Transitioning to Legalization of Cannabis in Washington State: Regulations’ Impacts on Commodification, Metabolism, & Labor Practices

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TRANSITIONING TO LEGALIZATION OF CANNABIS IN WASHINGTON STATE:
REGULATIONS’ IMPACTS ON COMMODIFICATION, METABOLISM, & LABOR PRACTICES

A Thesis
Presented to
The Graduate Faculty
Central Washington University

In Partial Fulfillment
of the Requirements for the Degree
Master of Science
Cultural and Environmental Resource Management

by
Rob Loewen
July 2021
CENTRAL WASHINGTON UNIVERSITY

Graduate Studies

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Dean of Graduate Studies
ABSTRACT

TRANSITIONING TO LEGALIZATION OF CANNABIS IN WASHINGTON STATE:
REGULATIONS’ IMPACTS ON COMMODIFICATION, METABOLISM, & LABOR PRACTICES

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This thesis provides an ethnographically grounded analysis of how existing regulations shape the legal recreational cannabis industry in Washington State. I examine the processes involved from seed to sale, including cultivation, processing, quality-control testing, and distribution of recreational cannabis. The goal of this research is to provide a greater understanding of how existing regulations were formed and how they shape social relations within the industry. This study seeks to answer the question: “How are the processes of production within the recreational cannabis industry, along with its labor force and its consumers, impacted by societal perceptions about cannabis, encapsulated within state regulations?”
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>The Problem</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>The Purpose</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Literature Review</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Methods</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Chapter overview</td>
<td>15</td>
</tr>
<tr>
<td>II</td>
<td>PRE-PROHIBITION PERCEPTION OF POT</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>What Is Cannabis?</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>When, Where, and Why Cannabis?</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>The Cradle of Cannabis</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Toddler Cannabis Learns to Walk</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>Adolescent Cannabis Learns to Swim</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>The Temporary Immobilization of a Global Traveler</td>
<td>33</td>
</tr>
<tr>
<td>III</td>
<td>WHEN TRUTHINESS TRUMPS SCIENCE BAD POLICIES ARE BORN</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>Colonial Cannabis</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>Early 20th Century U.S. Cannabis Policies</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td>Canceling Cannabis</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>The Anslinger Era</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td>Nixon, Carter, and Reagan</td>
<td>49</td>
</tr>
<tr>
<td></td>
<td>Cannabis in the U.S., 1988 – 2012</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td>The End Is Here</td>
<td>60</td>
</tr>
<tr>
<td>IV</td>
<td>MORAL CRUX</td>
<td>62</td>
</tr>
<tr>
<td></td>
<td>What is a Regulation?</td>
<td>63</td>
</tr>
<tr>
<td></td>
<td>Regulation and the Morality of Cannabis</td>
<td>66</td>
</tr>
<tr>
<td></td>
<td>Moral Regulations and Moral Panic</td>
<td>73</td>
</tr>
<tr>
<td></td>
<td>Visibility and Invisibility in I-502</td>
<td>79</td>
</tr>
<tr>
<td>V</td>
<td>THE JOINT JOURNALS</td>
<td>85</td>
</tr>
<tr>
<td>Chapter</td>
<td>Page</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>VI</td>
<td>COOL AND UNUSUAL PUNISHMENT</td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>Who Are Cannabis Workers?</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td>Why Work in Cannabis?</td>
<td>107</td>
</tr>
<tr>
<td></td>
<td>Where Did the Workers Come From?</td>
<td>110</td>
</tr>
<tr>
<td></td>
<td>Where Do the Workers Believe They Are Headed?</td>
<td>113</td>
</tr>
<tr>
<td>VII</td>
<td>CONCLUSION</td>
<td>115</td>
</tr>
<tr>
<td></td>
<td>REFERENCES</td>
<td>119</td>
</tr>
</tbody>
</table>
CHAPTER I

INTRODUCTION

This thesis provides an ethnographically grounded analysis of how existing regulations impact the legal recreational cannabis industry in Washington State. This study examines the processes involved from seed to sale including an analysis of cultivation, processing, quality-control testing, distribution, and consumption of cannabis. This was achieved by participant observation and includes semi-structured and open-ended interviews. The goal of this research is to provide a greater understanding of how existing regulations impact social relations within the industry, the extraction of exchange value and its impact upon the biophysical properties of cannabis, and the expansion of commoditization as cannabis is transformed into new products. This study seeks to answer the question: “How are the processes of production within the cannabis industry, along with its labor force and its consumers, impacted by societal perceptions about cannabis, encapsulated within state regulations?”

The Problem

nonmedical use.” Furthermore, “As of May 18, 2021, thirty-six states and four territories allow for the medical use of cannabis products.” NCSL also states that, “Twenty-seven states and the District of Columbia have decriminalized small amounts of marijuana.” (National Conference of State Legislatures 2021) At least seven more states will have initiatives on the ballots for the 2022 election involving one or more of these three levels of legality.

With legalization, the number of cannabis producers and consumers has expanded. As of 2020, Washington’s cannabis industry supports nearly 18,700 workers and brought in $1.85 billion in sales. This new industry outpaced the tax revenues of both the alcohol and tobacco industries bringing the state nearly $468.8 million. Total tax revenues from the cannabis industry are expected to exceed $1 billion in 2021.

Additionally, cannabis producers are finding new ways of adding surplus value, such as selling trim for oil manufacture. While this is not necessarily new, the increased openness of the market, due to legalization, means that profit maximization and the expansion of commoditization have become more ubiquitous.

The transition from informal to formal economies is not without reservations, as the persistent aura of illegality tied to cannabis becomes encapsulated within regulatory frameworks. When one compares a cannabis commodity chain with commodity chains of other agricultural products grown in Central Washington State, such as hops used for beer brewing and grapes used for winemaking, a much more rigorous and intense regulatory framework emerges. For example, grapes and hops are grown in massive
fields throughout eastern Washington, without limit to size or proximity to public spaces that cater primarily to youth. Cannabis, however, can only be grown outdoors if there is an eight-foot security fence that obscures the plants. Furthermore, cannabis fields must be located more than one thousand feet away from the perimeter of spaces that youth may frequently use, and must maintain high levels of security, such as video cameras and silent alarms. The principal assertion of this thesis is that these kinds of regulations shape the experience of industry leaders, employees, and consumers, creating dynamics of visibility and invisibility that shape the demographics of workers and perceptions about their career choice.

The level of regulation between one commodity and another commodity is an important indicator that exposes societal risk perception to be higher for a highly regulated commodity (Stoutenborough, Veditz, and Liu 2015). Examination of the issues mentioned above, as well as others associated with various aspects (production, distribution, etc.) of the cannabis industry, provides insight into the differences of perception between cannabis and other agricultural commodities, as well as insight into an emerging market that has, due to its untested and recent development, many research gaps to fill.

**The Purpose**

The purpose of this research is to examine the effects that regulations to legalized cannabis have on those within the industry as well as the industry itself. While cannabis transitions from an illegal substance to an everyday commodity available to a
wide range of consumers, significant changes have occurred. This study provides insight into this exceptional moment, as a commodity transitions from the informal to the formal economy, describing what the legal cannabis industry looks like from an on-the-ground perspective. I suggest that the production processes within the legal recreational cannabis industry in Washington State, along with its labor force and consumers, are impacted by existing societal perceptions about cannabis that are encapsulated within state regulations. My research thus asks:

• How have humans made use of cannabis, both in terms of practice as well as its symbolic use? What have the meanings and perceptions of cannabis been and how have they changed over time?

• How does Washington State’s I-502 regulatory framework shape the industry? Do the historical perceptions and meanings of cannabis shape these regulations?

• What processes are involved with the production of legal recreational cannabis? What do these processes look like on-the-ground, as experienced by the workers?

• How does regulation—and cannabis’s quasi-legal status—shape the composition of people involved in the industry, and what was their experience of cannabis prior to its legalization?

Literature Review

Cultural Biography Theory

With the introduction of a newly formalized commodity, it is necessary to examine how it arrived at formalization, and what it was to society before its entrance
into this sphere of commerce. Kopytoff (1986: 68), in “The Cultural Biography of Things: Commoditization as a Process,” asserts that “...shifts and differences in whether and when a thing is a commodity reveal a moral economy that stands behind the objective economy of visible transactions.” Thus, commoditization is a cultural process that involves moral decision-making. For example, one cannot have a kidney removed for the purpose of profit, because larger policies, which reflect moral attitudes, dictate that irreplaceable human body parts cannot be commoditized (NOTA 1984). On the other hand, replaceable aspects of the human anatomy, such as blood, plasma, sperm, ova, or stem cells are commoditized. I used Kopytoff’s theory to construct a cultural biography of cannabis that critically examines the cultural shifts of acceptance cannabis has experienced on the way to commoditization in the recent, as well as the distant past.

Cannabis is viewed by many of those outside the industry as a substance that disrupts societal order, and therefore, must be removed from society. Douglas (1966) asserts, in Purity and Danger, that societal order is achieved by the delineation between what is good (pure) or bad (impure) for that society. This can be a measure of actual cleanliness or as a metaphor for any substance, action, or idea that may be potentially harmful to the body, mind, or spirit. Harry Anslinger, commissioner of the Federal Bureau of Narcotics, in 1930 started to develop the narrative that cannabis caused insanity and drove users to “horrendous acts of criminality,” eventually leading to anti-cannabis legislation (Staples 2014). Beginning in the 1970s, the United States waged a “War on Drugs.” While this campaign focused on the prohibition of illegal drug use,
historians and journalists have argued that a motivating factor for the ‘War’ was socio-economic and racial. Drug addiction was indeed problematic in the United States during the 1970s, however this era saw a shift in perceptions of addicts—from sick victims to criminals. Moreover the punitive framework that emerged unequally targeted low-income, mostly minority communities. Alexander, in her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, argues that stop and frisk, as well as other forms of racial profiling by law enforcement are the true cause of racial disparity of those incarcerated for non-violent drug offenses (2010).

As cannabis transitions into the formal commodity, other meanings emerge. Cannabis may be understood as a medicine, or as a means for relaxation or social stimulation. Others may look to cannabis as a valuable industry that will restore local economies diminished by decades of deindustrialization and a recent global recession. Yet I argue that the aura of cannabis’s illegality, established throughout most of the twentieth century, persists even in the legal market, albeit in the form of regulation.

*Regulation Theory*

The cannabis industry is highly regulated in Washington, as well as other states (I-502 2013). The issue that most people within the cannabis community face with regards to regulation is that cannabis and those in the industry have been ostracized to the point that the scope of its regulation exceeds that of any other agricultural commodity in the state. In fact, cannabis is so ostracized that it is not even considered an agricultural commodity, even as some agricultural commodities in Washington are
grown for the sole purpose of being used in the concoction of an intoxicant.

In his book, “L’idée de Regulation en Economie Politique,” Ruzza (1983) asserts “...regulation is the regulation of contradictions by contradictions.” In other words: “It combines social practices which are contradictory...into a single set, and it bears within itself the conditions which give rise to crisis.” There are many regulations within the cannabis industry that are seemingly contradictory, both to capitalist function and in regards to public safety. For example: would-be cannabis producers face regulation demanding eight-foot tall, solid fencing for the purpose of obscuring farm visibility. There are no other crops in Washington that require fences to obscure the visibility of that crop. Many municipalities have height restrictions banning fences over six feet tall. This means a permit would be required before a fence could be erected and could block entry by simply not awarding any permits circumventing the restriction.

Another example is limiting vertical integration. One can be a producer/processor, but one cannot be a producer/distributor or a processor/distributor. Cameras are also required to view every part of the interior of a farm as well as a twenty-foot perimeter outside of the gate. The cameras serve a dual purpose of theft control from outside as well as adherence to restrictions from the inside.

Lipietz (1979: 36), in his book Crise et Inflation, Pourquoi, argues that “…there is a strong tendency, when discussing regulation, to reestablish the absolute primacy of unity, and, indeed, to eliminate struggle altogether.” What Lipietz is saying is that while regulation seems to encapsulate one society’s perception of a commodity within its
mode of production, it is actually an illusion of united perception. The internal struggle is made up of multiple perceptions within that society. There are many conflicting perceptions about cannabis: Some see cannabis as a dangerous narcotic. Some see it as a gateway drug. Some see it as a life-giving medicine. Some see it as a recreational drug akin to alcohol. Some simply have no opinion about it at all. Yet, when one examines cannabis regulation it appears that a consensus was made, when in fact, one was not. As Boyer and Mistral (1978) posit “...the settlement of conflicts requires the choice of a procedure which is itself the object of conflict and struggle, and . . . which possesses a degree of adaptability in response to the overall evolution of the economy and society.”

Commodification/Metabolism Theory

In order to understand the commoditization of cannabis, and how policy is shaped by opposition, it is necessary to explore the question: “What is a commodity?” According to Marx’s labor theory of value, items that are useful and exchangeable have value and can enter the realm of ‘commodity.’ Marx (1867:129) asserts that the true value of a commodity is determined or measured by “socially necessary labor time”. The value of labor time is the actual tradable commodity encapsulated in the produced object for the purpose of an exchange or sale.

Boyd et al. (2001) argue that agricultural commodities are not the same as manufactured goods. They explain that crops take time to grow and need attention that inorganic goods do not. Production can be increased by implementation of technology and learning new techniques. Disease, infestation, and lower-than-expected yields, even
total crop failure are variables that have to be considered in the commodification of agricultural products. Since agricultural commodities require time to develop, there is an element of surprise in every crop, and thus, labor time values are retarded to various degrees.

In “Between Time and Space,” Harvey (1990) makes a similar case, arguing that time is not controllable by any individual. He states that agriculture is subordinated by the needs of capital, and that without control of time itself, one must control the processes of production in order to arrive at outcomes designed to dominate nature.

Hybridization of cannabis plants has increased the yields, but also the potency. Concentration of the active compound Delta9-Tetrahydrocannabinol (THC) has also been achieved through chemical and technological extraction innovations. This can be problematic as Boyd (2001) suggests in Making Meat: Science, Technology, and American Poultry Production that “If pushed too far, efforts to subordinate biological systems to the dictates of industrial production have a tendency to undermine their own biological foundations...” At what point of subordination does one agricultural commodity become a new and different commodity? Cannabis retail outlets can now offer a plethora of products, only a few of which actually resemble the original plant material. This is observed through a commodity chain analysis.

Research on Commodity Chain Analyses

Due to the recent transition of cannabis from the illegal market to the formal economy, a commodity chain analysis is a necessary step in an examination of the
Commodity chain analysis is a tool that is used to examine markets on the global stage. They show the path commodities take from their origins to their consumption. A commodity chain analysis facilitated access to the various processes of production and consumption in the legal recreational cannabis industry. In order to better understand this analysis, this research is juxtaposed with analyses of other similar commodity chains. This comparison better illuminates the variation in exchange-value extraction, explores the biophysical properties of cannabis, and exposes social relations and interactions within the industry.

Jernigan (2000) defined the commodity chain as a tool for determining how power is expressed, as well as where and how profits are extracted. The focus of interest in Applying Commodity Chain Analysis to Changing Modes of Alcohol Supply in a Developing Country is determining where high levels of monopoly or innovation exist, due to the likelihood of the extraction of profits at those points. Firms that control these points of extraction gain the most from production, and hence, have resources to influence how societies relate to their products. Consumption is assumed to be a result of the interaction of local culture and government policies.

As a multi-site ethnography was a planned part of my research, “Ethnography in/of the World System: The Emergence of Multi-Sited Ethnography” was relevant to the development of a strategy for constructing an ethnography. Marcus (1995) describes modes of operation that differ from the traditional method of following a commodity as it circulates through the world of commerce. He asserts that following the people, the
metaphor, and the stories can be more helpful and informative when using a commodity chain to construct an ethnography. Following the labor force helped to determine that regulation of the cannabis industry has an impact on its workers.

*Agricultural Labor Relations/Impacts*

When constructing an ethnography of the participants in an agricultural industry, it is beneficial to examine labor relations within the production of other agricultural commodities. In *Tangled Routes*, Barndt (2002) describes a commodity chain analysis of corporatized Mexican tomatoes, and the labor force behind production, transportation, and distribution. She explains the disjointed nature between the Mexican Campesinos, who have a generational heritage of growing a variety of tomatoes on communal lands, and the homogenized corporate approach to mass production of a singular hybrid strain. These new farms occupy the same land that has now been privatized and is now possessed not by the community, but by the corporations, by which, they are now employed. The exploitation of the Mexican workers, their heritage, and their landscape, is hidden from the Canadian tomato consumers, who only see low cost uniform tomatoes in the marketplace.

In *Knock On Wood*, Prudham (2005) examines another part of the commodification of nature with regards to labor force. He argues that immigrant non-citizen workers filled the gaps in forest work left by citizen employees, and that enabled the risks of production to be transferred to a vulnerable labor force that did not have the same protections in place, such as worker’s compensation and unemployment.
insurance, that the previous labor force was afforded. Because of the unpredictability of the variables involved in nature commodification, it was important to note the exploitability of the labor force within the cannabis industry. This includes how race and class intersect limiting access to power and authority within the cannabis industry, and how those intersections shape the composition of the workers and how they relate to each other.

In conclusion, with a better understanding of how the perception of cannabis is shaped, how it affects regulation, how regulation differs from that of other crops, and how those regulations affect the labor force, it could join the rest of the community of agricultural commodities without regulation that may be exploitative or based on misconceptions.

Methods

The ninety-six participants in this study, while abiding by state law, were, in fact, breaking federal law. This means that they were particularly susceptible to incrimination by participation. This research has been gathered anonymously and with complete confidentiality, with records of names and findings kept locked in a safe in my office. Due to the reasons stated above, pre-fieldwork began with obtaining IRB approval. This involved submission of a proposal and any rewrites or requested changes in methods or study design. As a member of the cannabis community, I am aware of, and understand the danger of introducing personal biases into my research. In order to reduce and avoid such bias, I have been cautious in the formulation of questions for
interviewees. I have avoided using language that directed the subjects to answer in a particular way that is predictable. I conducted fifty-four semi-structured interviews at one location and ninety-six open-ended interviews at five locations. In order to gain insights as a participant observer, I found employment with producers and processing facilities, which facilitated access to other cultivators, processors, and distributors. This study is based upon research conducted within Washington State, but I have travelled and worked in the cannabis industries in Oregon as well as within four counties in the central Washington corridor, one county in the Northeast corner of the state, and three counties in the Southwest corner of the state. The ethnographic insights, are, therefore, based on multi-sited research (Marcus 1995).

The first research questions, “How have humans made use of cannabis, both in terms of practice and its symbolic use?” and “What have the meanings and perceptions of cannabis been and how have they changed over time?” required the development of a literature review. I split this review into two parts, the first discusses its many use values and how these have been interpreted in various ways by humans across space and time. The second part of the review focuses on the prohibition of cannabis in the United States. Taken together, this cultural biography of cannabis provides a foundation for understanding the historical processes that have shaped the structure of I-502 and its impacts.

The second research questions, “How does Washington State’s I-502 regulatory framework shape the industry?” and “Do the historical perceptions and meanings of
cannabis shape these regulations?” entailed developing and understanding the rationale for policies that demand all aspects of the industry, including consumption, be kept hidden from public view. How do public policies that relegate cannabis to invisible spaces impact the production, processing, distribution and consumption of cannabis? To answer this question, I have drawn upon close study of the I-502 framework, including participant observation as an employee at multiple cannabis farms and processing facilities within the Washington cannabis industry. Combining policy study and participant observation has allowed me to see how regulations are interpreted and observed on-the-ground.

I use participant observation to answer my third question, “What processes are involved in the production, processing, and distribution of cannabis.” As a participant observer and an employee of a cannabis producer/processor, I was able to observe these activities. I learned about the processes of cultivation and standardization. I also learned about the pricing structure, both for the processor and the consumer, associated costs incurred when operating a cannabis farm, profit margins, as well as policies and regulations governing the operation of a cannabis farm. Through employment with cannabis farms, I gained access to processors, and eventually became a cannabis processor. Notably, producers can only distribute products to a processor. With access to processors, I have been able to observe the processes cannabis goes through to become a product ready for sale in the legal market. With access to all stages of the cannabis industry, I am able to document the intricacies of the processes,
discovering perceptions of society.

My fourth and final research question had to do with the labor force involved in the production, processing, distribution and consumption of cannabis, “How is the labor force perceived, both by themselves and by those who may be affected by the product for which the labor force provide its labor?” In addition to participant observation, I conducted semi-structured interviews with growers involved in its production, laborers who process the raw plant into ready-to-sale products, and those involved with distribution to consumers.

Chapter Overview

In Chapters I and II, I build a cultural biography of cannabis. As stated above, Chapter I deals with pre-prohibition uses, meanings, and values connected to cannabis. This chapter is global in scope and reaches back into a time before the written word. Chapter II narrows the focus to the vilification and prohibition of cannabis in the United States. I will show how these prohibitions intersected with, and energized structural racism.

Chapter III provides insight into regulation, with a focus on I-502, the regulatory framework that applies to cannabis in Washington State. I demonstrate that these regulations emerged from attitudes about people deemed undesirable, that were transferred to their product, and that these regulations shape the cannabis industry by limiting visibility.

Chapter IV provides an on-the-ground perspective of a “day in the life” of a
cannabis farm worker. In this ethnographic account, it is possible to see how prohibition-era attitudes about cannabis are ingrained in elements of I-502, and how they manifest in the lives of the workers.

Chapter V takes a macro-perspective in order to understand how regulatory frameworks and prohibition-era attitudes demographically shape the labor force by dividing it into visible and invisible spaces. It also provides a more intimate analysis of how workers perceive their participation in the industry.

In conclusion, Chapter VI builds upon my initial four research questions in order to determine new areas of research into Washington State’s recreational cannabis industry.
CHAPTER II
PRE-PROHIBITION PERCEPTION OF POT

No one is in a position to definitively say when human beings started a relationship with cannabis. That a relationship was formed is true, without question. The question is as it always has been: What kind of relationship are we in? Examining our relationship with cannabis as analogous to a relationship with another human may aid in understanding that the relationship is and always was fluid and that how cannabis is used is ultimately tied to how it is perceived. Igor Kopytoff wrote about the fluid nature of the perception of commodities as analogous to human biographies. He contends that objects possess biographies as much as those who may use them, and thus viewing an object through a biographical lens can offer a more complete cultural perspective (Kopytoff 1986). Within the cultural biography approach to understanding objects, “The central idea is that as people and objects gather time, movement and change, they are constantly transformed, and these transformations of person and object are tied up with each other” (Gosden and Marshall 1999:169). There are many ways that people interpret cannabis. Its use can be perceived as valued for its medicinal, recreational, and industrial properties. Lawless behavior, mental illness, and risk-taking have also been associated, or attributed to the use of cannabis. These opposing perceptions have, over time, resulted in a transformation of the plant though innovation in breeding and cultivation. The human-directed changes to cannabis have not only increased the properties valued for personal or commercial application, but those same changes also increased the properties perceived to cause negative or
stigmatized behaviors like those described above. These differing perceptions have impacted many lives. The divide that the difference in perception of cannabis creates has both enriched some, while imprisoning others for its use. On the other hand, cannabis, having divulged its useful properties to humans, has been threatened with extermination by some, while being cultivated by others around the world. Frank Zappa once said, “A drug is neither moral nor immoral, it’s a chemical compound. The compound itself is not a menace to society until a human being treats it as if consumption bestowed a temporary license to act like an asshole.” As anyone can tell you, a person does not need a drug to produce that effect. Ascribing humanistic or moral characteristics to objects is a function of societal perception. These perceptions are subject to change over time and location just as cultures change over time and through movement. A cultural biography of cannabis reveals this fluidity of perception by examining the relationship humans have had with cannabis.

What Is Cannabis?

Over millennia, humans have discovered useful functions for the fauna and flora they encounter. The biological structure of individual flora and fauna help not only to differentiate one species from another, but also to identify characteristics that can reveal potential uses. This is why it is important to begin by describing the biological properties of cannabis, as this will shed light on the reasons why there is a relationship at all between humans and cannabis. In order to discuss the plant’s biological properties, I do not draw from scientific descriptions of the plant, but, rather,
knowledge I have gained over the course of my research within the recreational cannabis industry.

There has been much debate during the last several hundred years as to how many species of cannabis exist. Due to interfertility, it is difficult to determine if it is a single species with a large range of phenotypic expression or multiple species that are related closely enough to be able to interbreed to produce fertile offspring. Cannabis originated in Central Asia, at differing elevations within and around the Himalayan mountain range. The differing elevations and latitude produced plants that look similar, but have slightly different physical appearances and chemical make-up. In the United States, where I conducted this research, there are three recognized species based primarily on these differences. All three have leaves that resemble “fingers” radiating from the stem. The leaves average seven, but can have between one and thirteen fingers depending on maturity and genetics. All three species have leaves with a serrated edge and flowering tops. Hemp could be any cannabis plant’s dried volume that contains less than .03% of THC (Tetrahydrocannabinol Delta-9, the cannabinoid responsible for the euphoric or intoxicating effect that cannabis consumption is known for). All three species are susceptible to manipulation of THC (or any other cannabinoid) content by selective breeding and/or hybridization. Cannabis has male and female plants. Environmental or chemical stressors can force a female into becoming a hermaphrodite. This is done routinely for feminized seed production. Recreational cannabis is intended to be made up of female plants exclusively. Female plants have
bigger flowers with higher THC content and produce no seeds when cannabis pollen is absent. Cannabis crops intended for industrial use are mostly indiscriminate when it comes to the sex of the plant. However, certain industrial uses may demand the production of male only crops, as they are thought to produce the most robust fibers.

*Cannabis sativa*, Latin for cultivated cannabis, grows tall with some lateral branches. The leaves have the most slender “fingers” of the three species. It developed a strong, fibrous stalk in the warmth of the lowlands. It is a short-day flower, meaning that it won’t flower until daylight hours decrease in length, to around twelve or thirteen hours. Because of this, and also due to a longer growing season in the lowlands, *Cannabis sativa* has the longest flowering period of the three species, with less densely packed flowers than *Cannabis indica* or *Cannabis ruderalis*. Sativa is the most commonly used species around the world and is the most prized of the three for uses involving the fibers in the stalk or uses of the seeds beyond reproduction. When grown primarily for these purposes, sativa falls under the category of hemp. Industrial uses for Sativa hemp include: paper products (the Gutenberg Bible was printed on hemp paper), oil, food grain, rope and textiles (canvas is a textile originally produced from hemp, and whose name is derived from the word cannabis). Sativa also occupies space within the medical and recreational industries.

Developing at a higher elevation, *Cannabis indica* grows more like a conical bush with lots of branches covered with fat-fingered leaves all supported by a woody stalk. Indica is also a short-day flower, but in the higher elevation, seasons are shorter and so
is the flowering cycle. Its flowers are densely packed, but loosen slightly at the end of the flowering period. The sativa stalk fiber is longer and more robust than those found in *Cannabis indica*. However, indica’s woody stalks provide hemp hurds (small chips of hemp stalk) that can be used for products both inside and outside of the sativa-hemp industry. Industrial uses for indica hemp include: paper products, cloth, and hempcrete (a product similar to concrete made from hemp). Indica was named for the region (India) samples were taken from. While it has some industrial applications, indica is primarily cultivated for medicinal or recreational purposes.

*Cannabis ruderalis*, developed in a more northern latitude, is the hardiest of the three species. Ruderalis is more disease and pest resistant, as well as cold resistant. It is the shortest species of cannabis, only growing to a height of around two feet tall. It has a thin, slightly fibrous stem with no lateral branches. The most glaring difference is that it is an autoflower. Both other species rely on sun cycles to determine when to flower. An autoflower begins flowering at a specific maturity, regardless of the length of day. Up until recently, ruderalis was mostly ignored except as a home remedy for depression or more commonly as cattle fodder. Ruderalis translates to English as “weedy.” and it grows wild in Russia and some of the surrounding states. Ruderalis has a low THC content, but a relatively high CBD (Cannabidiol) content.

All cannabis plants contain cannabinoids. Cannabinoids are chemical compounds that interact with receptors in the brain to produce a particular effect. There are over 100 known cannabinoids, and the list seems to continue to grow. Each plant produces
different percentages of each cannabinoid for an overall cannabinoid profile. This profile is kind of like a bouquet. A person creating a bouquet out of carnations will have a wholly different experience than one created with daisies, roses, or an even mix. The cannabinoid profile is similar. Different cannabinoids provide different sensations. For example, THC produces a euphoric effect, CBD is an anti-inflammatory cannabinoid, and CBV (Cannabivarin) is an appetite suppressant. Feral sativa typically has a lower percentage of THC and a higher percentage of CBD than feral indica, while feral ruderalis has both the lowest percentage of THC and the highest percentage of CBD.

Hybridization between species reconfigures these percentages. Selective breeding and hybridization make it possible to custom tailor nearly any profile desired. These practices may also be employed to control other characteristics, such as size and shape. For example: ruderalis interbred with either of the others can produce a bigger, branchier, plant with a much higher THC percentage while retaining the ability to autoflower.

The information provided is a snapshot of common knowledge within the cannabis industries at the time of writing this thesis (Spring 2021). It is not intended to cover the entirety of the plants’ biology, but to cover parts relevant to their cultural biography, that is the plants’ relationship to human culture. Reviewing the useful properties of cannabis and how the plants are cultivated provides some context for understanding the archaeological and historical narratives of human-cannabis relationships.
When, Where and Why cannabis?

The oldest known writing dates back a little over 5,000 years BP (Crowley and Heyer 2015). The oldest cannabis artifacts date to about 10,000 – 12,000 years BP (Okazaki et al. 2011, Li 1975). Cannabis use, since it predates writing, must rely solely on physical evidence to determine its antiquity. Because plant material deteriorates quickly, there is little physical evidence for determining the earliest uses of cannabis; only scraps of fabric, funerary gifts, and impressions made in ceramics and in plaster floors (Okazaki et al. 2011, Li 1975).

Seed-bearing plants were the first to be cultivated, regardless of location (Cowan and Watson 1992). Cannabis produces seeds with myriad uses, including food, one of the simplest and most common of uses. Some studies suggest that cordage or textiles were the first uses of cannabis (Abel 1980). I would argue that when one first discovered cannabis, their first thought was not “Can I make a shirt out of the materials encased in this plant,” but “Can I safely eat this?” One of the oldest cultures known to use cannabis are the ancestral inhabitants of what is now China. The Chinese word for cannabis is ma. Ma translates to numbed, tingling, or senseless (Abel 1980). One can assume that, when naming objects, its primary use should connect with its name.

Cannabis, according to current scholarly consensus, is indigenous to Asia (McGothlin 1965, Schultes and Hofmann 1979). Ceramic-producing cultures in Central, East, and Southeast Asia used cannabis cordage or seeds to leave impressions on the unfired vessels. These ceramics pre-date the invasions that allegedly brought cannabis
from Central to East and Southeast Asia (about 3,500 years BP). The similarities in ceramic production can be explained by near contemporaneous ceramic production in all three locations. Although these locations are hundreds of kilometers apart, dispersal of technological advances can be explained by the nomadic movements of Central Asian cultures. The impressions made by cannabis cordage or seeds places the existence of cannabis in these areas much earlier than has been previously suggested (about 10,000 years BP) (Okazaki et al. 2011).

There are four groups that receive primary credit for the global distribution of cannabis. Two of these groups originate in Asia. There are differing opinions as to which was the first. Part of the reason for this controversy is the nomadic lifestyle of these groups. Another contributing factor is that these group names may include a variety of peoples and cultures across the vast geographic area in which they roamed. These first two distributors were the Aryans of Central Asia and the Scythians of Eastern Europe/Northwestern Asia. Through domestication of the horse (about 4,000 years BP), these groups were able to invade and occupy areas throughout Asia, parts of North Africa, as well as parts of Central and Eastern Europe. Wherever they spread, so did cannabis. The third distributor of cannabis was the Middle Eastern Arab tribes. They spread use across the Maghreb and into northwestern and southern Africa. The final distributors came much later in the form of colonial expansion. Europeans, much like the previous distributors, brought cannabis wherever they roamed; first into the African continent, then shortly after to the continents of North and South America.
The Cradle of Cannabis

Perceptions of cannabis in the earliest cultures are near impossible to ascertain. The invention of the written word allows perceptions of that period to be examined, but typically, only the author’s perception is recorded. This is evident where writings condemn its use in areas of known continued consumption. One of these areas is China. Although derision toward cannabis consumers was reflected in writings from as far back as 2,150 BP, use has continued uninterruptedly into the present.

China was once known as the “land of hemp and mulberry.” The antiquity of the title is not known, only that these two crops must have been either important to and/or abundant there. The earliest written mention of medicinal cannabis is from Emperor Shen Nung’s *Pen Ts’ao* or pharmacopeia (written about 1,750 years BP). In this pharmacopeia, cannabis is listed as a medicine for several ailments. Unfortunately, there are no longer copies of this text known to exist. By this time however, cannabis was being used extensively for a variety of products in China. Around 2,300 BP, Taoism developed in China. Around 2,100 BP Taoism rejected the idea of consuming cannabis due to the Yin within cannabis (feminized crop for medicinal uses). All things were divided into that which possesses Yin or Yang. Yin, associated with the feminine, sapped energy and drained mental capacity. Yang, associated with the masculine, revitalized and uplifted the body and spirit. Cannabis grown for industrial purposes are typically male plants (stronger fibers). Thus, industrial cannabis was acceptable, while medical cannabis was not. However, by 1,800 BP Taoists were using cannabis in rituals. While
cannabis use has never ended completely in China, only a small percentage of the modern population uses cannabis regularly. From ancient times to the present, it has been known in China as both: “the giver of delight” and “the liberator of sin” (Goode 1969).

The Aryans either invaded or began migration to India around 4,000 BP. The Aryans brought cannabis with them. There is no evidence that cannabis existed in this area prior to this influx of people from the North. A Hindu legend suggests that Shiva the Creator/Destroyer goddess (Also known as the Lord of Bhang) brought cannabis from over the Himalayas in the North down South to India. Cannabis became, and in large part has remained, an important part of Indian life and Hindi religious practices. However, another Hindu legend claims that cannabis arrived in India from the sea. This indicates that cannabis could have been arriving in India from different geographic sources at around the same time (Abel 1980).

The Indian culture embraced the drug available through cannabis like no other culture before or since its arrival there. It was so thoroughly intertwined with the culture that the Hindi caste system contains numerous rules regarding when, how, by whom, and what product of cannabis can be given, accepted, possessed, or consumed. Bhang is a cheap, mildly intoxicating beverage made with milk, cannabis, and spices. The drink is mild because cannabis leaves are used in the preparation. Cannabis leaves only contain a small amount of the active ingredient in the plant known as THC. Ganja is a product that is a little more expensive than bhang, but also more potent. Ganja is
prepared using the flowering tops of the plant. The flowers of the plant are covered with resin that contains the highest concentration of THC on the plant. Charas was prepared by collecting the raw resin from the live flowers. Charas was the most concentrated form of consumable THC. Methods of collecting the resin vary, but the earliest known method for collecting live resin involved scraping it from the bodies of enslaved people after they ran naked through cannabis fields. Later methods of collecting live resin involved pressing the resinous flowers between collection plates or screens composed of various materials. Some methods utilize heat as well as pressure. An early method for collecting dry resin was to beat the dried flowers with rods to separate the dried resin powder from the rest of the plant material. These rods have been found in multiple cultures and were also used in healing, purifying, and shamanistic rituals (Abel 1980). When the resin is removed from a dried plant it is called hashish, which is considered of higher value than ganja, but of lessor value than charas.

**Toddler Cannabis Learns to Walk**

The Aryans also brought cannabis with them into Persia, Asia Minor, Greece, and some parts of Germany and France by 3,400 BP. They invaded the Phrygians (modern Turkey) around 2,000 BP—again, bringing their favored plant. It is not certain if cannabis was already utilized in some of these regions prior to Aryan migration. There is some archaeological evidence that suggests cannabis grew wild in Europe 1.8 million years BP and was cultivated in Eastern Europe as early as 2,500 years BP (McPartland 2018).
The second group to have a heavy hand in distributing cannabis to new regions was the Scythians (also known as the Sakas, or Saka-Scythians). This group sprang from the area that is today part of Western Russia, Ukraine, and the Crimean Peninsula. The Scythians were a nomadic group that began to spread out into neighboring regions around the 2,500 BP. This group was likely composed of multiple tribes. They were equestrian animal herders, and also employed their horse in raids and battles. They spread from Siberia in the east to China in the south and to Greece in the west. They brought cannabis and their associated rituals with them. Herodotus wrote about a cleansing ritual involving cannabis at a Scythian funerary wake (Abel 1980).

Arab tribes, having rejected alcohol by Sharia law, turned to the intoxicating properties of cannabis as an alternative. Around 1,100 BP, cannabis use began to spread through Muslim-controlled nations and territories (Nahas 1982). This spread was not exclusive to areas where Islam was dominant, however, as these tribes were establishing trade networks with Eastern African tribal groups. These tribes carried it with them for personal use, but also as a trade good. Knowing that they may be away from their homes for long periods, they planted cannabis in areas along the trade route (Toit 1976). Two of the African tribes within this trade network were the Bantus, and the Khoikhoi (Warf 2014). It has been suggested that cannabis entered the Maghreb around 1,100 BP via Sahelian Africans, but this assertion is based tenuously on proximity and the similarities of the words takruri (the citizens of the Takrur Empire that existed between 800 and 1,200 CE in the western Sahel) and takroui (the most common name
for cannabis along the Maghreb). It has also been suggested that cannabis may have entered Northern Africa from Europe during early colonization efforts. Considering that there is no solid evidence to suggest that Europeans knew of cannabis’ intoxicating effects during this time period, it is not likely that it arrived in the area prior to the Arabian conquest. In the 7th century CE, the Arab tribes conquered these early colonies and spread the words of Mohammad across the Maghreb of Northern Africa, and cannabis travelled along these new routes as well. In the 8th century, following the Moorish invasion of Spain, Spanish colonists in Morocco began using cannabis and introduced it to Spain (Nahas 1982). Mystics, from the area of modern-day Syria, brought the plant into Egypt in the 12th century CE. While Muslim movements facilitated the spread of cannabis, not all Muslims considered its use acceptable. The Qur’an bans the use of any substance that would weaken or denigrate the body. Some considered cannabis one of those substances that should be included in this banishment. This debate continues today, as cannabis is still used by many Muslims despite being considered, in most countries, an intoxicant, and therefore, one of the substances forbidden (Nahas 1982).

Adolescent Cannabis Learns to Swim

The fourth group to contribute to the global distribution of cannabis was the European colonial powers. It is unclear when cannabis use, as an intoxicant, began in Europe. As mentioned above, cultivation of cannabis as a fiber crop began in Europe 2,500 years BP. Alcohol is and always has been the primary and most favored European
intoxicant. It is possible that either Europeans did not know of the psychoactive properties of cannabis, or that they just preferred the more commonly known intoxicants of the day. Cannabis offered much to European nations: strong ropes, durable canvas sails (the word canvas is derived from cannabis), nets, sacks, paper (maps), and clothes for the sailors. Cannabis outfitted the ships that spread European colonialism globally and increased government coffers through the exploitation of colonized resources (Abel 1980). It also would have provided a brief respite from a long and dangerous voyage for the sailors and colonists alike.

As the idea of colonialism and global trade was gaining traction with more European countries, new routes and locales were being discovered. Early in the 16th century, the Portuguese established a trading post at Goa, in India. Through continuous contact with locals, the Portuguese learned of and began using hashish. Use led to commercial interest and coupled with contemporaneous writings extolling the effects that use of the drug elicits, became an exotic “new” experience to be enjoyed in Europe (Booth 2003). Around the same time, the Portuguese began to set up a colony in the Zambezi River Valley, where cannabis had been in use for several centuries. The addition of books by travel writers describing “new” and “exotic” cultures that used cannabis only fueled the desire of Europeans to experiment with the drug. Aside from drug use, cannabis was becoming such a desired fiber that in 1563 Queen Elizabeth decreed that all landowners with holdings exceeding 60 acres must grow hemp or pay a fine. Colonization in the western hemisphere demanded labor-power for the
exploitation of the natural resources available for global commerce. As exploration and colonization increased so did the need for cheap laborers. Enslaved people from Angola were sent to South America to provide this labor. The enslaved people brought cannabis with them and it was cultivated in Brazil by the middle of the 16th century (Warf 2014). The Spanish attempted to cultivate cannabis in Columbia and Chile multiple times in the early 17th century. Due to natural, regional environmental differences, fiber production from cannabis was unsuccessful in Columbia. However, the more favorable growing conditions in Chile made cannabis production a success with the ability to export. During this same time the French attempted cultivation in modern-day Canada with some success. Shortly after, the English attempted the same in Nova Scotia and within a few years, New England also cultivated cannabis. The main reason for these early attempts to grow hemp were to reduce reliance of European naval needs from Russian hemp supplies. Russia dominated hemp production and exportation from the age of Rome to today (Abel 1980).

These attempts to grow cannabis were made with varying degrees of success, but use for drug purposes in these times and locations are unknown. If the intoxicating properties of consuming cannabis were not known previously, they most certainly were by the late 18th century. Troops in Napoleon’s army discovered hashish in Egypt in 1798, bringing it home with them (Warf 2014). As exploitation of the American and African continents grew, so did the Atlantic Slave Trade. Enslaved peoples, or perhaps slave traders, brought drug cannabis, both for fiber experiments with different strains,
and in placating the enslaved people, and/or themselves with an intoxicant. After the American Revolution, England sought to establish new colonies that could replace the losses to their supply of hemp. In 1788, cannabis seeds from the East India Company were brought to Australia.

Sir Joseph Banks set off from England in 1768 for an exploratory voyage aboard the *HMS Endeavour*. During his voyage, Banks mapped part of the Australian coastline, including Botany Bay, where he landed and explored. His primary mission was to collect flora and fauna, as well as geographic information of the areas explored. In 1779, Banks proposed Australia as a new penal colony to replace the loss of the New England colony to revolution. He also proposed hemp be grown there to replace the New England colonial hemp production lost to the revolution. Banks, who saw the virtues in growing hemp, sent cannabis seeds from the East India Company to Botany Bay, and hemp production began in Australia.

Although cannabis cultivation had now spread to nearly every corner of the globe, cannabis was seemingly unknown in many places, despite multiple points of contact with the plant before then. For example, it wasn’t until World War II that cannabis was at all accepted in West African countries. This diffusion seems to have come about through returning soldiers and possibly through merchant sailors (Toit 1976). One dramatic difference from previous diffusions is that it was strictly for men to use. As it spread, restrictions on cannabis use became increasingly common throughout the globe.
The Temporary Immobilization of a Global Traveler

After millennia of diffusion, cannabis use had spread around the world by the middle of the 20th century. As cannabis was completing this circuit, governments that held the most international sway started to find ways of restricting use. In order to understand why and how a global commodity became a “flora non grata,” the zeitgeist of the United States (a government of considerable international sway) prior to cannabis prohibition must be discussed.

The following chapter will begin the discussion by shifting the focus away from where cannabis has migrated, to prohibition and how cannabis was (and is) used against immigrant and minority communities in the United States. Cannabis prohibition in the U.S has always been integrally connected to xenophobia, racism, and paranoia of diversification supposedly threatening the hierarchical structure within cultural, religious, and ethnic landscapes. This context provides the foundational attitudes influencing the governing agency tasked with regulating the recreational cannabis industry in Washington State.
CHAPTER III
WHEN TRUTHINESS TRUMPS SCIENCE BAD POLICIES ARE BORN

Cannabis, as previously outlined, has had a long history of use. The product range and level of consumption (both accepted and prohibited) has waxed and waned around the globe for centuries and, in some cases, millennia. Understanding Washington State’s current cannabis legal framework requires a focus that is gradually refined from a global lens to a state lens, and a timeline revealing the journey of cannabis acceptance through a forest of prohibitive laws to a state of limited acceptance. In this chapter, the focus shifts from the colonial era toward today’s United States. I show how the history of cannabis in the U.S. is intertwined with racial ideologies that are manifested in cannabis prohibition that targets and criminalizes non-white communities. The chapter is ended with a discussion about the end of cannabis prohibition in Washington State in 2012, and the tragedy of seven more years passing before the state created a path to vacate pre-legalization cannabis-related convictions that have disproportionally impacted Black and Latinx communities.

Colonial Cannabis

During the era of colonial expansion, authorities in claimed territories far removed from their mother countries enslaved and indentured people taken from territories laid claim to by other distant countries. For governments that enslaved others for national financial enrichment, fears of uprising or revolt by the enslaved people were constantly in consideration. Production of massive quantities of hemp was needed to
outfit the ships with the ropes and sails used in the exploitation of material and labor power these territories produced. Hemp provided both a material needed to continue the exploitation cycle, as well as an intoxicant that could be used to placate exploited laborers (Duvall 2015). On some occasions, the banning of consumption was briefly attempted, believing that use of the drug may cause revolt. However, the most fervent and enduring bans have come in the last century as a reaction to cheaply produced fiber alternatives (Duvall 2015: 85) and the assumption that cannabis drug use would move from the descendants of enslaved people and non-European immigrants to the outer fringes of settler colonial youth. In “The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition,” the authors noted, “As with the hard narcotics, Congress was especially alarmed by the alleged spread of marijuana to white teenagers and school children” (Bonnie and Whitebread 1970:1021).

In the early years of the American colonies, cannabis was an important part of the economy, even being an acceptable form of money. In 1619, the Virginia Assembly produced a law that required all farmers to grow hemp for industrial fiber uses. By the 20th century, cannabis was falling out of favor as an industrial fiber, but it was steadily gaining public interest in the U.S. as a drug. In How the Use of Marijuana Was Criminalized and Medicalized, 1906-2004, the author, Dr. Jeff London (2009: 90), posits, “. . . the use of medicinal marijuana before 1906 was abnormal, yet a legitimate herbal remedy.” Throughout the following century, the United States government took incremental steps to change the societal perception of abnormal, but legitimate,
cannabis use into an aberrant and criminal behavior. Nine legislative actions led to the transformation of cannabis, from an herbal remedy to a criminal intoxicant.

**Early 20th Century U.S. Cannabis Policies**

The first of these actions was The Pure Food and Drug Act of 1906. This law was also known as The Wiley Act of 1906 (TWA). The purpose of this legislation was to confirm the contents of packaged food and drugs with labels of disclosure. What makes this significant to cannabis prohibition is the inclusion of cannabis as socially equivalent to alcohol, cocaine and heroin. This in and of itself did not ban the consumption of the plant, but it did paint the plant as something injurious, or, at least, not to be taken without trepidation. Examples of products containing cannabis included: Stello’s Asthma Cure (a liquid tincture, sold in flask-shaped bottle), Piso’s Cure For Consumption (a cough syrup, sold in similar bottle), and Colchi-Sal (small, round gelatin capsules used as gout treatment).

In 1910, the beginning of the Mexican Revolution facilitated the exodus of droves of Mexicans. These immigrants brought cannabis (and the practice of smoking it) with them into the United States. The increased observable presence of the plant provided a racist rationale for those who saw the new immigrants as an increasingly visible threat to white culture. Soon, Mexicans were being symbolically associated with the consumption of cannabis. Propagandists began referring to cannabis as “marijuana” or “marihuana” when slandering the plant. This was done to connect cannabis with Mexicans, and to safeguard the reputations of pharmacists who peddled cannabis
products to white people. While Mexicans were being vilified as the purveyors of pot, they were an important part of the low-wage economy that propped up the capitalist endeavor of the white middle and upper classes until the end of the 1920s (Musto 1972). However, by the end of the 1920s, jobs were becoming increasingly rare. The Undesirable Aliens Act of 1929 (also known as Blease’s Law) allowed the deportation of anyone crossing a national border outside of an official port of entry. This law was used broadly to deport mostly Mexicans that could not prove citizenship or entry point. Any offense committed by a person that appeared to be Mexican could result in deportation. Cannabis provided a catalyst for the deportation of Mexicans involved in its use. Although there were barriers beginning to be erected to suppress use, cannabis use was not yet illegal.

The second legislative action on the road to prohibition was The Harrison Act of 1914. This Act was meant to regulate narcotic markets such as opium and coca, but was worded so ambiguously that it could include other drugs as well. This new regulation was meant to limit use of these drugs to medical purposes only. While cannabis is not included in the Act, several opponents to new regulation debated proponents for regulation in the House Ways and Means Committee in 1911 over whether or not it should be. Opponents to regulation were mostly made up of pharmaceutical industry leaders and lobbyists who saw no danger in the use of cannabis, and who would lose profits if prohibited. Proponents of regulation were doctors and lobbyists interested in transparency of international and interstate commerce of products containing narcotics,
they described cannabis as a menace not yet realized. One of the regulatory camp, Charles B. Towns, an addiction treatment facility owner, declared the absurdity of claiming cannabis is non-addictive when “There is no drug in the Pharmacopoeia today that would produce the pleasurable sensations you would get from cannabis” (Musto 1972). Another, Dr. Hamilton Wright, believed “that cannabis should be prohibited in anticipation of the habitual user’s shift from opiates and cocaine to hashish” (Musto 1972). Both sides agreed, however, that cannabis was not as dangerous as other drugs and regulation could be used to anticipate its popularity once the use of opiates and cocaine were controlled.

In January of 1920, the 18th Amendment was passed into law. This law prohibited the manufacture, distribution, or consumption of alcohol. While cannabis and alcohol have many differences with respect to post-use behavior, there were as many differences in how their use was prohibited. Alcohol use was socially acceptable; cannabis was relatively unknown and only marginally used (Bonnie and Whitebread 1970). The Temperance movement, involving alcohol, was hotly debated in public. For the most part, cannabis use was only debated behind closed legislative doors without public comment. Highly organized, nation-wide lobbies produced a legislature that became supportive of the Temperance Movement, and anti-cannabis laws were mostly knee-jerk reactions to merging cultures, and often used as a tool to keep one culture dominant over others. Legislation written by the Temperance Movement was designed to combat known problems associated with alcohol. Legislation to ban cannabis was
due to speculation that mass use would become a danger to society (Bonnie and Whitebread 1970). Alcohol was banned after years of public debate. According to Last Call: The Rise and Fall of Prohibition, alcohol prohibition was not popular with the American public (Okrent 2011). This was the fatal flaw in the attempt to prohibit alcohol. It is easy to outlaw something no one wants, or knows about; it becomes much more difficult to outlaw something if it is popular. The move to prohibit cannabis would take that message to heart in multiple ways.

**Canceling Cannabis**

Beginning in 1920, W.R. Hearst used his media empire to paint cannabis as the biggest existential threat to America. His “yellow journalism” model used outlandish, blatantly racist rhetoric to scare the public into believing that cannabis was a big, scary bogeyman that would make non-whites into rampaging, murderous rapists, and turn their white youth against them. Examples of newspaper headlines include, “MARIJUANA MAKES FIENDS OF BOYS IN 30 DAYS: HASHEESH GOADS USERS TO BLOODLUST,” and “Mexican ‘Dream Drug’ Feared Here Wafts User Into Condition of Coma And Leads in the End to Insanity.” Both “cannabis” and “hemp” were nearly exclusively referred to as marijuana (or marihuana) in order to establish the Mexican-ness of the plant as well as to side-step industrial producers from realizing that their cannabis products were about to be banned. While car accidents involving alcohol outnumbered those involving cannabis (more than ten thousand to one), the narrative pushed was that of the horrific crashes caused by cannabis (Herer 2010). Due to a lack
of scientific polling, it is unknown what percentage of Americans opposed cannabis prohibition. Without a clear understanding that cannabis and marijuana were one and the same plant, it’s impossible to determine public perception of cannabis, as the word cannabis is replaced with marijuana when the plant is disparaged. It is likely, however, that with numerous news articles demonizing marijuana, public perception of marijuana was negative. Influencing public opinion was not needed to prohibit cannabis, winning the symbolic war over how cannabis was represented in the public sphere was necessary in order to retain cannabis prohibition without challenge.

In 1925, the Panama Canal Zone Governor’s Committee conducted a study on the physical and moral effects on users of cannabis. It concluded that “There is no evidence that marijuana as grown here is a ‘habit-forming’ drug in the sense in which the term is applied to alcohol, opium, cocaine, etc. or that it has any appreciable deleterious influence on the individual using it” (Bonnie and Whitebread 1970). Nonetheless, sensational news stories of marijuana-induced criminality were used to convince congress of the need for legislation while scientific reports on the subject were absent from the discussion altogether.

**The Anslinger Era**

In 1931, Harry J. Anslinger was appointed director of the newly formed Federal Bureau of Narcotics (FBN) by Andrew W. Mellon, President Hoover’s Secretary of the Treasury. Mellon had financial interests that could be affected by cannabis legislation and policy. He was a major shareholder in Gulf Oil, which was threatened by the
possibility of synthetics derived from hemp hydrocarbons (Booth 2005). Mellon was also the owner and controlling shareholder of the Mellon Bank, which introduced further conflicts of interest for Anslinger (and, by extension, Hoover and Mellon). The Mellon Bank is one of only two banking institutions used by the DuPont Company from 1928 to the present. By 1902, DuPont had cornered about two-thirds of the U.S. munitions market. Manufacturing explosives requires nitrating cellulose. The process of nitrating cellulose for the production of explosives is very similar to that of nitrating cellulose for the production of plastics made with synthetic fibers (Herer 2000). In 1919, G.W. Schlichten patented a hemp decorticating machine that would separate fiber from cellulose without the process of retting. Retting is a process of removing cellulose from the fibers of the stem by water, bacteria, and time. It would be more accurate to call the process rotting, as that is what actually occurs. There are several methods of retting, and the fiber quality could be determined by which one is used. The reduction in time provided by mechanization was a breakthrough that reintroduced many American farmers to hemp. Cannabis contains 77 percent cellulose, which can be used to make paper without bleaches or dyes and at about half of cost of making paper from trees. Unfortunately for Schlichten, the production of other plant fibers, having mechanized much earlier, had surpassed that of hemp and the market had adjusted accordingly. Farmers were reluctant to switch away from their known fiber plant crops to grow hemp, a fiber crop market that was in decline. Moreover, DuPont (back in 1883) had already patented a wood pulp/sulfide paper-making process that used evergreen
trees and DuPont chemicals, including sulfuric acid, a petroleum bi-product that contributes to factors that cause acid rain (Deitch 2003). DuPont’s synthetic cellulose and fiber markets, petroleum market interests, as well as paper manufacturers and the timber industry were all threatened by competition from potential growth of the cannabis cellulose and fiber industries. As outlined above, DuPont had connections to Hoover, Anslinger, and Mellon. These connections provided a position for influencing law and policy pertaining to cannabis.

The passage of the Uniform State Narcotic Drug Act of 1932 sought to make the enforcement and penalties for drug use uniform in all states. Seemingly at odds with the definition of uniform, it included an optional provision for the inclusion of cannabis at the individual States’ discretion. It did not add any penalties or restrictions. It merely attempted to provide uniformity to the existing laws nationwide.

In 1933, The 21st Amendment repealed the 18th Amendment, making alcohol legal once again. Allowing alcohol legal status, combined with the incremental medicalization of coca, opium and their derivatives, increasingly narrowed the scope of the Federal Narcotics Bureau. Between 1935 and 1937 the Treasury Department held meetings to draft legislation and plot an attack on cannabis (Musto 1972). A slew of anti-cannabis propaganda films were produced between 1935 and 1940. Some, including the notorious 1936 film Reefer Madness, were at least partially funded by commercial interests, such as the alcohol industry, that stood to lose revenue from an increased popularity of cannabis (Booth 2005).
In 1937, Anslinger introduced The Marihuana Tax Stamp Act. This Act served not to prohibit cannabis, but to tax it heavily enough to discourage production, and thus, use. The tax doubled the cost of cannabis for commercial uses, including medical practitioners, but was one-hundred times the cost for non-commercial use. This was not just a one-time tax, but a tax on every transfer of ownership; this structure made brokering (wholesale buying and selling) a profitless and potentially bankrupting endeavor. During the Ways and Means Committee hearing for the movement of the Act to the congressional floor, the American Medical Association (AMA) was represented by Dr. William C. Woodward. He was vehemently opposed to the passage of this Act, as the preparatory meetings were held in private without counsel from the affected industries, as well as the lack of evidence supporting claims made, coupled with sensational news stories without merit. Dr. Woodward was not present during the congressional hearing, which took place the next day. When asked if the AMA was consulted, Representative Fred M. Vinson replied that “Our committee heard testimony of Dr. William Wharton, who not only gave this measure his full support, but also the approval from the AMA which he represented as legislative counsel” (Herer 2000: 195). Whether the mispronunciation of Dr. Woodward’s name was accidental or intentional, his lie about AMA support was, undoubtedly, the latter. The AMA had reason for pause as representatives of an industry that would be directly affected by the passage of an Act demanding sworn statements, affidavits, depositions and police inspection for every transfer. These included a breach of doctor-patient confidentiality, in that, the name,
address, ailment, as well as other patient information would have to be handed over to authorities without warrant. Both the physicians and their patients faced stiff penalties for non-compliance whether intentional, or accidental: five years of imprisonment, a $2,000 fine, or both could be levied against an individual for the possession of a cannabis product without proper documentation.

While these punishments were severe, they really only applied to Anglo-American citizens. A person of Mexican descent arrested for cannabis possession would be deported. As the Roaring Twenties ushered in economic gain, Mexican immigrants came across the border and were welcomed as a cheap source of labor. Once the Great Depression took hold, however, these same immigrants that were welcomed not long before, became the scapegoats for Anslinger's war on cannabis. Between 1929 and 1940, up to 1.8 million people of Mexican descent were “repatriated” to Mexico, even though approximately 60 percent of those deported were U.S. citizens. A lack of employment opportunities fueled calls for deportation, but cannabis became a tool that could facilitate removal. Although our government saw fit to enact this law, it would soon disregard it in the interest of national security. Mexican immigrants were again welcomed into the U.S. in the early forties to fill the labor gaps presented by war. The war provided a quasi-reprieve for cannabis as well.

In 1942, the United States government required all U.S. farmers to watch a USDA-produced film, and to sign a form declaring that they had watched a film titled *Hemp for Victory*. It explained all the uses and benefits of hemp and encouraged
farmers to plant it to support the war effort. Ironically, children in 4H clubs were encouraged to grow what has otherwise been termed “the Assassin of Youth” for seed supplies. Indeed, farmers and their sons were exempted from military service if they agreed to grow the “Devil’s Weed” (Herer 2000: 61). In this same year, U.S. farmers cultivated approximately 32,000 acres of hemp. In 1943, the number of acres used for the cultivation of hemp skyrocketed to 375,000. The program ended with the war. What had helped the US defeat the Nazis was no longer tolerated, even to conduct a study on the plant or its effect.

As the Hemp for Victory film was being circulated to farmers, a massive and comprehensive study of cannabis and its physiological, psychological and sociological effects was taking place at the request of then-New York City Mayor, Fiorello LaGuardia. He became interested in conducting the study when he noticed major discrepancies between what was being publicly reported about the incredible dangers of cannabis and the congressional testimony of a study on the effect of cannabis on soldiers in the Panama Canal Zone (PCZ) in the 1920s. The PCZ study concluded that cannabis was relatively harmless, and played “…very little role, if any, in problems of delinquency and crime in the Canal Zone” (Solomon 1966: 280). Due to the incongruence between PCZ study results and Anslinger’s claims of cannabis causing insanity, criminality, physical deterioration, addictive consumption, and being a “gateway” to harder drugs, there was a direct need for scientific, localized investigation. LaGuardia’s study began in 1939 and the results were released in 1944. The study involved thirty-one scientists representing
six fields of study, six police officers, the entire medical staff at Riker’s Island prison hospital, resources from the Goldwater Memorial Hospital, seventy-seven test subjects, and was financed by equal contributions of $7,500 from the Friedsam Foundation, the New York Foundation, and the Commonwealth Fund. After five years of research and experiments, the study concluded that the described dangers put forth by Anslinger were baseless and without merit (Solomon 1966).

The results infuriated Anslinger, a man who for years had based his congressional testimony against cannabis on fantastic newspaper articles. He now declared LaGuardia’s five-year, intensive study involving multiple hospitals, medical associations, and doctors from a variety of disciplines to be unscientific. He immediately countered by commissioning the AMA to conduct its own study to refute the findings of the LaGuardia Commission Report. In 1944-45, the AMA used thirty-three African American test subjects and one white test subject and found that when cannabis was smoked, test subjects were disrespectful to white soldiers and officers. In order to eliminate rebuttal, Anslinger then declared that any doctor conducting studies or experiments involving cannabis without his personal permission would face imprisonment. His outright refusal to adjust his arguments to reflect the results of scientific studies, in addition to the demand for legislation based on unfounded, sensationalist propaganda, reveals that his concern was never about public safety, but personal bias.

In 1952, H.R. 3490 or Public Law 255, Chapter 666, also known as the Boggs Act
implemented mandatory minimum sentences (MMS) for use, possession, or any aspect of distribution/purchase of any narcotic drug. While cannabis is not a narcotic, this law demanded it be treated as such. Depending on the nature of the infraction, a person convicted of a first offense would face a sentence no shorter than two years and no longer than five. Any subsequent offense, would disallow early release through parole or probation. Any offense, could also involve a fine of $2,000. Second and third offenses carried sentence ranges from five to ten years, and ten to fifteen years respectively. MMS allow judges no leeway in determining a sentence for an individual offense. Rather, they are required to incarcerate all offenders for at least the minimum number of years, regardless of the individual circumstances of that offense.

The Boggs Act did not satiate the FBN’s appetite for incarceration. Four years later, the Narcotic Control Act of 1956 increased the MMS for first offenses of possession to no less than two and no more than ten years. A first offense sentence for distribution was a minimum of five to twenty years. A $20,000 fine could also be applied in sentencing for any offense, regardless of type or number of occurrences. Second and third offense sentence ranges were also extended five to twenty years, and ten to forty years respectively for possession, ten to forty years for second offense or higher of distribution. Distribution to a minor, even a first offense, was met with a MMS of ten to forty years. Once time is served offenders may not leave the country without permission from the Secretary of State. If caught traveling internationally without permission, offenders face one to three years of incarceration and the possible inclusion
of a $1,000 fine. The Narcotic Control Act also added a provision that allowed for the deportation of any immigrant convicted of a crime in which narcotics were found to be involved (HR 3490)

After the Boggs Act was passed, Congress could examine the fruits of their handiwork. It was concluded that since penalization revealed a growing number of narcotic addicts, increased penalization was needed to completely eradicate illicit drugs altogether. With little debate or fanfare, Congress passed the Narcotic Control Act in 1956 (NCA). The law was designed to eliminate any aspect of the narcotic industry. The new law changed the MMS for both possession and/or distribution from a range of MMS options for each offense to a specific number of years for each offense. This law also removed the option and made mandatory the $20,000 fine, nor could sentences be suspended. NCA allowed neither probation nor parole for anyone charged with a second or further offense, and the import/export trafficking of narcotics into or out of the country was made felonious.

The anti-cannabis propaganda films produced between the 1930s and the 1950s were seen by the public as so absurd and over the top that most found them to be completely unbelievable. As a result, curiosity overcame the urge to believe the absurd. Cannabis use skyrocketed in the 1960s. This was also partially due to soldiers returning from Vietnam after acquiring a cannabis habit while living within the hell that is war.

In 1962, the White House Conference on Drug Abuse found “that the hazards of marijuana per se have been exaggerated and that long criminal sentences imposed on
an occasional user or possessor of the drug are in poor social perspective” (Gooberman 1974: 136). While these findings did not have any legislative effect, enforcement of law was relaxed, and courts typically dismissed charges or imposed small fines for cannabis infractions. This same year, Anslinger was forced into retirement, due to his age. Although removed from public office, he was vociferously opposed to cannabis for the remainder of his life.

**Nixon, Carter, and Reagan**

In the following years several presidential commissions were formed to re-analyze the issue of drugs and their effect on society. The 1963 Prettyman Commission, 1967 Katzenbach Commission, and the 1969 Eisenhower Commission all agreed that drug offenses carried sentences out of proportion with the severity of the crime, and recommended a softening of sentencing, or the end of MMS (Gerber 2004:23). These views were not at all welcomed by the new administration. Richard Nixon ran on a campaign that viewed drug users as “foreign troops on our shores.” And that “doubling the conviction rate in this country, would do more to cure crime in America than quadrupling the funds for Humphrey’s war on poverty” (Gerber 2004: 21).

The Controlled Substance Act of 1970 (proposed by the Johnson administration) removed cannabis from the list of ‘hard’ drugs, eliminated MMS and brought the penalty for simple possession down to a misdemeanor. This new law ran counter to Nixon’s own views on the subject. He rejected earlier commissions and studies that considered cannabis benign, and created a Commission on Marijuana and Drug Abuse in
1972, emphasizing his desire to weed out one particular drug. The results were not what he expected, the Commission found cannabis to be a “rather unexciting compound...use results in little proven danger of physical or psychological harm (GPO 1972: 132).” The report recommended that cannabis should be decriminalized and demythologized.

Oregon was the first state to immediately follow these recommendations by decriminalizing cannabis in 1973. By 1975, Alaska, California, Colorado, Maine, and Ohio had joined Oregon in decriminalizing possession of cannabis. The Carter administration tried, in 1978, to broadly decriminalize possession of small amounts of cannabis. The bill was defeated in the House of Representatives.

While Congress rejected decriminalization, it also expanded the drug war by steadily increasing the budget and asset seizure capabilities for law enforcement. This had a two-fold result. It gave legitimacy to the fight, and created a sub-economy within law enforcement that could only continue with increased financial resources. The need for funds had become more about feeding the guard dog and less about what the dog might be guarding against. In Policing For Profit: The Drug War’s Hidden Economic Agenda, the authors state, “The forfeiture reward system has done far more than stimulate zealous enforcement. Rather, it has grossly distorted police and prosecutorial priorities, infecting virtually every phase of the criminal justice system. The consequence is an often counterproductive, sometimes pernicious law enforcement agenda” (Blumenson and Nilsen 1997). This visible increase of arrests coupled with the
The focus on cannabis shifted from degradation of health to a moral degradation at the end of the Carter administration and the beginning of Ronald Reagan’s administration. Reagan didn’t need social science data to decide what was “right” for the country. He used moral militancy to advance a zero-tolerance approach. By the end of his first year in office, Reagan amended the Posse Comitatus Act to allow the military and its considerable resources to be involved in civilian law enforcement. This expansion of funding for this effort went from under five million dollars in 1982 to over one billion dollars by the end of his term. National spending on education had risen 70 percent while budgets for police and prisons rose 600 percent. This resulted in an increase of people in prison for nonviolent drug violations, from fifty thousand in 1980 to over four hundred thousand in 1997 (Huber, Newman, and LaFave 2016). Conversely, funding for drug treatment programs was slashed by 43 percent (Gerber 2004:35-38). In 1983, the Los Angeles Police Department (LAPD) partnered with the Los Angeles School District to create a program called the Drug Abuse Resistance Education (D.A.R.E.). It involved police officers educating fifth and sixth grade students about the dangers of drugs. The program creator, LAPD Police Chief Daryl Gates believed that “casual drug users should be taken out and shot” (Gibbs 1991). Naturally, because it was taught by police officers rather than medical professionals, the program focused on penalties for use or possession.
I remember when Deputy Sheriff Gordon Harris came to my fifth grade class at the First Baptist Church School in 1985 to talk to us about D.A.R.E. He casually handed out samples of various drugs in petri dishes and paraphernalia to be passed around the class as he described their physical characteristics, told sensational stories about what kind of super power each drug might bestow upon the user, and how that affected his duties. He spoke about how long we might languish in jail, and how much money our families may have to pay for our actions. Deputy Sheriff Harris asked a bunch of fifth graders, without a guardian or legal representation present, to unknowingly expose their parents to criminal charges by recognition of any of the drugs or paraphernalia seen in the class, at home. He then brought in his K-9 (whose name I don’t remember) to demonstrate a drug search, because several of the samples went missing in the class. Ironically, my friends and I later laughed about the missing drugs and which of those powers we would want. Before participating in the program, I had never thought about taking drugs. Afterwards, however, my friends and I were curious about substances we previously were uninterested in. Numerous studies have shown the D.A.R.E. program to be ineffective in its goal. In one such study, *Assessing the Effects of School Based Drug Education: A 6 Year Multi-Level Analysis of Project D.A.R.E.*, the authors state, “D.A.R.E. had no long-term effects on a wide range of drug use measures...”(Rosenbaum and Hanson 1998).

The 1984 Sentencing Reform Act established the federal sentencing commission mandating federal sentences in all drug cases. This was quickly followed by the Anti-
Drug Abuse Act of 1986 and the Anti-Drug Abuse Amendment of 1988. These incrementally raised federal penalties for any offense regarding cannabis, re-implemented MMS, eviction from low-income housing options, removal from welfare or food stamp programs, disqualification for student loans, and allowed civil asset forfeiture of any and all property and possessions of anyone even investigated for an infraction. Furthermore, the lure of asset forfeiture incentivized police to target buyers with cash rather than sellers with valueless drugs. Once again, a monetary incentive was offered up to continue the war on drugs, this time, in the form of police forces looting the possessions of cannabis users and distributors, many of which are racially marginalized and/or economically vulnerable. A report, entitled *Arrest in the United States, 1980-2009*, from the Bureau of Justice Statistics states, “In 1980 the black arrest rate for drug possession or use was about twice the white arrest rate; by 1989 the disparity had increased to four black arrests to one white arrest” and “Overall, the racial disparity in arrests for drug sale or manufacture was greater than for drug possession or use” (Department of Justice 2011).

Increased penalization, including forfeitures, had an unsurprising effect. During the Reagan administration, cannabis use among high school seniors had been cut in half. The results suggested that these new punitive measures were working the way the administration had planned for them to work. On closer inspection, though, different explanations are revealed. The penalty for even a first offense could involve prison terms, massive fines, and the forfeiture of all that you (or your parents) own. The
number of high school seniors using cannabis may have actually declined, or they simply were not as forthcoming. Penalizing honesty creates an incentive for dishonesty. With a penalty for being honest about cannabis usage, it is impossible to gauge the actual numbers of youth using cannabis. Hard drug use was also on a steady rise during this administration (Gerber 2004). If cannabis usage did decline, the decline may have been a result of social recognition that punishments for offenses involving cannabis are relatively equivalent to those handed down for offenses involving most narcotics. Equivalence in legal risk may have led to a belief of equivalence in health risk.

Cannabis in the U.S., 1988 - 2012

The presidency of George H.W. Bush offered no reprieve for cannabis users. Due to a lack of studies determining cannabis use to be detrimental to health or safety, and an abundance of studies (previously outlined) showing the contrary, Bush, heavily backed by the religious right, declared cannabis to be destructive to the moral fabric of America. William Bennett, as his Drug Czar, sought to punish, not rehabilitate drug users. In an address to Congress, he stated: “The first purpose (of punishment) is moral, to exact a price for transgressing the rights of others” (Gerber 2004: 45). In the first year of Bennett’s appointment, tobacco killed 395,000 Americans, alcohol killed an additional 46,000, and cannabis killed no one. Bennett dismissed the statistics involving tobacco, perhaps, because he smoked two packs of cigarettes a day, though he admitted alcohol was the primary medical and criminological menace in the U.S. (Bennett 1992). One would expect that kind of revelation to be followed by appropriate
changes in policy to reflect a shift in the order of priority. One would be mistaken.

While he proposed new zoning laws regarding liquor stores, more research, and limited advertising for the sale of alcohol, in June of 1989, on Larry King Live, he agreed with a caller that beheading would be a morally, just punishment for the sale of drugs. After serving eighteen months in the Bush administration, Bennett resigned, claiming “Victory, beyond my wildest dreams” (Gerber 2004:47).

Fearing that his administration was sending a message of cannabis acceptance, Bush ended new admissions into the compassionate user program in 1991. The compassionate user program, begun in 1978, allowed for some patients to use cannabis to medically treat ailments that could not be relieved through other means. While eight had been certified, thousands had applied to the program. Not only did this action slam the door on thousands using an alternative treatment to those treatments that had had little-to-no effect, registering for certification also left them exposed to arrest and conviction.

Bill Clinton was the first president to admit to smoking cannabis, although he famously added that he did not inhale. He mocked the draconian cannabis policies of his predecessor, and embraced a more tolerant attitude toward cannabis. By the end of his first term, Clinton was facing considerable opposition towards this lenient stance. His administration gathered a team of experts in prevention to study the rise in drug use among high school students. While cannabis use was up, it was still a fraction of what it had been in the past. Conversely, more than a quarter of twelfth graders were drinking
five or more drinks in one sitting of a two-week period. However, as in the past, political ties to lobbyists in the alcohol and tobacco industries demanded that the spotlight needed to focus on drugs that were not lining the pockets of politicians. Shortly after winning the 1996 election, the Clinton Administration started an anti-drug ad campaign.

In 1997, the Clinton Administration tried unsuccessfully to suppress information regarding a study by the World Health Organization. It was a comparative study outlining the effects of cannabis vs. the effects of tobacco or alcohol. The study showed cannabis to be far less harmful than either. Despite the attempt to suppress, a British magazine released the deleted section and chastised the “anti-dope propaganda that circulates in the U.S.” (Gerber 2004: 54).

During Clinton’s tenure, workplace drug testing expanded, as did research for more effective herbicides, and student financial aid loans were terminated for cannabis users convicted of any related infraction. Ironically, student financial aid loans were unaffected for those convicted of violent or alcohol-related crimes. A total of 4,175,537 Americans were arrested for cannabis-related incidences during Clinton’s two terms—of which, 88 percent were arrested for simple possession. The Clinton Administration imprisoned more Americans for cannabis-related crimes than any other Administration in the history of the U.S. In 1998, there were more arrests made for cannabis infractions than for aggravated assault, murder, rape, and robbery combined. (Gerber 2004).

In 1998, Washington State voters passed Initiative 692. This initiative legalized
the limited possession or use of cannabis for medicinal purposes. However, the word “limited” was left to interpretation, and there was no mechanism provided for production or distribution. Less than a month before leaving office, Clinton said that the time had come to decriminalize cannabis (Wenner 2000). Clinton could not seek a third term. Gone were the political pressures of lobbyists, colleagues, and constituents, which allowed him to feel free about what he said. Unfortunately, the feeling of freedom did not extend to those millions that his administration imprisoned for cannabis-related charges.

During his 2000 presidential campaign, George W. Bush Jr. refused to answer any questions about his own usage of drugs or alcohol. In 2001, President Bush appointed John P. Walters to replace General McCaffrey as the nation’s Drug Czar. Back in 1996, Walters had co-authored a book with former Drug Czar William Bennett and John Dilulio called *Body Count: Moral Poverty and How to Win America’s War against Crime and Drugs*. He wrote that drug-using criminals suffer from an extreme form of “moral poverty,” and the only solution remained “stiff and certain punishment” (Dilulio, Bennett, and Walters as quoted in Gerber 2004:57).

In 2002, Walters held a press conference to outline a new policy against “Drugged Driving.” He explained that anyone driving under the influence of cannabis would face the same penalty as those arrested for driving under the influence of alcohol. He even suggested that cannabis users should not drive within two weeks of consumption. This was an obvious attempt to broaden the net. Although the effects of
cannabis only last a few hours, the test used for discovery of cannabis intoxication relies on 11-nor-delta9-tetrahydrocannabinol-9-carboxylic acid markers that can take up to forty-five days to eliminate from the body. With alcohol, it takes the body about four to five days to fully metabolize ethyl sulfate, but the test used for discovery of intoxication relies on markers only present for a fraction of that time. While there are set limits for driving after consuming alcohol, there are no set limits for driving after the consumption of cannabis. The result of this disparity means that within several hours of alcohol consumption one is legal to drive as long as the driver has a measured blood alcohol content lower than .08, but one must wait up to forty-five days to legally drive after consuming cannabis.

Around the same time that Walters initiated his new program against “drugged driving,” studies in the U.S. and Australia indicated that cannabis users driving “drugged” were safer than those that drove after consuming alcohol. Australian “drugged drivers” were 30 percent less likely to cause an accident than a driver who has consumed a glass of wine (Frood 2002). The U.S. investigation indicated that “drugged drivers” were 70 percent as likely to cause a crash as a sober driver (Earleywine 2002).

In 2002, in the Board of Education of Independent School District no. 92 of Pottawatomie County et al. Vs. Earls et al., the Supreme Court came to a five to four decision to allow drug testing for student athletes. Walters used this decision to launch a nationwide program to test all students. Walters also advocated for drug testing to be mandatory for qualification to receive federal benefits such as welfare or public-
The Supreme Court ruled pre-qualification by drug testing for federal assistance to be illegal.

Throughout his Presidential tenure, Bush Jr. rarely spoke about drug policy. Perhaps this was due to his personal history of drug use coupled with privilege that, not only shielded him from the punishments that average citizens would face, but led him to the presidency. The Bush Administration arrested on average 700,000 Americans for cannabis-related charges annually. About 90 percent of these arrests were made for simple possession.

During the 2008 Presidential election, then candidate Barack Obama stated that medical cannabis was an issue best left to state and local governments. Obama’s public rhetoric did not reflect his administration’s policies. Arrests continued unabated throughout his Presidency, and with numbers on par with the previous administration. In early 2009, Attorney General Eric Holder stated that the Justice Department would only go after medical cannabis dispensaries in violation of both federal and state laws. In October of the same year, this was codified by the Ogden Memo. In 2010, the Department of Veterans Affairs validated medical cannabis as a legitimate treatment for soldiers returning from duty with post-traumatic stress disorder. In 2011, however, federal prosecutors decided to ignore the memo, and went to war with the states that had legalized medical cannabis. Federal attorneys went so far as to threaten Washington state legislators with the possibility of felony arrest for determining state guidelines for medical cannabis. Governor Christine Gregoire immediately vetoed the
guidelines to protect the legislators. That same year the Justice Department released the Cole Memo, which was intended to clarify the federal government’s position on medical cannabis. What it did was narrow the scope of legality to near non-existence, effectively declaring any and all cannabis-based businesses, excluding patients, as targets for prosecution. Patients only got a momentary reprieve. The Bureau of Alcohol, Tobacco, and Firearms warned gun sellers that it is illegal to sell guns or ammunition to anyone who uses or is addicted to cannabis, even in states that allow for the legal use of medical cannabis.

The End Is Here

Colorado and Washington State constituents voted to legalize cannabis for recreational use in 2012. In December of the same year, President Obama stated, “It does not make sense from a prioritization point of view for us to focus on recreational drug users in a state that has already said that, under state law, that is legal” (Cohen 2013). This statement and the adherence to it effectively ended seventy-five years of cannabis prohibition in Washington State.

Although the legalization of cannabis in Washington State received some opposition, the majority of voters decided to disrupt the status quo. Supporters of Washington State Initiative Measure 502 (I-502) raised approximately $5.6 million to fund the campaign, while opposition leaders raised approximately $16,000 in their effort to deny legalization. With nearly 3.1 million votes cast (81 percent participation), I-502 passed with approximately 56 percent for legalization to 44 percent against.
Although cannabis legalization would stop sending people to jail for recreational use, it did nothing for those still languishing in jail for offenses that were no longer considered criminal. In 2019, those who had committed cannabis-related misdemeanors after 1998 were offered the opportunity to apply for pardon. It is not likely that anyone convicted of a cannabis-related misdemeanor before November of 2012 would still be in jail under the same conviction seven years later. Pardons do not remove convictions from a criminal record. A pardon is of little value to the offender that is no longer incarcerated, and whose pardoned conviction is not erased from their criminal record.

In order to construct a regulatory structure that minimized disruption of the status quo, state legislators hired a firm known for consultation in drug policy called BOTEC Analysis. In the next chapter I show how the history of drug prohibition lives on within the regulatory framework of I-502.
CHAPTER IV

MORAL CRUX

As discussed in the previous chapter, Anslinger was concerned about societal ruin brought on by the use of cannabis by immigrants and outsiders spreading to American citizens. He enlisted a newspaper mogul (Hearst) to disseminate his opinion, that those who use cannabis are extremely dangerous. Over the years of Anslinger’s tenure as a public employee, several groups took on the form of folk devils, sometimes it was Mexicans, sometimes it was African-Americans, and sometimes it was “hippies.” Regardless of whom, though, the folk devil was always a marginalized “other.” Punishments meted out for those that ran afoul of his policies became increasingly severe, even long after the end of his own career.

Led by Oregon in 1973, a dozen states had decriminalized cannabis by 1978. Within the States that decriminalized cannabis, possession or use would result in a fine rather than criminal indictment. In 1996, California became the first state to legalize the medical use of cannabis. Alaska, Oregon, and Washington did the same two years later in 1998. Washington State’s Ballot Measure 692 passed with 59 percent voter approval, legalized medical use, possession, and cultivation of cannabis by qualifying patients. However, vague wording within the document, such as “may legally possess or cultivate no more than a sixty-day supply of marijuana” gave patients a false sense of security. The ambiguity of what amount was permissible led to disagreement between patients and police, resulting, all too often, in the arrest of patients (Levine, Gettman, and Siegel
Legislators amended the law in 2008 clarifying what amount constituted a sixty-day supply. Senate Bill 5052 amended Washington’s medical cannabis law once more, in 2015, adjusting the State’s previously arbitrarily set limits for cultivation and/or possession of medical cannabis, to new arbitrarily set limits for the same. While this bill, regarding medical use of cannabis, became law three years after recreational use was legalized in the State, Lines 21 and 22 read, “In fact, patients in compliance with state law are not provided arrest protection” (SB5052 2015). As prohibition gave way to regulation in Washington State, the new panic shifted away from the risk of the loss of power for the dominate culture towards protecting the public, especially children, from a potential, but unverified health risk.

What is a Regulation?

Societies are able to function as a unit when behaviors are limited to those deemed acceptable by consensus of those individuals or groups within it. One might call these constraints normative rules or “moral regulations” (Durkheim 1958). This is the basic reason rules and laws are created. Unfortunately, in any society, absolute agreement is uncommon. Thus, consensus favors some while depriving others. In his book, Professional Ethics and Civic Morals, Durkheim (1958:14) explains the concept simply by stating, “The interests of the individual are not those of the group he belongs to and indeed there is often a real antagonism between the one and the other.” Regulations outline the legal limitations of a commodity or behavior allowed within a particular group. The regulation of every industry is a necessary function of each
governing entity. It is necessary for the protection of its consuming citizens, its laborers, and the general public from any potential dangers that may arise from the manufacture or use of any aspect relating to that industry. There are two perceptions of how each rule or law should be formed. One of these perceptions is absolutism. In his article, *Epistemic Grace: Antirelativism as Theology in Disguise*, Bloor (2007:254) describes an absolute as, “not perishable, that it does not come and go; that it is not subject to qualifications nor dependent on material conditions nor contingent on anything external to it.” This means a standard is, under all circumstances, either right or wrong. There is no condition that would change its designation. The other perception is relativism. Bloor (2007:250) dissects the essence of this chimera, the relativist, as “we have no *absolute* knowledge and no *absolute* morality . . . all our beliefs are the product of, and are relative to, the limits of human nature and our status as human, social animals.” This means that time, context, location, and a host of other considerations have to be made in order to determine whether an action is right or wrong in that particular moment, by that particular person. The difference is, of course, that one sees right and wrong as static and unchanging, whereas the other sees the concept of right and wrong as fluid and subject to current geographic, and cultural mores. Muddying the waters, when considering the creation of a law or regulation; there may be multiple opposing absolutist and relativist views on either or both sides of an argument. Some people believe that abortion is always wrong, no matter the circumstance. This is an example of an absolutist view; the focus never leaves the action itself. A relativist examines the
context rather than the action. A relativist can simultaneously argue that eugenics-based, forced abortion is wrong, while also arguing that a minor should have the option to abort a product of incestuous rape.

Prior to passage, I-502 had absolutist and relativist arguments from both the proponents and opponents of the Initiative to legalize recreational use of cannabis. Law enforcement groups argued both for and against the Initiative. Multiple members of an organization composed of judges, prosecutors, and law enforcement officers called Law Enforcement Against Prohibition (LEAP) argued multiple relativist points in their group’s endorsement of I-502. One of the members, a former Seattle police chief, said that legalizing cannabis will “take money away from the gangs and cartels that sell marijuana.” Another member of LEAP, a former prosecutor, stated that “By regulating and controlling marijuana, we will make it less available to teenagers” (LEAP 2012). Other law enforcement groups, such as Washington Association of Sheriffs and Police Chiefs (WASPC), and the Washington Council of Police and Sheriffs (WCPS), offered relativist arguments as well. Spokane’s police chief, a member of WCPS expressed “mixed emotions” saying “We can’t minimize that while there are health benefits to marijuana, there are also health challenges to marijuana” (The Spokesman Review 10/30/2012). A group, representing medical cannabis patients, called Patients Against I-502, held a relativist view that the recreational use, possession, or cultivation of cannabis should not have any more restriction than that of cannabis intended for medical use (The Stranger 10/21/2011). Personal communication with black market and
medical cannabis distributors, prior to I-502 passage, revealed absolutist opposition to
the Initiative, fearing that any regulatory structure would put them out of business.

**Regulation and the Morality of Cannabis**

All regulations are based on morals. A regulation is essentially a codified societal
more. However, mores are not static, nor universally held. Durkheim (1958:68) posits,
“The rights of the individual, then, are in a state of evolution; progress is always going
on and it is not possible to set any bounds on its course. What yesterday seemed but a
kind of luxury overnight becomes a right, precisely defined.” Regulations are a tool for
mitigating conflict within human relationships. These regulations are meant to offer all
protection from potential harm. However, some regulations are put in place to
prioritize or privilege one group’s own mores over those of another or multiple group(s)
through legislation. This type of regulation is put into place based solely on one group’s
perceived superior morality. These regulations can allow one group’s mores to restrict
individual actions that have little impact on, or impede, the rights of others.

Henceforth, I will refer to these types of regulation as moral regulations. Moral
regulations are often used as a scapegoating tool to single out particular groups or
objects as dangerous or unhealthy. The actual risk, if any, is undermined by an
overinflated, or even nonexistent potential risk. As Rutland (2013) posits “. . . moral
regulation involved the marking of boundaries between deserving and undeserving
citizens: those whose ostensible morality qualified them to oversee and regulate the
local scale and those whose immorality disqualified them from such a role.” This is an
echo of an earlier writing by Wagner (1987), who states: “...the present era is characterized by the obsession with private issues, and social movements aimed at individuals and groups who are considered to be ‘unhealthy’.” Who decides moral superiority or health? Howell (2013:198) suggests “...it is hard to ignore the ways in which government of the body, the self, the home, the family, the nation, and the empire were suffused by conceptions of the Christian moral mission.” One example that conforms to Howell’s statement is the Defense Of Marriage Act (DOMA 1996) which prohibited same-sex marriages from being recognized as legitimate by the Federal government. This Act was written for the sole purpose of forcing a Christian viewpoint, that legally recognized marriages can only be “between one man and one woman,” to become a law to be followed by everyone, regardless of religious affiliation, or lack thereof.

While early attacks on cannabis users focused on the incorrect assumption that cannabis causes insanity or homicidal tendencies, more contemporary attacks on cannabis users have more to do with showcasing an unmotivated, lazy, unemployed cannabis consumer with no goals or aspirations. This is demonstrated by a recent commercial depicting a nearly two-dimensional, flattened girl that, her friend claims, is never able to move or speak because she consumes cannabis (iGeneration Commercials 2006). Depicting cannabis users as unmotivated or uninterested in employment with no evidence of truth is ironic considering that most employment opportunities require screening for cannabis.
These two depictions couldn't be further from each other. One says cannabis use causes murderous rampaging; the other says those who use are unwilling to contribute to society. If the first were true, we would see evidence in the form of a spike in the number of murders in states that have legalized consumption. There is no such evidence. If the second assumption is true, then cannabis prevents citizens from becoming productive members of society. The evidence however does not support this claim. As of June 2021, the U.S. Bureau of Labor Statistics Shows a national unemployment rate of 5.9 percent (BLS 2021). This equates to a little less than a third of the 18 percent of Americans that admit to having used cannabis in the previous year (Schaeffer 2021). Even if all of the unemployed were cannabis users (there is no evidence to support this), it would mean that more than two thirds of all users are gainfully employed, productive members of society.

These depictions of cannabis consumers rely on stereotypes that are based on decades of misinformation distributed by industrialists threatened by competition, such as Hearst, and agents of the U.S. government, such as Anslinger. The conclusion drawn from these depictions of “rampaging murderer” and “lazy bum” is that cannabis users impact others by their behavior. Murder impedes one’s right to life, while unemployment impedes the rights of those dependent on the labor of the cannabis user. Characterizing cannabis consumers as either of these contradictory personas is an attempt to categorize cannabis as harmful or immoral. The dissemination of false information to attach immorality to cannabis has resulted in the creation of some moral
regulations that are biased and/or unfair. Such regulations can create barriers to participation in the industry.

Some of these barriers to participation within the cannabis industry exist seemingly without reason or merit. Meriam-Webster defines agriculture as “The science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products.” Clearly, cannabis is an agricultural commodity by definition. The State of Washington only prohibits cannabis businesses from locating in residential or rural land-use zones. One would logically conclude that an agricultural commodity should be produced in an area zoned for agricultural use. However, many agricultural zones are also zoned for rural land-use only. Some municipalities extended the forbidden zones. One producer I spoke with said that finding a location was difficult because Grant County required a half-mile buffer from his farm to any property containing a residence. Many municipalities have also reduced land-use zones available for cannabis businesses to industrial zones. When scouting for a location for my own business, my options were so limited by zoning restrictions that the property I purchased was the only financially available option. These ordinances restrict any cannabis business from locating within any of the most common land-use zones and allow locations only in zones that make up a small fraction of the available area within a particular municipality. Furthermore, lands zoned industrial may contain contaminants from previous industrial occupants. Farming on contaminated soils can render products unsafe for human consumption. This strategy
of placement is eerily similar to Not-In-My-Back-Yard (NIMBY) arguments that were used primarily to keep minorities out of white neighborhoods and siting unsafe substances or infrastructure in areas often occupied by groups of low socio-economic status.

In a recent article for The Atlantic, “Minneapolis Saw That NIMBYism Has Victims,” Kahlenberg describes how opposition to the Minneapolis 2040 plan is a recent example of a NIMBY argument. The Minneapolis 2040 plan would eliminate single-family zoning and implement other housing and parking reforms. Single-family zoning has been used to segregate people, increase property prices and damage the environment. Those against the plan have argued that “the elimination of single-family zoning...would change the ‘character’ of neighborhoods by overbuilding” (2019). As some fear a change in the “character” of their neighborhood, some municipalities see cannabis as a potential change to their “character.” Industrial zones are typically found in less visible areas on the outer edges of municipalities. Pushing cannabis businesses into industrial zones is a way of keeping that “character” out of sight.

Demanding that cannabis businesses operate only within industrial zones can also dramatically raise the value of a property. Every industry needs space to operate. If space (supply) is limited, value increases. Similar to single-family zoning, this becomes a financial barrier to participation. It can also raise the tax liability for those surrounding properties, regardless of their affiliation with the cannabis industry.

Land-use zoning is only one part of determining a location for a cannabis
business. Another barrier further restricting possible business locations are buffer zones. I-502 demands a 1,000-foot buffer zone between a cannabis business and the perimeter grounds of any elementary or secondary schools, playgrounds, recreation centers or facilities, child-care centers, public parks, public transit centers, libraries, or any game arcades not restricted to use by persons 21 years or older. Legislators have allowed municipalities, by way of written objection from a municipality and written approval from LCB, the option to reduce this buffer zone to 100 feet—except for elementary and secondary schools, or playgrounds, which remain at 1,000 feet (HB2136 2015). Zoning can make finding a location for a cannabis-based business outside of buffer zones difficult. My business was nestled a few dozen feet outside of a bus stop buffer zone in one direction and a few hundred feet outside of an elementary school buffer zone in the other direction. I went through the first grade at that school. When the weather was nice, all the kids were interested in was seeing how high Mr. Davis could kick a soccer ball at recess. Back then, I probably couldn’t tell you what was within one hundred feet of the school or playground.

By comparison, Washington State does not require any exterior buffer zones for the legal sale of alcohol or tobacco within a licensed establishment. Cannabis, alcohol, and tobacco all enjoy limited legality in Washington State. Because neither alcohol or tobacco sales have buffer zones similar to cannabis, I will examine the only similar example of state buffer zones, those regarding sexual offender housing. The Washington State sex offender regulation regarding offender housing demands a buffer
zone of 880 feet from the facilities or grounds of a public or private school (RCW 9.94A.030). Not all sex offenders are pedophiles; only about two-thirds, but it is interesting to note that the buffer zone in this regulation is less than that required for the cannabis industry (BJS Survey of State Prison Inmates, 1991). Obviously, both of these regulations are created to protect children. One is to protect from proximity to the personal residence of a person convicted of a sex crime; the other to protect against proximity to a building or a fenced field with plants or plant material inside. To be clear, proximity does not equate to access. The potential dangers of a child near the residence of a sex offender include, but are not limited to: kidnapping, rape, or even murder. Two-thirds of child abduction/homicide cases examined in one study show that the perpetrator was sexually motivated (Hanfland, Keppel, and Weis 1997). The potential danger of a child being near a building or fenced field housing a cannabis business is that children may see, through a window or gap in a fence, plants growing in the ground, flowers in sealed packages, or a derivative of the plant in another consumable form also in sealed packaging. These products cannot, of their own accord, leave the premises. Rape, abduction, and murder all constitute a recognized danger to the health and wellbeing of a child. The visage of a plant or its prepackaged, sealed, derivatives by children does not. If proximity to a cannabis-based business does not pose an actual threat of danger to those that this regulation intends to protect, what is the protectionary function offered by regulation?
Moral Regulations and Moral Panic

As the regulations outlined above emphasize, some regulations fall outside of the purview of protection. These regulations seek not to protect, but to indoctrinate by shaping attitudes about the regulated object. This may sound Orwellian—precisely because it is. The creation of this type of regulation is entirely an attempt to control thought. This is moral regulation. It involves the protection of one group’s ideas of right and wrong over any others. Moral regulation does not protect people; it merely creates an inequality in the worth of personal moral beliefs.

The United States Government classifies cannabis as a Schedule One narcotic. Because of this designation, the government can claim it holds no benefit in its use, despite the government’s copyright ownership of a synthetic THC pharmaceutical. Durkheim wrote: “Indeed, if the usefulness of a fact is not the cause of its existence, it is generally necessary that it be useful in order that it may maintain itself. For the fact that it is not useful suffices to make it harmful, since in that case it costs effort without bringing in any returns” (Durkheim as quoted in Hirst 1975:96). The U.S. government makes this argument with the Schedule One designation: it is harmful because it is not useful. The argument is reversed twofold when considering that there are 3 synthetic cannabinoids in pill form available with a prescription (implying usefulness) and the 75 years of increased cannabis use despite prohibition (a direct example of effort without return).

Some regulation is necessary for standardization of the cannabis industry and
the safety of the consumer. However, some regulation is redundant, some can be barriers to entry into the industry, and still others seem to oppress or punish rather than protect. In order to understand why a regulation is created, its protective function could be examined. Several questions can be asked to inform the reasoning behind the need for protection: Who is being protected, what are they being protected from, what are the potential dangers lurking inside the object they need protection from, and what constitutes danger? I will use these questions to examine the utility and nature of regulation I-502.

Protection cannot exist without danger. To better understand protection, one must first learn of danger. This last question: “what constitutes danger,” often has to do less with physical danger; so much as it does with perceived deviancy of one group by another group. Opposition to cannabis is not driven by opposition to the drug itself; so much as it is driven by opposition to the culture existing around the drug. In The Drugtakers, Jock Young (1971: 149) states, “Society reacts, then, not to the use of drugs, but to the type of people that uses drugs...” This example also reveals the answer to the other questions above. Who is being protected? The majority within this society demands protection of the status quo. The status quo could hold a variety of meanings. It could mean continued domination of one race over others, one gender over the other, one class over another, or a combination of these or other mores. What are they being protected from? The majority seeks protection from a drug that temporarily alters the mind, and by extension, those that would consume it. What are the potential
dangers lurking inside the object that one needs protection from? The danger lurking inside any drug that has an effect on the mind is something akin to regime change, new attitudes or merging cultures that disrupt the status quo, threatening to lessen or remove power from the dominate culture. What constitutes danger? The dominate culture would see the rise of an alternative culture as physically, mentally, or spiritually damaging to society as a whole—because what is believed to be physically, mentally, and spiritually healthy in one culture may not be universal to all others.

In the 1960’s a counter-culture emerged that ignored the dominant culture of work first, play later. Delayed gratification has, over the years since, been replaced by that counter-cultural idea of instant gratification in a greater percentage of the population. As I.M. Young (2011: 253), in her book, *Justice and the Politics of Difference*, elaborates, “If it was irrational to get so wound up about youth smoking a few joints of weed, it was very understandable to get pissed off about people whose very culture and style of life mocked the 9 to 5 discipline of work from 18 to 65, monogamy and the suburbs which formed your timescale and life pattern.”

This change in attitude is seen as a threat, not just for how people choose to spend their time, but for the functionality of society, by those in the decreasing majority. The threat becomes the group within the culture formed around the new attitude. This threat can be amplified with exposure and dire rhetoric. Threat amplification by politicized groups or the mass media can whip up a “moral panic” within their constituency. In *Folk Devils and Moral Panics*, Cohen (1972: 9) states that a
moral panic ensues when “... a condition, episode, person, or group of persons emerges to become defined as a threat to societal values and interests.” Goode and Ben-Yahuda (1994) reveal the five characteristics of a moral panic in *Moral Panics and the Social Construction of Deviance* as: (1) concern that a particular group’s thoughts or actions will create negative societal effects; (2) hostility directed at that group is increased creating an us vs. them dynamic; (3) consensus that the threat posed is a product of the particular group; (4) disproportionality of the “corrective” action to the actual threat of the accused; (5) volatility of the public interest as new panics emerge to displace former panics. These five characteristics described above can be applied to the moral panic surrounding the prohibition of, as well as the regulation of, the now formal commodity, cannabis. The previous chapter provides examples of the first four of them. An example of the first characteristic would be Dr. Wright’s belief “that cannabis should be prohibited in anticipation of the habitual user’s shift from opiates and cocaine to hashish” (Musto 1972). Hearst’s “yellow journalism” can be seen as an example of the second and third. Mandatory Minimum Sentencing laws are a clear example of the fourth.

The last characteristic of a moral panic (volatility of the public interest) suggests that new panics emerge as the old panics fade. I would argue that some moral panics can remain influential even as new panics emerge. On May 11, 2021, the Court of Appeals of Mississippi upheld a life sentence for Allen Russell, because he was in possession of an ounce and a half of cannabis (Willingham 2021). This is an amount of
cannabis I could legally find on my coffee table any night of the week. This is a reminder that although cannabis is legal in Washington state, it is not federally legal. Cannabis has been trending toward federal legalization, but this recent court case exposes the continued presence of the same moral panic. A few days later, on May 14, 2021, the Mississippi Supreme Court decided to “reverse the Secretary of State’s certification of initiative 65” (a medical marijuana legalization initiative) “and hold that any subsequent proceedings on it are void. The court majority ruled that the (constitutional) provision plainly says signatures are to be gathered equally between five districts, one of which no longer exists” (Pender and Harrison 2021).

The State of Mississippi has only had four districts since 2000, yet, the state has passed numerous voter initiatives in the most recent twenty years, as of the time of writing this thesis. This court case shows that the moral panic is still at such fervor that a State Supreme Court would subvert democracy to overturn a voter initiative that passed with nearly 74 percent of the vote. Furthermore, the decision will threaten any voter initiative passed in last twenty years, threaten the validity of six other pending voter initiatives, and strip the voters of the ability to put initiatives on future ballots until an amendment is made to the state constitution. These two examples show a cannabis moral panic exists in the judiciary of that state. While these cases were outside Washington State, they were within the United States. Federal prohibition coupled with a vigorous moral panic in places of authority can threaten the continuation of legality in any and all states that choose to legalize cannabis, including Washington.
These rulings also demonstrate how a moral panic can be amplified and how one moral panic (cannabis) can be used as tool to amplify another moral panic (threats to racial dominance). The Mississippi Supreme Court is demographically composed of one African-American male, one Caucasian female, and seven Caucasian males. The Court of Appeals of Mississippi is demographically composed of two African-American females, two Caucasian females, and six Caucasian males (Ballotpedia.org 2021). According to the United States Census Bureau, Caucasians make up 59.1 percent of the population of Mississippi, while Blacks or African Americans are 37.8 percent. (2019). Both courts hold Caucasian majorities disproportional to population demographics.

While demographically disproportional, the Mississippi Supreme Court struck down a voter initiative that passed with 73.7 percent of the vote. Demographic information is not available for that vote, but such a high percentage would indicate multi-racial support for its passage. To overturn such a popular initiative, that also requires invalidation of all other voter initiatives passed in the last twenty years as well as stripping the voters of the right to future initiatives, suggesting a moral panic-induced overreaction.

The Court of Appeals ruled that, because Allen Russell’s cannabis possession arrest occurred after home burglary was reclassified as a violent crime, he was in violation of the terms of his parole. (Russell Allen v. State of Mississippi 2021) Ex post facto laws should have protected his record, including a non-violent home burglary that occurred ten years before that reclassification. Upholding the life sentence for Mr.
Russell, an African-American male, may not have anything to do with his race, but the circumstances leading to this extreme sentence (a state court defying ex post facto laws) indicate a bias due to the willingness of a Caucasian majority to defy law in order to put a non-Caucasian in prison for life without the possibility of parole for a seemingly minor offense. These recent examples remind us that while some moral panics are replaced with new ones, moral panic regarding cannabis and race can be intertwined and are definitely alive in parts of the power structure of the United States. But let’s bring this back to Washington State, where cannabis is legalized.

Visibility and Invisibility in I-502

Parts of the regulatory structure built around I-502 attempts to protect the public partially by using methods designed to render the cannabis industry invisible. The regulatory example describing buffer zones, outlined above, serves this same purpose, but it does not stand alone. In order to grow cannabis outdoors, the farmer must erect an eight-foot tall fence to obscure the public view of the farm. Tall, vision-blocking fences send a not-so-subtle message that what is behind them (plants growing in the ground) should not have to be seen by those who consider cannabis use immoral. Another aspect of this particular regulation is that most municipalities have ordinances that limit fence heights to six feet. One must apply to be permitted to erect an eight-foot fence. This, of course, means that one can be denied a permit and by extension denied a location.

Shielding cannabis from the public view does not end with regulations for
farmers. Retailers have limits to the degree with which they can legally advertise. Sealed packages of cannabis-based products within a cannabis dispensary cannot be visible to the public from outside. Advertising signage can contain no iconography, only the business name and nature of the business. Additionally, it cannot exceed 1,600 square inches in size. Furthermore, advertising with newspapers, magazines, mailing fliers, transit-related locations or vehicles, and commercial mascots (sign spinners) are prohibited as well. If any of these regulations are protectionary, knowledge of the existence of the cannabis industry must be what the public is being protected from.

The consumer must also keep the industry hidden. Consumption of cannabis in public view is against the law, regardless of the form of product consumed, or the method of consumption. Placed side by side, a cannabis-infused brownie looks no different from a drug-free brownie. Eating one looks exactly the same as eating the other. The regulation is, again, a means of hiding the existence of the cannabis industry. It is also illegal to open a sealed package containing cannabis or any of its’ derivatives in view of the general public. These regulations do not just restrict a consumer in public places, but also private places that are visible from outside of the private place (living room without drape-covered windows or yard). Consumers are also banned from establishing cannabis “bars,” or businesses operating for the purpose of providing a location for storing or consuming cannabis industry products. While the activities inside or the purpose of the business may not be visible, congregation of consumers may make the existence of the industry too visible.
Visibility is the common thread that ties these moral regulations together. In his book *Rule by Aesthetics: World-Class City Building in Delhi*, D. Asher Ghertner (2015:17) states that “any social order—the distribution of parts and positions in a community—produces and is produced by an aesthetic order—the distribution of the sensible—which shapes how differently placed individuals see and what they can say, what gets recognized as speech and what is heard as mere noise, and thus who has the talent to speak in sensible terms.” He also contends that “under conditions of such aesthetic rule, social order is inscribed in public modes of viewership as much as it is secured through reasoned injunctions, systems of belief, or statutory command” (Ghertner 2015: 6).

Disregarding the fact that a majority of Washington State residents voted to legalize the recreational use of cannabis, legislators decided that the appearance of social order may be disrupted if the same visibility other industries enjoyed were extended to the cannabis industry, giving its existence equal weight and voice. The choice to deny visibility was an amalgamation of reluctant acceptance into the formal economy and belief systems of what an idealized society should look like or promote.

These belief systems affect not only the conditions, within which the industry is allowed to be seen, but also the denigration and abandonment of its labor force. While workers appear to enjoy working within the industry, physical, financial, and emotional aspects peripheral to the labor can be detrimental to those workers’ personal physical and/or financial health and mental well-being. An examination of these aspects could illuminate the potential costs and disruptions foisted on employees due to belief
systems that determine that they and their industry should exist without being seen.

Obviously, regulation is meant to moderate relationships between one person’s understanding of what is right and the inalienable rights of the individual, and another person’s understanding of right and rights. Thus, some agency (local, state, and/or federal legislators) must determine who is correct and how a thing must be regulated. However, these are elected positions—or positions appointed by elected legislators that are out of reach for most Americans. Money plays a huge role in who will be able to participate in the legislative process. Why does the economic status of legislators matter? The old axiom “money isn’t everything” is only partially correct. According to anthropologist Pierre Bourdieu (1986), cultural capital is represented as knowledge, skills, dress and behaviors of an individual that follow a doxa within a particular culture. Social capital is represented by the prestige gained or lost by an individual or group by connections to individuals or groups with greater or lesser prestige. Societies assign value to the prestige gained or lost through social and cultural connectivity. These values are increased or decreased by interaction with others of greater or lesser social or cultural value than their own (Bourdieu 1986). These values, however, can be bought with economic capital. Cultural capital can be bought using economic capital to obtain better clothes or a higher education. Social capital can be bought using economic capital to obtain access to an individual of high social influence. Thus, money is often viewed, by society, as an indicator of the amalgamated forms of capital, both concrete and symbolic, that form the basis of societal worth for an individual. The opinions,
including opinions regarding morality, of those who hold the most societal worth are
given more weight than those who hold less. This can create an indirect substitution of
morality for money. As a result of the Supreme Court decision on Citizens United v.
Federal Elections Committee (FEC), as well as McCutcheon v. FEC, money has played a
bigger role in politics than ever before. The Citizens United and McCutcheon decisions
allowed unlimited contributions during an election cycle under the guise of protecting
free speech. The influence of any particular candidate could then be magnified by
improving his/her societal worth by simply improving his/her personal worth. This
reduces the electoral process to merely outspending one’s rival. In 2016, the average
cost of a seat in the House was $1.5 million; for the Senate, a staggering $10.5 million,
with 90 percent of elected representatives having been the biggest spenders in that
election cycle (CFI 2018). This is not an absolute barring of the working class from
legislative processes, but it creates a nearly insurmountable barrier to entry. Being a
part of a legislative body requires a lot of social capital, but those with even a small
amount of social capital can participate by voting—except when they can’t.

Representatives wield the power to create, alter, or remove legislation. Some
legislation is, paradoxically, meant to eliminate the democratic process from democracy
by removing the ability to participate through voting. Many have recently used this
power to suppress the ability to vote. This is an example of the representative picking
their voters rather than the voter picking their representatives. A report, titled Voting
Law Roundup: May 2021, from The Brennan Center For Justice, a non-partisan law and
policy institute, reveals that, as of June 21, 2021, within the 2021 legislative sessions, forty-eight states have introduced 389 bills with the purpose of suppressing votes. At least twenty-eight of these bills have been signed into law in seventeen states (Brennan Center for Justice 2021). Suppression of participation in the mechanisms of democracy has long been a part of the history of the United States. Then, as now, the targets to be suppressed are disproportionally minority communities. Barriers to participation in the legislative process severely reduce socio-cultural connectivity. Reducing connectivity devalues social capital. Devaluing social capital as a repudiation of an opposing view is not just an infringement on the rights of one group by another, but it is also a way of rendering that group invisible. I will discuss the barriers attempting to cloud visibility of the cannabis industry in Chapter V.
CHAPTER V

THE JOINT JOURNALS

In order to determine how this fledgling cannabis industry affects those working within it, I asked employees from a variety of positions within the industry to provide me with a “day in the life” account of their experiences. I am also drawing on some of my own experiences as an employee within this industry.

There is something special about working with cannabis. While sore backs and office politics wear on even the hardest worker, there is such a love of the product by its producers, processors, and retailers, the overarching mood of these groups is one of cohesion and happiness. Again and again I hear that employees wake up excited to go to work because: “I just can’t believe I get to go to work on a pot farm,” or “I get to share what I know about particular strains and provide people with exactly what they are looking for.” I have worked in quite a few industries. The cannabis industry is unique however, due to the connection employees feel toward the plant.

As I enter the processing building at the farm, I am greeted by the smell of citrus; lemon and orangey zest mixed with sweet undertones. The crew is about to start processing Hindu Kush, and its terpenes (the chemicals associated with its taste and smell) fill the air. This fragrant strain is purple and green on the stem, but it looks almost brown from a few feet away. Once it is trimmed however, the flower is a vibrant purple with yellow highlights. The Talking Heads radio is playing on Pandora, and the
crew is happily singing along to a song by Men Without Hats. They joke, talk, and enjoy music all day as they work.

As the day progresses, the interior air will be filled with intoxicating particulates from the dried flowers. I do not know the concentration of intoxicants in the air, but I suspect that it contributes to the mood of the crew. More research into the long-term effects of this aspect of the industry would beneficial to regulators, safety organizations, and to the employees, themselves. Some employees that work in processing have noted that when working with particular strains, they encounter allergens that produce mild rashes or have a respiratory effect. Jokes are made about the likelihood of settlement commercials for “Nug Lung” or “Kief Cough” similar to those for mesothelioma sufferers that worked with asbestos. We all laugh, but it is also understood that there may be significant health issues stemming from this industry that, due to a deliberate lack of research prior to legalization, may not be known for quite some time. “Gallows humor” is often employed to relieve tension when faced with a hopeless or dire situation. It is a way to boost the morale of the oppressed peasant who has no way of improving his lot in life, except through his attitude towards his predicament.

Although cannabis consumption is legal in Washington, most employers still insist on testing a prospective employee’s urine to see if cannabis has been used within the last forty-five days prior to testing. Cannabis is used regularly by a majority of those working in the cannabis industry. This makes the idea of getting and keeping a job
outside of the industry difficult to achieve without a huge gap in employment, cheating the system by dilution of the sample, or outright replacement of urine with a synthetic compound that mimics “untainted” urine. This makes the need for gallows humor all the more necessary as many do not see a viable alternative to cannabis industry work without a heavy financial or moral cost to the employee. Further complicating the predicament, if a cannabis user circumvents the test successfully and actually does get a job, that employer may also demand additional urine samples to make sure the employee never consumes cannabis while in his employ.

While the majority of employees consume cannabis on a regular basis, there is a small minority that chooses not to imbibe at all. These few seem to enjoy the atmosphere of this industry regardless. Who doesn’t enjoy having happy co-workers? One such employee stated “Everyone that works here is super great, and super chill to be around. I felt comfortable working here by the end of my first week.”

While the processing crew is preparing raw product for market, I start on the clone care. I check internal temps and humidity for each bin on the clone rack. There are around fifty clones per bin. There are sixty-two bins. After reporting the atmospheric conditions, as well as the condition of individual clones, I water the newest and nutrigate the elders with a mix of water and organic nutrients. It does not smell good, but its mild smell is overpowered by the terpenes in the room. Once clone care is completed, I head to the green house. The green house greets me with a different smell, more akin to fresh cut grass. I first check the males for spore pods. I have long
railed against keeping males at this farm. Male plants produce spores that have a commercially devastating effect on flowering females. Regardless of my feelings toward male-plant integration, the owners want to keep particular strains of males in order to have seed producers during the non-flower growing season (November through May). After removing any parts of the plant that are producing pods, I move on to defoliation.

The plants are in a closed environment at this stage. All the plants in the greenhouse are either “mothers” or “fathers.” When a sufficient number (three to five) of clones from each strain of fathers have rooted, they can be killed. Once a sufficient number of clones (100-300) from each strain of mothers have rooted, they will be forced into flowering or killed. They may be killed if they are too infected with powdery mildew, gnats, or spider mites, or if they have had too many cuttings, close enough together, to not provide enough limb strength and support to heavy flowers. Strains with more than one phenotype may be reduced to one by killing off those phenotypes that are inferior. Forced flowering is accomplished by an adjustment in the light cycle. Due to the fact that the greenhouse is a closed environment, all aspects can be, and are manipulated. Humidifiers, de-humidifiers, CO2 emitters, numerous fans, blackout shades, blended organic nutrients, and a variety of lighting options can all be utilized to optimize production yields. While the mothers are flowering in one greenhouse, clones, once rooted, will be moved into a second greenhouse. As plants mature and begin to take up more space, some may be transferred into a separate area of the mother greenhouse as the mothers begin to be harvested and removed. When the weather warms to
survivable levels, some requiring a delicate balancing act of conditions will remain inside while those that thrive in the local environment will be moved out of the green house and into the ground.

Defoliation is a very important part of recreational or medical cannabis cultivation. The intoxicating resin that forms on the flowers and surrounding biomass is a survival method of the plant. It helps to retain moisture and protects it from the summer heat. Hot, dry conditions stimulate the plant to produce more of it to combat those conditions. Another defense mechanism of the plant is to be bushy with lots of fan leaves covering the exterior in order to protect the interior center stalks that will produce the flowers. Unfortunately, this protection for the plant can cause a problem for those growing consumable flowers. The fan leaves, while blocking heat, also block air flow. Plant matter in heavy contact with other plant matter and no interior air flow create an excellent breeding ground for powdery mildew and other forms of mold. It also makes pest elimination difficult, due to a lack of pesticidal penetration into parts of the plant where pests might be procreating.

To defoliate a plant I first glove up, put on some shades, slather on some sunscreen, sanitize all tools, and grab a bucket for what I will be discarding. As I am defoliating, another employee is watering the plants. There is an alternating schedule for when to irrigate and when to nutrigate the plants, but today, it is just water. Another employee is preparing some of the organics used in the formulation of our pesticides and fungicides. Towards the end of the day, after the sprays have been
mixed, the lights will be shut off, the shades drawn, and it is thoroughly applied to all of
the plants. Depending on the type of spray used, it is either a very pleasant, minty smell
(foliar fungal application), or a nasty onion, garlic, ogre’s breath smell (pesticidal
application).

After a couple hours of work, the crew leaves the fenced enclosure of the farm
to take a much-needed break. A break means different things to different people on a
cannabis farm. Some just eat a snack and relax for a few minutes, some will light up a
cigarette, some will have a spliff (a cigarette made with a mixture of tobacco and
cannabis), and some will smoke just cannabis in one form or another. The law in
Washington State regarding usage of cannabis in the workplace simply states that one
cannot appear to be intoxicated (HB 5052). The employees in this industry that do use
cannabis are typically habitual users. Habitual users are much more likely to have the
ability to “maintain” (appear sober). The employees are provided with two-gram
monthly samples of the farm’s strains to familiarize themselves with the product and to
keep morale high, but the marijuana consumed on breaks is brought daily by the
employees. With the exception of that designated as employee samples or product
deliveries, legally none of the product on site can be allowed to leave the enclosure.

With cravings satiated, and spirits revitalized, everyone heads back inside the
fence. The fence entry is secured by an electromagnetically controlled gate that
requires a code or fob for entry. Every employee is given a code or fob specific to
themselves, and is responsible for the security of their access. When passing through
the gate, an upward glance would reveal several cameras utilizing various angles to focus on the parking lot, the entry point, and the immediate vicinity to the entrance of the interior of the farm.

These are not the only cameras encountered at a cannabis-based business. Every square inch of the property, as well as a good portion outside of it, must be visible to the monitoring station on site. Of course, this must be used to prevent theft. It also serves as a mechanism for micromanagement. Some employees say that they don’t think about the cameras. Some say they are used to them. A good number of them say they don’t like having their bosses watching over their shoulders while they work. It is interesting that those that still recognize the presence of the cameras see them as spying tools for management rather than theft control. I have personally heard about many infractions (work-related errors) that were witnessed by management through a camera lens. I have not once heard about a single case of theft being witnessed on one of these cameras. Either they work very well for theft control, or theft control is not their primary purpose. Are regulators demanding cameras due to the criminality of industry workers and their penchant for lawlessness? Or, is this the perception of industry workers that regulators would like to maintain? This demand for monitoring of employees furthers the narrative that, due to their association with this plant and its industry, they must be bad people, prone to doing bad things. Perhaps worker’s responsibility to control access with a personalized gate code is an extension of the
mistrust directed toward them. This theme will be discussed further below. For now, let’s return to the work day.

Once back from break, I resume the task of defoliation. I use my fingertips to pinch and pull the leaves from the stalk. I start at the tops and remove exterior fan leaves in order to let light into the interior of the plant. I move down one side of the plant opening up the space between leaves to encourage air flow. There are plenty of yellow and brown, dead and dying leaves on the interior and lower branches. These are all removed and the defoliated plant looks spindly and bare. I typically remove between 30 and 45 percent of the leaves on a plant. The ratio of green house employees to plants demands that plants wait too long between defoliations to require only a cursory leaf plucking. Defoliation takes between twenty to thirty minutes per plant. There are slight differences in the smell of each strain, and at this stage the smell is also very slight. Working in such close proximity to a plant affords the opportunity to really enjoy its personal scent.

Somewhere between noon and one o’clock, the workers head to lunch. They eat their lunches and engage in personal smoking rituals while talking and laughing the toil of the day away. Their lunch lasts about half an hour. I have a dog and understanding bosses that allow me to leave and take care of my dog while on an extended lunch.

I return after about an hour and fifteen minutes to find the crew hard at work. Several are singing along with a YouTube mash-up featuring He-Man singing the 4 Non
Blondes’ song “What’s Going On.” It is both hilarious and slightly disturbing to hear every day. The crew is split between bucking (removing plant material from the stalks), machine trimming (removing fan and sugar leaves by machine operation), and hand trimming (fine trimming of finished product). The strain they are working on is one developed at this farm. It is greenish brown prior to trimming. As the outer layers are removed, a dark purple flower with reddish brown ‘hairs’ is revealed. This particular strain has a pungent odor. It smells very similar to lemon eucalyptus DEET-free mosquito repellent. Just for a moment, the scent catapults me back to the jungles of Belize where I spent part of a summer conducting research for the Belize Valley Archaeological Reconnaissance Project. It was an amazing experience that I enjoy remembering. A good smell can do profoundly wonderful things.

I return to the green house to see which projects should have priority. The growing season is fast approaching. We need to stock our racks with more clones. As of the time of this ethnographic writing (Spring 2016), l-502 designates three sizes or “ tiers” of farm. A Tier 1 can have a “canopy” covering between 1 and 2,000 square feet; a Tier 2 can have between 2,001 and 10,000 square feet of coverage; and a Tier 3 can cover between 10,001 and 30,000 square feet. This farm is a Tier 3 Producer. At full capacity, this farm will house between 3,000 and 3,500 plants in a variety of strains. So far this year, we have made approximately 3,800 clones. Unfortunately, many did not survive the rooting process and will have to be replaced with new clones, as we are still deficient in some strains. The green house crew discusses which strains need more
clones and whether the mother of each strain is ready for another cutting. Once it is
determined which plant should be cloned next, as well as how many clones can be taken
from that mother safely, I begin to prepare for the cloning process.

First, I need to set up a station in the processing building. I put on rubber gloves
and sterilize all of the equipment I will be using. This includes: table, trimming shears,
razor knife, cutting dish, clone cup, cloning trays, bins, a plant waste bucket, and
solution cup. The tray is loaded with lightly water-saturated COIR (a substitute growing
medium to soil). The rooting solution concentrate is carefully mixed with water and
placed on the table adjacent to the tray and cutting dish that is half full of water. The
clone cup is filled with water and a smidgeon of rooting solution.

With shears and cup in hand, it is time to return to the green house to cut the
clones from the plant. I will be taking from the Tangerine strain with a specific
phenotype designation. This farm has two distinct phenotype designations for the
Tangerine strain. As you can guess, they both smell a little like a tangerine, but they also
have a peppery hint that really accentuates the citrus nicely. Selection of each clone
involves looking at the size, number of nodes (bumps on the stalk that new leaves and
branches sprout from), and thickness of stalk. Clones are carefully cut from the plant at
a node with at least two nodes located between the top of the clone and the cut. The
cut is at a diagonal angle to the stalk. The clone is then placed into the cup, and the
next clone is selected and the process is repeated. I take between fifteen and twenty-
five clones per trip to the green house. I may be taking one hundred Tangerine clones
today, but the clones get smashed in the cup if too many are taken at once. The clones also have a lower survival rate if the process between cut and COIR takes too long. Back at my cloning station, I take a cutting from the cup and, holding it over the waste bucket, I use the shears to trim everything from the stalk except for the top two to four leaves. The leaves are then trimmed to about half their length. The waste produced will be weighed, documented, and destroyed. The cutting stalk is placed into the cutting dish. The razor knife is then used to cut the end of the stalk at the desired length, or more precisely in a place that will leave at least one node inside the COIR grow medium. The razor knife is also used to lightly shave a strip of the stalk that will be covered by the COIR.

The desired length is debatable. Some do not want clones taller than a few inches because Washington regulations state that once a plant reaches 8 inches tall, it must be tagged as an individual plant. The plant will not grow taller until it takes root. When a plant has produced roots, it will be transplanted, at which point, it will also be tagged. To me, this renders the desired-length argument moot, as long as the desired length of cut is less than 8 inches above the grow medium. Typically, I make mine between 3 and 6 inches tall.

After I have cut to length, the clone is placed in a root-building solution, and I move on to the next clone. When about five of the clones are in solution, I pull the first out and place it into the center of a water-wetted COIR plug. I remove a piece of the edge of the plug, and use it to cover the remainder of the hole in the plug around the
sides of the stalk. I place the newly finished clone in a tray and move on to the next clone waiting in solution. When the tray is filled it is placed into a bin and covered for forty-eight hours on a rack in the processing room and assigned a bin number. The bin will also be labeled with: the date of cloning, the strain name, and the bar code associated with the mother plant. I repeat this process until shortly before the end of the day.

About twenty to thirty minutes before the end of the day (typically five or six o’clock), the crew starts putting things away and cleaning up. Every spec of plant material must be accounted for. All unprocessed material must be packed away into the storage room. All waste material (product that falls onto the floor, and non-flower material from bucking and hand-trimming) must be bagged weighed and placed into the storage room. All processed and prepared material that is ready for distribution is placed into the quarantine room (all products ready for distribution must be in quarantine, proven untouched for twenty-four hours by camera before delivery). All tools are cleaned or put into an alcohol solution to soak (alcohol is the most commonly used solvent for marijuana resin removal on the farm). When everything is clean and put away, the crew and I lock up and leave the farm for the day.

Though a lot of the processes were discussed above, there are many more processes that were not. The point, however, was not just to expose the processes, but those that conduct them. The overall sentiment that the crew exudes is one of pleasure. They are pleased with their choice for this place of employment. They are
pleased with their hand in the production of the plant. They are pleased with the
permission to speak freely and listen to music while working. They are especially
pleased with the 30 percent discount they receive when purchasing products originating
at our farm.

Attitudes about working in the industry vary quite a bit when employees are not
at work. I have discussed this discrepancy with several industry employees, both at the
farm and in recreational cannabis retail stores. Some employees are afraid to name
their place of employment or that they work within the I-502 industry due to the lack of
acceptance of cannabis from friends or family members. I spoke with one person who
said, “Sometimes I go shopping after work and I get the ‘stink-eye’ from anyone who
recognizes the smell of marijuana lingering on my clothes.” Another told me that, “My
mom thinks I work on a farm with animals and shit, she’d go ballistic if she knew it was a
pot farm. Luckily, she lives in Arizona!” With the exception of a few, these types of
sentiments seem to be heard from one employee after another. It is not that these
employees have a problem with their choice for a place of employment; it is that some
others outside of the industry have a problem with the employees having this industry
as a possible choice for gainful, legal employment.

There exists a moral buffer in place to protect children and the public in general
from those who choose to be employed within the industry. Employees are regularly
met with scorn for their choice of profession. Attitudes from those outside the industry,
regarding employees, range from suspicion to hate. Eighty years of “yellow journalism”
has produced a common consensus of the general public that users of cannabis are lazy, untrustworthy, sneaky, insane, corrupting of youth, and prone to rape and violence. While these characterizations seem silly to those within the industry, the mantra of immorality has been repeated so many times for so long that, for many, it has become what they perceive as the truth. In the last few years, some journalists have used scientific findings, as well as interviews with medical patients and daily cannabis users to change opinions about the plant and its users. Unfortunately, the genie does not go back into the bottle so easily. Decades of misinformation have to be ignored for a change in social acceptance to happen.

As if demonization isn’t enough of a downside for prospective industry employees, there is very little within the cannabis regulatory structure that protects the worker. There exists a large number of regulatory protections within the I-502 framework. These regulations protect the owner from theft and fraud in the form of cameras. They protect the public from personal choice of location and sight of the plants or advertisement. They protect children from proximity to the industry. Lastly, they protect the State’s ability to tax and further regulate the industry. What is the danger that these regulations are protecting us from? Where are the regulations to protect workers?

I stated previously that employees use gallows humor to alleviate fears of potential future industry-caused health concerns. Currently, there are no regulatory employee protections for possible future health concerns. Allergic reactions (rashes,
chest congestion) to the particulate of the dried plant material have been witnessed, but have not previously been documented. As the industry grows, I suspect we will see litigation concerning this issue by those that work within it. Currently, there are no regulatory protections for employee compensation either. Cannabis businesses, while large enterprises, do not often require a large work force. The laborers are not numerous enough to require benefits such as health insurance, or paid vacation.

Employee pay in the cannabis industry is less than adequate. A General Manager of a cannabis farm faces legal ramifications for mistakes and has a multitude of responsibilities but is compensated at a lower rate than a stock boy at a department store with only a few responsibilities and in no danger of fines or imprisonment. Employees are subject to compliance with the laws governing the industry. If they are not in compliance, they may be subjected to a significant financial burden in the form of a fine—or worse, a sentence. Legislators probably did not account for low wages when determining the dollar amount of these fines. For instance, if an employee forgets to wear a badge (identifying the employee as such) or wears it under clothing where it cannot be seen, that employee is charged a $500 fine (over a weeks’ pay for most employees) (HB 5052 2015). What is the reasoning behind this type of regulation? Why does it matter that employees must be identified as such? The cameras cover every square inch of any industry operation. Are not the badges then an unnecessary redundancy?
With the deck so thoroughly stacked against industry workers, why would anyone want to be associated with it? The answer is simple. Most employees are in this industry because they believe in the product, and want to be a part of its historic emergence into the formal economy. Obviously, they must be held accountable.
CHAPTER VI

COOL AND USUAL PUNISHMENT

On a sidewalk, a passerby offers a sneer of disapproval to a cannabis laborer, who wears remnants of their occupation like a bowl of fragrant, green potpourri had been dumped, lightly covering them from head to toe. While anxiously returning to a shift from their break, the laborer worries about whether or not the United States government will continue to allow the recreational cannabis industry to operate in Washington State independently and unimpeded. Many, like the Harvey family, also known as the Kettle Falls Five, or the employees and family of Med-West Distributors owner, James Slatic, have faced civil asset forfeiture and/or federal prosecution for production and distribution of cannabis intended for medical use in a state that had legalized the medical use of cannabis (The Spokesman Review 7/25/2015, Carpenter 2016). These are some of many concerns I have heard expressed by those working in the cannabis industry, indicating a continuation of negative stigma associated with activities involving cannabis, despite its legalization.

When considering the negative stigma placed on cannabis industry workers, as well as the threat of financial loss, or potential imprisonment, why would anyone want to enter into the workforce of such a volatile industry? There are a number of reasons why the industry is appealing despite the potential risks. In this chapter, I will explain some of the more common reasons that workers have described to me, as well as what I have learned in my own personal experience as a cannabis industry worker.
I have worked on over a dozen cannabis farms, three processors (I became an owner of one previously owned by an employer), and had business transactions with over a dozen cannabis stores since the recreational use of cannabis was legalized in Washington State. In that time, I have conducted ethnographic fieldwork with the employees of a vertically integrated farm and processing center, conducted interviews at a retail location, and interacted with hundreds of others that have chosen to work in the cannabis industry. The cannabis industry labor force in Washington State is a complicated group. It’s racial and gender diversity is somewhat determined by the visibility of the spaces of cannabis operations, including production, processing, and retail sales.

Sociologist Erving Goffman (1956:70) wrote that, “Since the vital secrets of the show are visible backstage and since performers behave out of character while there, it is natural to expect that the passage from the front region to the back will be kept closed to members of the audience or that the entire back region will be kept hidden from them.” Cannabis retail dispensaries are the most visible space and thus the only front region within the cannabis industry. I-502 attempts to limit the visibility of front region spaces with buffer zones, bans on windows that expose products inside to the public view, and by limiting the size and iconography of advertisements. This indicates a preference of the state for a high degree of insulation between cannabis operations and public spaces, or that cannabis front regions should be in society’s back stages. Despite a lack of need for public interaction with back-stage areas of the cannabis industry,
these areas are more hidden than back-stage spaces in other industries due to buffer zones, tall fencing requirements, and zoning restrictions that relegate operations to industrial zones. How does this impact the demographics of the cannabis industry workforce in Washington State?

Who Are Cannabis Workers?

The demographics of production and processing show a high level of racial diversity in the labor force. However, there is less diversity in the labor force of the dispensaries. The dispensaries, or stores, are the most visible aspect of the industry to the general public, and are staffed predominately by Caucasians. This is reminiscent of the tourism industry, where frontline workers are, “... part of what is in fact ‘sold’ to the customer. In other words, service partly consists of a process of production which is infused with particular social characteristics, gender, age, race, educational background and so on. When the individual buys a given service, what is purchased is a particular social composition of the service producers ... this has the consequence that in some such cases employees’ speech, appearance, and personality may all be treated as legitimate areas of intervention and control by management" (Urry 2002: 61).

Since this is the front region of the cannabis industry, the perception sought is that the age, racial, and gender composition of the front region is indicative of the entire cannabis labor force. Competitive industries and government entities fueled and exploited a fear of black and brown skin to demonize and prohibit cannabis. This association of whiteness with cannabis may be an attempt to distance cannabis from
the fear previously associating cannabis with brown or black skin. Such a performance also indicates that cannabis should be associated with whiteness, now that it operates in legitimate spaces. Of course, this is all based upon my limited observations, as there is no state or Federal demographic information available for the cannabis-industry labor force. Some data companies, like Leafly and Whitney Economics, have collaborated in an attempt to estimate the number of workers in the cannabis labor force. Their methodology used a combination of examining industry revenues, labor permit data, business licenses, regulatory structures, and breakdowns by business sector to create a model for estimation. Estimates were further reviewed and adjusted according to industry and operator inputs. (Leafly.com 2021) Government entities recognize the lack of, and need for accurate industry data when determining how to craft policy. The Washington State Institute for Public Policy also attempted to estimate the number of labors as well as their wages “…to provide descriptive information only.” They estimated that 693 cannabis businesses had 10,894 employess (6,227 full time) that accrued $53,250,844 in total wages, with an average hourly wage of $16.45 and an hourly median wage of $13.44 (Hoagland, Barnes, and Darnell 2017). This data is important and needed, but it is only “descriptive” of the workers wages, not the workers themselves.

Because I can only rely on my observations to determine industry labor force demographics, my sample size is small (42 in front spaces, with 54 in the back stage areas) as I have only counted those employed where and when I was permitted to
conduct fieldwork involving human subjects. The racial composition observed throughout the front regions and back stage areas that I have been allowed to enter closely resembles the racial composition of those within my sample. However, visual cues can be misinterpreted. The collection of accurate demographic information throughout the cannabis industry in Washington State and beyond would be very helpful for future research. In my observation, the less visible parts of the cannabis industry (production/processing) seem more racially diverse with about half Caucasian, one third Hispanic, one tenth Asian, one twentieth Native American, and about one fiftieth African American. Whereas, the most visible parts of the cannabis industry, that I have observed, (stores/owners/management) fall demographically closer to Washington State population statistics in terms of race and ethnicity: over three quarters Caucasian, an eighth Hispanic, one tenth African American, and about one twentieth each of Asian, Native American, and Pacific Islander.

The cannabis industry requires a minimum age of twenty-one years for participation. However, I have seen very few laborers within the industry over the age of fifty. The average age of those within the labor force of this industry is about thirty-five, which is pretty close to the States’ median age of 37.5. Gender in the cannabis industry also follows State demographics of approximately 50 percent for either male or female. However, production crews skew male, while store employees skew female, and processors are a fairly even mix of genders.

Members of marginalized groups such as the LGBTQIA+, homeless, and migrant
worker communities seem to have found acceptance in the cannabis industry. As part of several management teams within the industry, I have noticed that most candidates for employment that were deemed unacceptable were those who indicated an unwillingness to accept the choices of others that differ from their own as legitimate. One cannabis business owner did not want us to interview those with substantial military experience as they believed that extended military service magnified aggression and intolerance. I have worked with some whose acceptance transformed them and brought out previously unseen confidence that became an acceptance of self they may not have experienced before. I have seen some of them excel and move up in the industry, and others who left the industry to explore what more they are capable of, and have been thriving.

A significant number of those I saw welcomed into the industry did not have a high school diploma. Many of the farms I have worked with are near cities that host a college or university. Some of the workers at those farms have some college education, but very few had completed a degree.

The economic backgrounds of the labor force are variable, but those I have spoken with come from families that range from the middle class to the lowest of economic classes. I have yet to find any member of the labor force that claims to come from a family of wealth. The majority of the labor force had never been paid much more than minimum wage prior to working in the cannabis industry.
Why Work In Cannabis?

Aside from risks, there are some benefits within the cannabis industry that are unique to this industry alone. Workers entering the cannabis industry are assumed by that industry to be consumers within that industry. This is not always so, but the assumption makes pre-employment drug screening for cannabis unnecessary. As a result, if an offer of employment made by a cannabis business is contingent on a pre-employment drug test, it is likely only to test for non-cannabis based drugs.

Since the anti-drug fervor of the 1980s, it has been difficult for those that regularly use cannabis to find traditional work without the invasion of personal privacy that is a urinalysis. In most industries, once a job is offered, the potential new employee is taken or sent to a testing facility and told to urinate in a cup for analysis. Typically, the potential new employee’s urine is screened for a number of drugs, any of which could mean the retraction of an offer of employment. As previously discussed, cannabinoids (the active ingredients in cannabis) can take up to 45 days to metabolize. Cannabis is unique in this respect as the markers that most other drugs that are screened for are eliminated in a much shorter timescale. This implies an inequity of danger pertaining to types of intoxicants and reduces the test function to primarily be a screen for those that have consumed cannabis, even more than a month prior, and those that have used some other drug very recently. In addition, many companies outside the cannabis industry also demand random drug testing for continued employment. Therefore, a potential employee that regularly uses cannabis must either
wait for metabolism to eliminate evidence or cheat the test. An entire industry, with products such as Urineluck, has developed to accommodate those that can’t pass the test and/or have overcome any moral qualms about cheating in order to be employed.

Many workers within the cannabis industry do use cannabis. A significant number of employees within the industry (around three quarters of the employees I worked with) consume cannabis shortly after waking and continue consuming throughout the day. The regulatory structure built on I-502 states that employees cannot appear intoxicated. This means that legislators chose to trust behavioral cues over invasive urological testing results in determining intoxication. Those laborers that do consume throughout the day remark some variation of only feeling “normal” if they have consumed. If the appearance of intoxication is acting out of the ordinary, how would one judge intoxication of an employee that has no observable reference point of sobriety? Furthermore, those in this category have normalized their intoxicated behaviors attempting to appear indistinguishable from behaviors of sober workers.

Contrary to other industries, not only does the cannabis industry allow some use at work, it sometimes provides cannabis to employees for consumption. This is done in two ways. Employee familiarization of individual strains is very important part of quality assurance. Flower and its post-processed products must be tested for smell, taste, and performance. Rather than hire an individual to test all products, testing is typically spread throughout the workforce in order to obtain an aggregate opinion. This gives the employees the feeling of meaningful contribution to the industry while providing
employees with free products to consume while at work. Monthly employee samples can also be given on a volunteer basis to be used at the employee’s discretion. This can be seen as an incentive to work in this industry, but higher pay would allow for the same result in a state that has legalized recreational use of cannabis.

Most workers within the cannabis industry accept cannabis as a legitimate recreational drug and appreciate the opportunity to work with others of like mind. Personal communication with those in the industry revealed that the majority of workers held positive views concerning cannabis long before its legalization in Washington State. “I never thought I’d get to work with pot.” I have heard dozens of workers repeat variations of this sentiment. Those long-held positive views provide cohesion among them. However, the negative stigma society has shaped around cannabis still exists to some degree within the cannabis workplace. Societal indoctrination of ideals from a young age roots deeply. The majority of those who work in the cannabis industry grew up seeing anti-cannabis PSAs on television like Nancy Reagan’s Just Say No campaign and/or participating in government sponsored anti-drug programs such as D.A.R.E. Those efforts are now seen as laughable by most of the workers, but indoctrination can let doubt linger in the back of the mind. While the use of cannabis has been normalized to the point that most feel confident enough to consume at work, conversations concerning cannabis consumption can carry a cautionary tone. Not long ago, one could go to jail in Washington State for the consumption of cannabis. The negative stigma that society has imprinted on cannabis
can be revealed in a look of disgust, conveying a message of aberrance, given when the recognizable floral scent of a passing worker hits the nostrils of the disapproving. The existence of a negative stigma associated with cannabis does not deter workers from acceptance of the cannabis industry as a legitimate workplace, but the degree of similarity in their attitudes and opinions about the acceptance of cannabis, and each other as workers, within a stigmatized industry, draws them together.

**Where Did The Workers Come From?**

The legalization of cannabis in Washington State was not the first exposure to working with cannabis for many workers in this industry. Many employees in this industry participated, in one way or another, in maintaining the cannabis black market. Cannabis consumption has existed in Washington State for many years, despite being illegal. Growers and distributors working within the cannabis black market were given an opportunity with legalization, to continue working in their chosen field with protection from arrest provided by the state. Not only did this allow workers relief from the threat of arrest, but it served a secondary purpose of removing a large portion of the workforce engaged in cannabis black-market activities. Few cannabis workers would prefer to return to the days before legalization and the constant threat of arrest with no state protection.

In 2019, SB 5605, the Marijuana Justice Initiative, was signed into law. This law created a pathway for those convicted of a cannabis-related misdemeanor to be pardoned. One of those pardoned through SB 5605, Chris Tilzer, expressed mixed
emotions. He revealed that he had to hide his conviction and imprisonment from his employer, and that the record of his conviction impeded his ability to travel internationally. However, he also indicated that the qualifications for pardon were too strict to significantly help the majority of those harmed by cannabis prohibition (Brunner 2019).

In 2020, HB 2870 created the Social Equity in Marijuana Task Force, which was designed to advise the LCB and State legislators toward programs that would bring social equity to the cannabis industry. One of the first actions of the task force would be to offer communities disproportionately harmed by cannabis prohibitions the opportunity to apply for a new retail license. There are no other new cannabis licenses of any type available to be applied for, except through this program. This task force is claiming to offer social equity, but is only offering preference in a small number of licenses within the most visible one third of an entire industry. Washington State not offering back-stage licenses (in production or processing) indicates that the state seeks to replace some of the characters in the front regions of the industry in order to change the meaning of the performance. If the performance of predominately white front regions of the cannabis industry indicate safety and legitimacy, as suggested above, could a now safe and legitimate commodity be used to assign those attributes to darker skin tones? The name of the task force was changed to the Washington State Legislative Task Force on Social Equity in Cannabis later that same year after complaints that a task force for social equity should not contain a term (marijuana) historically used to amplify or justify
Some of the people who choose to enter into the cannabis industry do so because of its “cool” factor. In his article, What Does It Mean to Be Cool, Botz-Bornstein (2010) attempts to define cool by describing its properties and historical significance. He describes it as a “defense mechanism,” a performance using “emotional detachment and irony...to remain calm even under stress...disguising or suppressing intent...a paradox of submission and subversion.” This method of creative passivity has been used to resist authority and to gain social capitol among peers through a veiled show of resistance to authority that is intended to only be fully recognized as such by the peer group itself. The “cool” factor in cannabis is similar in that its use is only to be fully recognized as legitimate within Washington State. The “cool” group (Washington) passively ignored the laws (cannabis prohibition) of the ultimate authority in this country (the federal government). The introduction of any previously illicit commodity into the formal economy can be exciting. However, the introduction of a previously prohibited commodity that is still forbidden in other areas of the country into the formal economy is very exciting. Because of the “newness” of the industry, there is still a lot of controversy surrounding where and how the industry should operate. The air of illegality still lingers, to a degree, enticing some (typically younger) workers to enter into the industry to demonstrate a willingness to take risks. Other (typically older) workers join the workforce because they have been a part of the culture surrounding cannabis for many years and want to work within a familiar culture that permeates many aspects
of their personal lives.

Where Do The Workers Believe They Are Headed?

Many workers see the legalization of cannabis as an economic opportunity to be at the forefront of an interesting and potentially profitable new industry. This attitude is expressed both by word and personal investment. Some workers offered technical skill sets that are in demand in this industry (such as cultivation, hybridization, nutrigation, and trimming techniques) in order to buy into a piece of the industry through labor or loans. Most others offer an investment of time at fairly low wage to hone skills relevant to the successful production, processing, and distribution of cannabis in order to later transfer those skills into a higher position elsewhere as other states create new markets for expansion.

The expansion of products available in the cannabis industry is growing constantly. This means that there are more and more processes being developed and implemented to expand the market while remaining in a state-sized bubble. Since these new technologies and advancements cannot be utilized in most other states, workers in the cannabis industry are getting an educational and practical head start on the rest of the country. Producers, processors, and distributors are discovering the most efficient, best practices to create models for operational conditions and procedures. I have spoken to many workers in the cannabis industry that realize the knowledge and experience they have gained within this industry in Washington State will be extremely marketable when cannabis is legalized in other states. Many sound very hopeful when
discussing their own futures and often tie them to the future of cannabis. I recently spoke with a cannabis worker who had participated in my ethnographic fieldwork. After being offered a promotion to management at a cannabis dispensary, he decided not to return to classes in the fall. He stated that, “This is working really well for me, I’m making nearly as much now as I would after graduating, and I don’t have to pay for another year of classes.”

Even if the rest of the states never legalize cannabis (nineteen have), there is currently a global trend towards legalization. In 2013, Uruguay became the first country to legalize the recreational use of cannabis. Five years later, Canada and Georgia legalized recreational use as well. In most parts of the world, countries that are considering cannabis legalization are only considering legalization of medical cannabis (forty-two countries and thirty-six other states legalized medical use of cannabis). The methods of production, processing, and distribution of recreational cannabis are exactly or nearly the same as those methods for producing, processing, and distributing medical cannabis. Not only does this expand the area within which the industry can operate, this trend offers world travel opportunities for those whose learned skills in the Washington State market can be utilized in new markets.
CHAPTER VII

CONCLUSION

This thesis concludes by reviewing the key elements of each chapter, and considering potential areas of study within the cannabis industry in Washington State and beyond to build upon and improve this research.

Chapters II and III provide a cultural biography of cannabis, from its distant origins to an era of prohibition, which was, in part, both responsive to, and responsible for elements of structural racism. These chapters show how use values developed over millennia and miles. Insights from Chapter III helped me understand the formation of fears and anxieties surrounding cannabis cultivation, sales, and use. Understanding how these fears and anxieties form reveals why they have been woven into the fabric of I-502.

Future study could expand on this cultural biography by the inclusion of information about post-prohibition attitudes and policies in Washington State and beyond. My research, which began in 2015, was occurring when the legalization of cannabis was too new to offer a historical perspective. As we approach the end of the first decade of cannabis legalization in Washington State, it is important to document changes in attitude towards cannabis among populations, both inside and outside of the state. Has there been a shift in acceptance, and perhaps honesty about use, of cannabis, as it is now a part of the formal economy?

Chapter IV focused upon explaining how a regulation can act as a moral
statement, particularly in regard to cannabis. This chapter uses these associations to examine how the cultural biography of cannabis connects to the regulatory structure of I-502. These connections document how fear of any commonality within a group can be transferred to an object through regulation. This chapter also illustrates how irrational fears can allegorically turn a plant into a Medusa-like monster, whose horrible visage irreparably changes all aspects of being upon sight. Chapter IV also reveals the fluid nature of regulation and the constant opportunity to correct codified inequalities.

Researchers should remain aware of the regulatory frameworks that shape the cannabis industry, monitoring how and why changes to codification, interpretation, and enforcement occur. Such research could accelerate the ability to identify and eliminate codified inequalities in this and other regulatory frameworks. Other related areas of study could involve evaluating how stigma, encoded into regulation, affects the mental or emotional well-being of those who work with, or consume cannabis, over time.

Chapter V was a composite of ethnographic accounts of a “day-in-the-life” of work at a cannabis farm and processing facility. This perspective reveals how regulations are interpreted and practiced on-the-ground. It also exposes how the attachment of immorality to cannabis is transferred to those responsible for its production, consumption, and thus, its visibility in public spaces.

Participant observation in retail spaces would close gaps in the workers’ perspective that are currently unexplored. More research is also needed to determine positive or negative long-term effects on the physical health of those working in the
cannabis industry. Continued participant observation in production and processing could identify deficiencies in current understanding of collected data, and may uncover more possibilities for future research.

Chapter VI examined the motivations of workers entering an industry that punishes participation. This chapter also discussed the demographics of these workers, and how these demographics change can be dependent on the visibility of the portion of the industry observed.

Calculating the number of employees in the cannabis industry is necessary to understand the scope of participation outside of consumption. This is still very difficult due to market fluctuations causing staffing fluctuations, and consistency of seasonal staffing changes. Future studies could involve further investigation of individual demographic aspects such as: age, race, class, or gender.

In *Industry Recipes: The Nature and Sources of Managerial Judgement*, Spender (1989:173) argues that “A manager who draws a conclusion can only do so by adding something of himself to the data available.” What he is saying is that when uncertainty resolution has no answer that can be determined through logic, managers have to make value judgements. Spender indicates that because managers exercise personal opinion to create an organizational façade, subordinates are insulated from responsibility, but may still be harmed by decisions made based on individual values. He asserts that “Organizations are the most complex, important and yet limiting of human artefacts. Despite an enormous literature and prodigious research we are still in need of adequate
theories of management, leadership and strategy” (Spender 1989:173). The cannabis industry had no reference for managerial strategy. Managers have been without guide on how to navigate the new industry that seems to operate in a very different type of space than other industries. Those interested in the shaping of organizations through managerial strategies have a rare opportunity to study the possibilities in this new and unique cannabis industry.

It is important to remember that anyone who engages in research of this industry be mindful of the vulnerability of the participants as cannabis is still federally illegal. States and countries ending the prohibition of cannabis are also ending their prohibitions on cannabis research. The demographic composition of the cannabis industry, and degree of stigma associated with it, and those that participate in it may differ from one region to another. As more spaces become available for study, these differences and similarities become available for discovery.
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