communities	its a “wish list for criminals” current safeguards sufficient ensure law enforcement can protect you; “law abiding citizens” vs. “criminals”	lists crimes for which forfeiture allowed; new law will increase rts of criminals who obtain property illegally	most of \$ for the measure came from outside OR—as OR police we are your neighbors, play w/your kids live in community (implies we know better)
	6.3 neighbors	forfeiture used to protect property owners like us reduces enforcement against high-level drug dealers	story of drug dealer who lived in their neighborhood, how the owners picked neighborhood and if not for forfeiture drug dealer would have returned if house hadn’t been taken	drug houses affect livability, devalue property, unknowns in neighborhoods
	7.Sandra Nelson, chair,	title: “MADD urges you to vote no”; vehicle forfeiture=proven	story of MADD’s members mission to make streets safer and how DUI’s can	facts on # killed, injured by impaired drivers

	MADDs	tool, communicates drunk driving bad=reduces injuries, fatalities; “valuable tool” used repeatedly; forfeiture: “fair” “effective”	kill and if standards change will won’t be able to take “weapons from the hand of repeat DUI offenders”	
	8. Earl Blumenauer, Congress	vehicle forfeiture: simple common sense tool, effective, reduces accidents “take away cars of repeat DUIs and keep forfeiture laws in place”	testimonial from former city commissioner who introduced 1st vehicle forfeiture that reduced drunk driving; people are frustrated if DUI’s continue—cars are weapons in their hands—need to consider feelings of those whose lives are snuffed out and drunks destroying families because car not taken away	
	9.state AG plus 11 county district attorneys	puts profit back in crime “will cripple drug fighting task forces that affect livability of your community”; blunt tool of stopping DUIs; invalidate OR’s current animal friendly law lock OR law into a poorly conceived Constitutional Amendment	story of organized crime in it for \$ and this will give those that sell drugs or exploit prostitutes profit; law led to dui declines, animal shelter can “rescue” animals	facts: DUI stats over time to show impact of current law; property facilitates crime; currently 38 pages of safeguards
19U T00	19ut00 asset sup Argument for: 1.Utahns for Property Protection	• innocent property owner; protect/protection; ensures integrity; makes govt accountable; defines innocent: parents whose kids use cars, homeowners who rent homes, hunters who loan trucks and guns to friends, and bus. owners whose employees run afoul of law	• story: of circumstances you’d be protected under; story of audit that found problems with oversight	• facts: audit found problems; 98 and 99, forfeitures increased 700%
19ut 00	asset opp Representative Gary Cox	“don’t handcuff our police”; “backdoor attempt to legalize”; “innocent property	story of how would help 2 groups: drug dealers and defense lawyers; refutes myths: sponsors “sued press to spread	• list of “facts”: auditor office found no “horror stories”; law enforcement

	(rebuttal)	owners” in quotes; “out-of-state drug legalization groups”	fabricated stories” of property loss; would negatively impact law enforcement	orgs “unanimously “oppose; innocent prop. owners already protected
25A K04	25ak04 decrim 1. Alaskans for Rts. and Revenues; 2 former Alaska state legislators	• current creates black market for profits; sends strong message to leg to reform mj laws; “prohibition” used repeatedly; “doesn’t wk”	save \$ because not arresting “peaceful, otherwise law-abiding citizens who exercise const. protected right to use mj”; current black market dangerous for kids; new way reduces kid access; Story: current way doesn’t wk; expensive, hurts people	• Costs: \$16 mil. annually for mj criminal justice costs; social costs: \$8 mil.; facts: ct of appeals found violates privacy right of AK const.; experts conclude mj causes few problems; facts: hemp can be economic boon, natural
25a k04	decrim 1. Charles Herndon, INernal medicine	“medical” in quotes; no mj “quality control” in quotes; its an illicit drug; not a benign drug	mj is most widely used drug this will make it more so; story: mj was allowed by voters in 98 for med use but this wasn’t enough—this would return to what was rejected previously; safe alt already avail.—no good pharmaceutical reason for decrim.; remains illegal at fed level and should stay that way	facts: AK survey show teens used more when mj was legal mj addictive; medical facts re. mj (more potent, not benign)
24S D02	24sd02 other sup 1. Bob Newland, freelance writer who authored init.	current law doesn’t promote harmony in society; unjust punishment; reinforces right as Americans to fair trial; if ever accused of breaking a law we feel is flawed, or carries too harsh a punishment should be able to say so in court...just makes common sense; people are wrongly prosecuted	stories of legislator’s bad laws such as parent convicted of child porn taking photos of kid in tub, etc. to demonstrate these verdicts create hardship, discord, and cynicism, not harmony not justice; contrary to critics jurors and judges are bright enough to tell a good explanation from a bad one; asking the legislature to change law is an option “but only for those w’ time and money to burn”	
24s d02	other opp1. Robert Frieberg, attorney, past pres. SD state bar, State bd of	fundamental principle of am justice is that our nation is governed by rule of law not desires of one or a few; for over 200 yrs, our justice system has succeeded by	refutes stories with stories: would “allow juries to be arbitrary, vindictive, unreasonable, ignorant, and unpatriotic ...can ignore treason, murder, and when to excuse someone from selling a child alcohol or drugs”	• fact refuting: supporter fails to provide support for those convicted of victimless crimes but fail to give ex.; imply no one can argue about law once

	ed	depending on checks and balances that ultimately respect the rule of law; voters, their elected officials and an independent judiciary assure us of fairness; shouldn't "dismantle a system honored for centuries"		found guilty—not true
28S D02	Webers, lifelong farmers in Clear Lake, SD	"absurd to deny SD's a shot at the market"; hemp=value-added industry	story of "legal Canadian hemp being trucked past barely surviving SD farms to supply US industrial hemp market"; story of earning potential	hemp versatile crop, used for lots of stuff, versatile; huge profit worldwide; gives stats on profits in market
28s d02 decr im opp	Major Dan Hostetler, South Dakota Highway Patrol, Pierre, SD	makes no sense for farmers or war on drugs; group is intermingling hemp advocacy w/promoting mj; "stalking horse for legalization of mj"; hemp=mj=THC; not a boon to farmers; would require vast new govt bureaucracy for enforcement and surveillance	story of hemp test plots in HI under strict DEA guidelines had to have 12ft fence w/infrared surveillance: not cost effective option for farmers; won't necessarily guarantee farmers can produce hemp because federal govt prohibits unlicensed production of both hemp and mj	<ul style="list-style-type: none"> • USDA hemp report states not big profit as uncertainty in long-run • 97 Dutch study found only chemical analysis can distinguish mj from hemp
5AZ 98	counter meas 5az98 1. John Norton; Marvin Cohen	voters have opportunities to teach legislature to respect will of people; send message legislature is servant of public not the master..public has final word in setting public policy; assure legislature does not further thwart will of people	current tactics against drugs not working; drug abuse more a medical than criminal problem; drs should be able to prescribe mj for suffering—this supports the measure passed 2 to 1 previously	
	2. 32 physicians pd for by people have spoken Chair: People have spoken	substance abuse=medical problem, not just a criminal problem; reasoned compassionate new approach to failed drug policy; status quo=welfare program for	"tell politicians democracy and will of people still more important than the so-called 'wisdom' of the political class"; "double talk by legislators an art form; w/compassion and common sense, AZ said severely or terminally ill patients	

		political pass “allow will of people stand”	should be able to get relief from misery w/out fear of being arrested	
	3. Grant Woods, AZ Atty Gen; pd for by people have spoken	ultimate test of democracy is whether vote counts; disturbing trend for legislature to gut what voters passed	legislature has no right to thwart mandate of voters; must honor will of people will of people must be respected	gives vote on init.
	4. John Jack La Sota, Former Atty Gen; pd for by people have spoken	init and ref process=vital pt of treasured heritage of grassroots democracy preserve will of people demonstrate people are sovereign; “law must not be ripped apart and discarded before ink dry”	legislature “gutted” 1996 act; “arrogant act by legislature”; as former AG and gov chief of staff, “rhetoric and scare tactics used to justify legislative arrogance are groundless and wrong”	
	5. 20+ pastors	will of people must be honored; must be respected if we are to restore integrity to our democracy; let will of people stand	96 act was new approach to drug control, focusing on reducing drug use demand thru expanded treatment and prevention; “breaking cycle of crime in our neighborhoods”	
	6. Judge Gerber	prop 200 resulted in “progressive programs” 96 act “stripped of” provisions “inaugurate more effective appr to drug menace than simply recycling drug users in and out of court”	legis. repealed much of init after passage; history of efforts to stop the repeal and get issue back on ballot	
	7. John Sperling, Apollo Group, pd for by people have spoken	excuse” by politicians; arrogance of pols. (mentioned sev. times); let will of people stand	cites 96 vote; legis dismantling, “legislative attacks on voter approved init; rebut politicians’ mischaracterization of AZ voters by voting no on Prop. 300 and 301.	
	8.16 people incl. Alfredo	politicians “careless disregard”; as if “our vote	cites 96 vote and legis. actions; uses “we” believe jail “best reserved” for	

	Guterrez, people who have spoken	didn't really count"; threw away our votes at ballot box; prevent "thwart will of people"; let will of people stand	violent offenders, not terminally ill patients who use med mj	
5az 98	countermeas -- 5az98 1.Arizona Pharmacy Assn.	vote yes: broadly legalizing mj not in best interest of patients and society; bad health care policy; sched 1 drugs: high potential for abuse, no accepted med use; init "not about denying access to alleviate pain and suffering of "seriously ill" or dying patients..opponents want illicit drug legalization for everyone..protect yourself, family and community	fed law prohibits a distribution system encouraging illicit drug use providing legal defense for possession not valid reason to repeal house bill (req mj to be FDA approved) urges fed res on medicinal value— science should direct our actions	
5az 98	2 Richard Romley, Maricopa County Atty	just say no; would-be legalizers in AZ under banner of people have spoken..in fact people have not spoken: speak now-speak loud and clear: say no to legalization of drugs	ask why anyone would object to normal scientific testing to determine safe drug and why make meth, heroin, PCP, and LSD and more than 100 dif current drugs avail?; since passage of prop 200, more evidence that "med mj" theme is a Trojan horse for legalization vocal advocate on legalization quotes as key is medical access..then we'll get full legalization; as drug movement moves through dif states, we see step-wise escalation of strategies aimed at full legalization: WA, OR, FL	
5az 98	3 Calvin Hensley, SOS, Save our Society from Drugs, St. Petersburg, FL	sched 1 drugs: not safe, not effective=highly addictive, dangerous crude street drugs w/no medicinal value "medicine" in quotes; refers to opposition as legalization uses	devious objective of wealthy individuals and special interest drug legalization groups spent millions to influence ballot props that take a maj step toward legalization...if for medical use why bypass FDA?; send message drugs are	

		term repeatedly; protect health and safety	destructive	
c 5az 98	4 David Iwanski, Exec Vice President, Agri-Business Council of AZ	make a statement on drugs 100 dif drugs=sched 1=dangerous=acc to fed govt	drugs are a concern for state for employers and employees safety problem—harms fellow employees concern for state and nation; users prone to neglect themselves, responsibilities, families, friends, jobs	
5az 98	5 Alex Romero, Phoenix	“junk” science to support claims; red herring; “medical” crude mj and all sched 1; rush to medicalize crude mj is “unproved medicine” in court of public opinion and anecdotal evidence.. “see through smokescreen used by pro-legalization advocates”	personal story of anti-drug activist recognizing this is “pro-drug legalization lobby agenda” influencing those who wish to “medicalize”; horror story of testing of laetril at the time of the furor “we have assumed proportions that no other quack medicine has assumed before”	
5az 98	6. Nathan Sproul, Exec Dir, AZ Christian Coalition	“battle against drugs is battle for our children”; ...”free from drugs that cripple our minds and destroy our souls” “send a message these are destructive drugs and should not be used”; “say no to legalization”; individual addicted=suffer and can’t fulfill responsibilities and duties; sched 1=100 drugs	story of maj. drug crisis in country getting worse; send strong message on drugs; oppose legalization and medicalization of so-called sched 1 drugs—there are over 100 of them	
5az 98	7. AZ Assn. Chiefs of Police AZ Assn. Chiefs of Police	sched 1 drugs: part. lethal; addicted=suffer psychological and physical harm; vote yes: nec for health and safety; sched 1=100 drugs	escalating drug problem-scourge in our state; dangerous drug use wreaks havoc; assoc with increased crimes incl homicides; oppose legalization bec need medical and scientific testing we now have	FDA assess safety DEA schedules
5az	8. 2 women: VP	“medicine” in quotes	“battle for sev years over legalization of	studies of impact in

98	and COO Dir, Drugs Don't Work in AZ: EAP	100 illicit drugs of abuse	over 100 drugs"; FDA provides "scientific testing and procedural safeguards"; cooked in our own neighborhoods causing problems	workplace; gallup survey of neg impact; voters in recent poll said should have to be rigorously tested
5az 98	9. U.S. Congress members	at stake: very fabric of our state and country commitment and what we are going to become and message send to kids and grandkids yes lets people decide and say no to dangerous drugs 100 sched 1 drugs	drug crisis worsening drug problem solutions shouldn't be confined to fed govt, state leg, special int. groups, or wealthy who can spend millions on init: encourage people to speak out; send a message of where we stand no to legalization	AZ health data on increased deaths by drugs
5az 98	10. Michael Minnaugh; John Petterson; President and CEO, Peak Insurance Group	gives examples of sched 1 drugs repeatedly (no mention of mj) we must unite	as business leaders , impact on neighborhoods, families, financial impact tax burden; Prevent heroin, meth, lsd, and pcp from "circulating freely and eventually becoming as easily accessible as alcohol"; "neighborhoods deteriorate"	
5az 98	11. John Kaites, Senator	lists sched 1 drugs not mj repeatedly; this is "2-prong effort to send message to illegal drug dealers and millionaire dope pushers that citizens of AZ won't tolerate their attempts to turn state into playground for their ill-gotten gains by letting criminal drug addicts off the hook"	works to "attack system of drug addiction by getting addicts proper treatment and making them sober again"; establishes drug courts "breaks cycle of drug abuse and corresponding crim. behavior"; ensure violent addicts not eligible for automatic probation and treatment' "the need to lock them up and protect the public is clear"	
5az 98	12. Jane Dee Hull, Gov, Phoenix	"protects" AZ fr legalization of drugs like heroin (lists sev but not mj repeatedly); "for our future's sake, vote yes"	costs to society to illustrate crisis; sends message to all citizens part. kids "stand strong against drugs"	states on costs and deaths; stats on factor in child abuse cases, spousal murders, ED incidents
5az	13. Phoenix	"lethal" potential of these drugs	serious natl drug problem sports	fed govt has them on a list;

98	Suns, AZ Cardinals, AZ Diamondback, Phoenix Coyotes		community affected: prevents athletes fr full potential, premature death, ended or shortened promising careers; must be scientifically tested first; send message to kids	FDA does testing
5az 98	14. Senator Soloman, state senator pd for by AZ Against Heroin; Stan Barnes Jr. Chairman	sched 1 drugs-examples not mj' "so-called medicalization of sched 1 drugs" ; present system nec for health and safety	drug problem serious—as an educator, part. concerned about youth.; drug use harms families, schools, communities, users. complex and requires continual efforts—no one solution; idea of drug-free society contradictory for kids who can get drugs at school	CASA stats on youth and drug use as threat
5az 98	15. Stan Barnes, Chair, AZ Against Heroin	dangerous drugs like heroin, etc (no mention mj) it's a question of hope	placed on ballot by those seeking to legalize; deceptive; not about compassion; its' about legalizing dangerous st drugs; keep drugs off sts and schools; support current system	
5az 98	16. Richard Horne, MD, PHD, pd for by AZ against heroin	lists dangerous drugs like heroin no mention of mj in list we have "historically effective safeguards"	vote yes for continued safety and health; smoked mj "scientifically unsubstantiated"; out-of-state promoters try to advance pro-legalization stance; should not tolerate this	
5az 98	17. CE Edwards, AZ for a Drug-Free Workplace	sched 1 examples (mj not listed); dangerous, highly addictive ; don't let out of state promoters continue to use AZ to advance a pro-legalization agenda; impacts all	legislature repealed provision that would have legalized sched 1 drugs for "continued safety and health of AZ citizens";	
cou 5az 98	18. Barbara Zugor, Phoenix	need to "maintain integrity of this process"	fr public health perspective, drugs must go through FDA approval; and need to maintain that bec they seek to "improve public health and quality of live by approving drugs that have medicinal	

			value”	
5az 98	19. Len Munsil, Pres. Bd of Dir, Center for Arizona Policy	“kick drug pushers out of az for good” if legalized, AZ to be magnet for every pothead, crack user, and heroin addict in AZ. our sts will be warzones and drug crazed nuts will place all our lives at risk”	from just say no, being asked to just say yes to st drugs and devastating consequences; “cut through rhetorical nonsense and vote yes”;	
6AZ 98	counter 6az98 1. John Norton, Marvin Cohen, People Have Spoken	Against prop] teach leg. to respect will of people assure leg. doesn’t thwart the public will “imprisoning drug users has filled our jails and prisons at great public expense and has done nothing to solve state’s drug problems”	polling and workshops by proponents show people don’t believe current tactics working; send message leg is servant of people	
6AZ 98	2. 11 physicians, people have spoken	will of people must stand “politicians placed higher value on maintaining a rigid, outdated govt policy than on easing human suffering” help break cycle of drug abuse and addiction that is ravaging AZ’s youth	tell politicians...democracy and will of people are still more important than the so-called wisdom of the political class; w/common sense and compassion, citizens said severely or terminally ill patients should be able to get relief fr misery w/out fear of being arrested;	
6AZ 98	3. Grant woods, people have spoken	ultimate test of democracy is whether vote counts; disturbing trend for legis to gut what voters passed	legisl has no rt to thwart mandate of voters; must honor will of people will of people must be respected	.
6AZ 98	4. John Jack La Sota, Former Atty Gen, people have spoken	init and ref process=vital pt of treasured heritage of grassroots democracy preserve will of people demonstrate people are	legis. “gutted” 1996 act ; “arrogant act by legislature”; as former AG and gov chief of staff, “rhetoric and scree tactics used to justify legislative arrogance are groundless and wrong”	

		sovereign; "law must not be ripped apart and discarded before ink dry"		
6AZ 98	5. Rudolph Gerber, Judge, AZ court of appeals, people have spoken	prop 200 resulted in "progressive programs" 96 act "stripped of" provisions "inaugurate a more effective approach to drug menace than simply recycling drug users in and out of court"	legis. repealed much of init after passage; history of efforts to stop the repeal and get issue back on ballot	
6AZ 98	6. Pastors, people have spoken	will of people must be honored; must be respected if we are to restore integrity to our democracy; let will of people stand	96 act was new approach to drug control, focusing on reducing drug use demand through expanded treatment and prevention; "breaking cycle of crime in our neighborhoods"	
6AZ 98	7. Dr. John Sperling, chairman, Apollo Group	excuse" by politicians; arrogance of pols. (mentioned sev. times); let will of people stand	cites 96 vote; legis dismantling, "legislative attacks on voter approved init; rebut politicians' mischaracterization of AZ voters by voting no on Prop. 300 and 301.	
6AZ 98	8. 16 people incl Alfredo Guterrez, people have spoken	politicians "careless disregard"; as if "our vote didn't really count"; threw away our votes at ballot box; prevent "thwart will of people"; let will of people stand	cites 96 vote and legis. actions; uses "we" believe jail "best reserved" for violent offenders, not terminally ill patients who use med mj	
6 az9 8	counter 6 az98 1. Remain illegal John Kaites, Senator	lists sched 1 drugs (not mj) sev times; street drugs, hard core	FDA only way for approval don't allow illegal drug dealers and millionaire dope pushers to turn AZ into playground for ill-gotten gains by allowing quack drs to prescribe	
6 az9 8	2. Libertarian candidates	vote on all 4 to send message: "you may not have, or diminish, the legislative powers we reserve to	govt must adhere scrupulously to rule of law-principle grievously violated by arrogant house; tell legislature not allowed to usurp constitutional rights of AZ;	

		ourselves”; “voice your determination to defend our constitutional rt to init. and ref”	message, to be consistent and complete requires passage of rt vote on 4 propositions	
9O R98	9or98 countsup 1. John English	[yes vote makes possession misdemeanor] 3 dif people quoted: treatment, MD, professor	story of when mj decriminalized in 1977, attracted criminals to state; decrim sent mixed message to kids	gives stats on mj potency, mj as gateway drug, mj addictive, health consequences of mj
9or 98	2. Rober Burt, MS, \$300	permissive drug laws encourage more drug use and create more drug problems for Oregonians; would create fair and helpful consequences for OR teens	info on youth using mj more likely to do risky behavior; mj addictive; measure would allow professional evaluations of drug problems and complete drug ed and treatment	stats on mj increase among youth
9or 98	3. Mike Cahill, Oregon Police Chiefs for Safer Communities	“send a clear message to OR children”;	don’t want to send conflicting messages to children; “we can’t stand by and watch this happen, OR have a responsibility to protect our children; send clear message to youth mj is not acceptable	OR student survey data; PATS data on mj use increases; academic perf. related to willingness to remain in school
9or 98	9or98 counter opp 1. Toby Grant, landlord, republican	title: “no privacy, no home” protect 4 th amendment fr dilution and predatory interests; cherish privacy rts; real basis upon which all of our other freedoms rest. keep everyone’s home a legal castle	bill erodes privacy; punishments for small amts mj is extreme; expensive assault on all privacy issues and one’s home	stats on amount of money seized
9or 98	2. David Smigleski, individual	shouldn’t send people who use sm amts of mj to jail	5 good reasons to vote no: too costly, wrong message to kids, increase release of criminals fr jails, won’t reduce drug use, should worry about violent criminals not people who use mj; keep law enforcement working where they belong	gives costs
9or 98	3. State re. Floyd Prozanski		quotes fr former gov who signed decrim leg: can’t simply lock them up; better ways to spend tax dollars; same is true	

			today	
9or 98	4. Georff Superman, NO on 57 Committee		index of facts with sources listed on #'s of prisoners, costs, lack of money for education/youth to demonstrate cost savings of decrim	
9or 98	5. Jann Carson, ACLU of Oregon	keep our priorities straight	vote no bec police have more imp things to do; goes too far: 1 oz possession would end up in jail; law enforcement should be focusing on murderers, rapists, sex offenders, and dangerous drug dealers; gives too much power to police	
9or 98	6. Lland Berger, No on 57 committee	“like pouring gas on out-of control fire”; legislature creates more laws than can deal w so we have prisoners being released due to overcrowding “revolving door will soon spin like a top”	judge’s quotes fr editorial on costs of law enforcement	
9or 98	7. Amy Klare, No on 57 Comm	let’s not waste tax dollars	treatment better than jail; quotes police chief: not going to arrest way out of drug problem; drug czar: we don’t have resource to combat maj. crime; tough mj penalties won’t curb drug use	
9or 98	8. Charles GrossmanMD	there are better ways to spend our tax dollars meas: political tool that will cost taxpayers millions; cause more prisoners to be released early; do nothing to prevent or treat casual drug use	politicians want to spend millions to send a political message; requires us to release more prisoners fr over-crowded jails; bad law that will cost millions and make streets less safe	
9or 98	9, George Eigmey, State Rep. no on 57 comm.	better ways to spend \$ casual users; wrong to spend millions to send political message	for 25 yrs, used treatment and prev programs to treat casual mj use; rate is sim. to other states imposing more costly incarceration penalties; waste of	

			money to go after a few casual users; releases criminals	
9or 98	10. Sandee burbank	sends wrong misguided message to kids; "think smart for our kids"	we need inclusive appr to current drug policies;	
9or 98	11. Barry Smith	mj=not a maj public health or safety issue "no more addictive no more habit forming than coffee" should regulate like t and alcohol prohibition loses control	mj and reason: senseless to throw someone in jail for drinking a beer or lighting up a cig; mj not dangerous compared to tobacco and alcohol; alcohol and tobacco more dangerous; regulation of mj is only way to get rid of black market profits that are real cause of crime	
9or 98	12. Bill Conde	will increase govt intrusion and loss of privacy; give police legal power to invade our homes at will; at odds w/4 th amendment; "we'll have quarter mil new 'criminal' in state" if act passes; what will we do w/them	not about possession but increasing police search and seizure war on drugs (really a war on our personal freedoms) unmitigated disaster	states on \$ spent on drug war and # of users; increases in prison pop over past 20 yrs
21A Z02	ANTI 1. Romley, Maricopa County Atty. Phoenix	will allow judge to impose short jail term to get people into treatment; "all of us know of someone, or have had a loved one, involved in drugs"; "all of us have seen drugs tear apart families and fragment communities"; "drugs destroy dreams"	facts on drug courts as pt of natl. effort to help people in cj get treatment; positive results; AZ's not as effective bec. judges can't force users to confront drug problem; need incentives for treatment; frustrating for all who see devastation of drugs;	gives stats on 30% go through drug court refuse treatment judge cant do anything until 3 rd violation
21a z02	2Tom Ambroe, VP Phoenix Suns	vote yes for stricter drug abuse penalties; "to combat drug abuse effectively and vociferously, must provide courts w/recourse for dealing w/abusers"; join me in fighting	gives opp to empower courts to take tougher stand on persons who are convicted of possession of illegal dugs or drug paraphernalia"; lists what can happen to dif offenders.	

		drug abuse		
21a zo2	3. Mayor Skip Rimsza	“protect our children”; <u>drug abuse</u> and <u>drug abusers</u> are threat to our children and community	provides court w/more choices; allows to deal w/those who fail or refuse participation; we should give judges more resource; will strengthen our efforts in fighting drug abuse	
21a zo2	4. William Ridenour	“empower our courts”; ‘let’s do the rt thing..the fair thing”; ea of us has obligation and responsibility to protect citizens of state fr harm	provides mechanism to protect citizens of state from harm	known fact criminals faced w/jail time will think 2x about committing a violation against society;
21 azo 2	21azo2 anti opp 1. John Norton,	don’t let politicians erase vote; drug abuse=disease like cancer; drug war=failure war on drugs; politicians repealing will of voters	don’t let pols. erase your vote; voters were clear in 96 and 98; prop. 302 guts 96 law; drug treatment is success and is saving lives and money	vote of 96 init
21 azo 2	2. Judge Gerber,	uphold vote of az voters fr 96 and 98	only crime was addiction; like w/alcohol may need more than one chance to break habit; existing law allows sanctions; prop. is unnec.	
21 azo 2	3.7 physicians pd by Jeffrey Singer	another attempt by pols. and bureaucrats to repeal drug treatment provisions and thwart will of people” we can no more use jails to cure the disease of drug abuse than we can use them to cure cancer; save prisons for violent offenders	existing law adequate; treatment outcomes better than incarceration; would repeal treatment provisions of 96 that were reaffirmed in 98; evidence is in: treatment works;	cost savings of treatment and success fr Az supreme ct report
21a zo2	4. Josh burner, cancer patient	med mj; politicians	cancer survivor story of med mj saving him and need to honor voters who knew what they were doing when voted	gives vote
21 azo 2	5. Richard Mahoney	medical mj; politicians	ran elections of 96 and 98 and politicians not allowing program to happen; show politicians you know what you are voting for; vote no	

21 azo 2	6.John Sperling	same leaders want us to dupes when we voted for treatment over prison; would have easy access to drugs in prison; legislators would return us to stupid and ineffective “do drugs, do time”	public health strat. to replace war on drugs; medical treatment rather than prison for non-violent offenders	stats on treatment completion and cost comparison fr AZ supreme ct report
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