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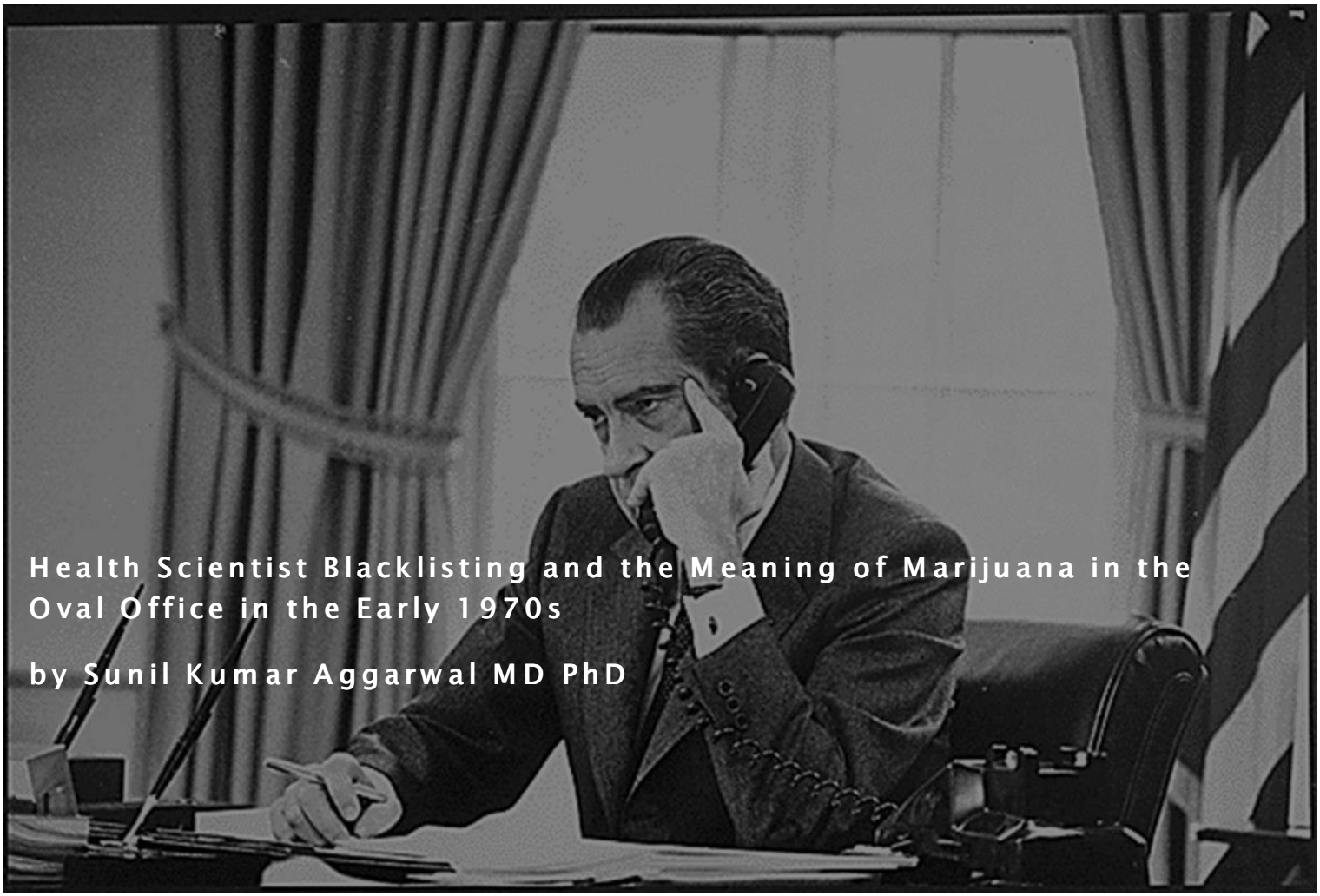

Health Scientist Blacklisting and the Meaning of Marijuana in the Oval Office in the Early 1970s

by Sunil Kumar Aggarwal MD PhD

Unpacking the Nixon Tapes: The Meaning of Marijuana for the U.S. Presidential Administration Which Created and Placed It in Schedule I

July 1st, 2015

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In 1970, the Administration of United States President Richard Milhous Nixon drafted and successfully lobbied for 'substance control' legislation still in force today that forms the ideological basis of American national policy towards cannabis and psychedelics. The legislation implicitly encoded racist, homophobic, and bigoted views. While prejudicial views were not immediately obvious on the surface, as they were clothed in medical science and a structured review process, they were indeed present at the law's inception and in its subsequent enforcement. We know this to be true, not only because such legislation marked a continuation of the same century-old pattern of authoritarian hatred towards psychoactive substance use behaviors in certain socially maligned groups, but also

because the documented historical record shows that key members of the Nixon Administration, including Nixon himself, privately made their true ulterior intentions explicitly known.

In the generations immediately preceding Nixon, expressions of extreme prejudice and pseudoscience in matters of cannabis and psychedelics federal lawmaking were far more overt and staunch. Thirty-three years before the Nixon law, in 1937, President Franklin Delano Roosevelt signed into law a bill whose chief proponent, Harry J. Anslinger, a Roosevelt Administration official, argued publicly in Congressional testimony and media interviews that use of cannabis, strategically termed 'marihuana' instead of the far more familiar "Cannabis" for the sake of perpetuating an aura of Hispanic foreignness, "makes darkies think they're as good as white men" and has resulted in the "Satanic music, jazz, and swing" created by "Negroes, Hispanics, Filipinos and entertainers". Furthermore, Anslinger, in an early attempt at using pharmaco-scientific prestige to justify prejudicial policy, brought forth a so-called "scientific expert" to testify before Congress: Temple University pharmacology professor James C. Munch, Ph.D. (George Washington University), who had previously worked for the FDA. Munch argued that, based on his experimental research in dogs, use of cannabis, for even as little as 3 months, resulted in insanity, including a temporary insanity that Professor Munch himself attested to experiencing after his own self-experimentation with cannabis.

James C. Munch, Ph.D FDA pharmacologist in a 1935 photograph. Source: FDA.gov

He described the latter the following year when called to the stand in court to testify in his capacity as the Official Expert of the Federal Bureau of Narcotics on marijuana, a title given to him by Anslinger that he held until 1962. Serving as a defense expert witness to support an insanity defense in a Newark, New Jersey capital case homicide courtroom trial in which two women stood accused of robbing, shooting, and murdering a bus driver, Munch testified that use of cannabis (specifically, "two puffs on a marijuana cigarette") had once caused him to *turn into a bat* that flew around the room for 15 minutes before ultimately landing in a 200-foot high vat of ink. The insanity defense worked, as it did in several other major cases, and set off a storm of media sensationalism. Thus, in courtrooms across the country, as had occurred in the halls of Congress, along with explicitly racist sentiments, outrageous pseudo-scientific claims about cannabis, advanced by government-backed scientists, were being accepted as matters of fact and law without as much as the slightest of scrutiny.

A similar pattern had developed with psychedelics. To take one example: in the 1930s, and for the few decades preceding, campaigns of overt ethnocentric bigotry were directed against peyote-using Native Americans in the New Mexico area, involving federally sanctioned raids, incarceration, and land grabs. These policies completely suppressed bona fide tribal indigenous spiritual practices, where peyote, a psychoactive cactus known as *Lophophora Williamsi* native to North America, had found a longstanding home. In the eyes of federal government officials, peyote and its use were

seen as dangerous and distorted—a position officially held until 1994 when Congress passed and President William Jefferson Clinton signed the Religious Freedom Restoration Act.

Ancient North American practice of using various species of native psilocybe mushrooms for religious purposes.

Culturally imperialistic attitudes toward the religious practices of 'Sovereign Indian Nations' was the latest in a pattern of behavior stretching back to the 17th century when Spanish conquistadores arriving in the "New World" directed the Catholic Church's gruesome Inquisition wrath against the indigenous Aztec population who consumed psychoactive psilocybin-containing mushrooms they called Teonanacatl ("divine flesh"), a practice missionaries had suppressed as they viewed it as an affront to the Christian Eucharist ritual consumption of sacramental wine and bread.

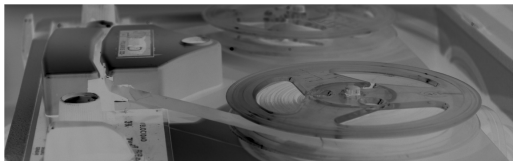
Turning back to the early 1970s, it should be no surprise then to discover that the Nixon tapes, which recorded private conversations in the Presidential Oval Office, capture Nixon himself associating cannabis and other psychoactive substance use with anti-war protesters, Jews, psychiatrists, homosexuals, and passivity, all of whom and which he despised. In Nixon's view, use of cannabis and other drugs was simply "dope" use and a sign of moral social decay. During the 17-month period between when Congress passed the Controlled Substances Act on October 27th, 1970, to March 22nd, 1972 when the Congressionally mandated Presidential Commission on Marihuana and Drug Abuse issued its report and policy recommendations, Nixon sought to find ways to sabotage the marijuana policy review process. These interventions helped to ensure there would be political momentum to continue to maintain a policy of criminalization of cannabis use, even when the Presidential panel would go on to recommend the opposite.

Nixon White House Tapes 1971

The conversations recorded on the Nixon tapes (found here, here, and here) provide excellent insight into the bigotry, cultural chauvinism, and anti-intellectualism that undergirds much of the supposedly scientifically neutral national drug policies still in effect today. Nixon's views are worth a careful look because they were, after all, the sociopolitical views of the highest political officer in the United States, a leading global superpower, and they linger on in many quarters still today. Having access to the recordings of conversations held in private in the Oval Office allows for unprecedented insight into the politics behind laws that have touched the lives of hundreds of millions. The tapes reveal exactly how federal law on marijuana and drugs was molded into the shape that it retains today. Here are a few topically organized excerpts liberally taken from the tapes with annotations.

HOMOSEXUALITY AND "DOPE" MUST BE ROOTED OUT TO SAVE SOCIETY

Richard Nixon ran on a law and order platform



May 13th 1971 between 10:30am and 12:30pm Oval Office Conversation 498–5 meeting with Nixon, Halderman and Ehrlichman (AUDIO)

[*The President and his advisors were discussing a recent episode of "All in the Family," a television show on CBS. President Nixon was offended by the show's favorable treatment of homosexuals.*]

John Ehrlichman & Bob Haldeman
May 13, 1971
498–005

RN: "But, nevertheless, the point that I make is that God damn it, I do not think that you glorify on public television homosexuality. The reason you don't glorify it John anymore than you glorify, uh, uh, uh, whores. Now we all know people who go to whores and we all know that people are just, uh, do that, we all have weaknesses and so forth and so on, but God damn it, what do you think that does to kids?...Well by God can I tell you it outraged me. Not for any moral reason. Most people are outraged for moral reasons, I, it outraged me because I don't want to see this country go that way..."

RN: "... Do you know what happened to the Romes, Romans? The last six Roman emperors were fags. The last six.... And let's look at the strong societies. The Russians. God damn it, they root them out, they don't let them around at all. You know what I mean? I don't know what they do with them. Now, we are allowing this in this country when we show [unintelligible]. ***Dope? Do you think the Russians allow dope? Hell no. Not if they can allow, not if they can catch it, they send them up. You see, homosexuality, dope, immorality in general: these are the enemies of strong societies. That's why the Communists and the left-wingers are pushing the stuff. They're trying to destroy us.****"*

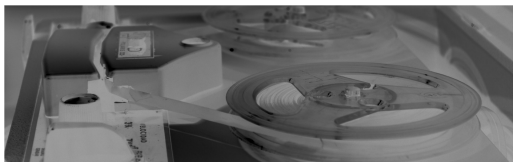
Unknown: "Sure, sure. Yep."

RN: "And I don't know, I, we talk oh and I and Moynihan will disagree with this, Mitchell disagree with this, [unintelligible] will and all the rest. ***But God damn it, we have got to stand up to these people."***

COMMENT: In this passage, it is clear how Nixon's extreme homophobia and fear of the 'destruction' and 'weakening' of society by a hidden Communist Conspiracy heavily influenced his thinking about the social consequences of non-alcohol drug use in the population and how government should rightfully address this. Interestingly, Nixon says it is not a moral issue for him but rather one of preservation of the strength of civilization, though in practice it seems these are essentially indistinguishable positions. He takes his inspiration from the Russians who, when they find non-alcohol drug users, he says proudly to his advisers, they "send them up" or incarcerate them. Nixon also felt the cause of drug suppression was something that he and his advisers had to "stand up to", a sentiment that definitely smacks of moral crusadership.

Richard Nixon Bowling

THE "STRONG" RACES DRINK AND THE "WEAK" RACES USE OTHER DRUGS



May 18, 1971, 12:16 pm—12:35 pm—Oval Office Conversation No. 500–17—The President met with Arthur G. (Art) Linkletter and DeVan L. Shumway; Oliver F. ("Ollie") Atkins was present at the beginning of the meeting.

PARTIAL AUDIO:

http://audio.norml.org/audio_stash/NORML_Daily_AudioStash_2011-06-17.mp3

*AL: "**And then of course, uh, um, I bear down mostly on marijuana because that's the puberty rite today, and I really give them a lecture on marijuana. And you see, the big problem with marijuana—"***

*RN: "— **they say, well, it's the same with booze. Well, maybe booze is bad, but the point is that, uh, you can, uh, uh, maybe booze can lead to marijuana, can lead to, speed, or uh, or LSD, can lead to heroin, so forth. But, basically, I mean, uh, I know, uh, another way to look at it is this, if I may say so, with regard to, if you get to a, a little more sophisticated audience who really care about destiny, and if you uh,* [**unintelligible**] **history, has ever been destroyed by alcohol. An awful lot of nations have been destroyed by drugs."***

AL: "That's right."

RN: "Now, this doesn't, this is no advocacy for alcoholics, good God, it's a horrible problem—"

AL: "Terrible."

*RN: "And, uh, you and I and many mutual friends, and we can have, we um there but for the grace of God go I, all of us, you know. **But, believe me, it is***

true, the thing about the drug, once people cross that line from the, from [unintelligible] straight society to the, the drug society, it's uh, it's a very great possibility they're going to go further, it's [unintelligible] —"

AL: "That's right.

*RN: "**I don't know, I, I say don't give up."***

*AL: "**There's a great difference between alcohol and marijuana."***

RN: "What is it?"

AL: "The worst that you can have when you're in with other alcoholics is more to drink, so you'll throw up more and get sicker and be drunker."

RN: "And that also is a great, great incentive, uh—"

*AL: "**But when you are with druggers, the, you can go from marijuana to say heroin. Big difference."***

RN: "I see."

*AL: "**If, if, if you're with a guy who suggests you have three more drinks than you should have, you're just going to get sicker. But if you're with a guy who you're already high and he suggests you try, this instead of this, you can go much further.***

*AL: Yes. **There's a man, named Dr. Harvey House (?). Dr. House (?) is the chief clinical psychiatrist at the University of California in Berkeley. Five years ago, they asked him for the paper what he thought of marijuana, and he said, it's a light hallucinogen, probably wouldn't cause any harm to anybody. And this was played up. And he was worried because it was so played up. He spent five years studying. About two months ago he released his new story, and it can all be put in five words: pot smokers can't think straight. Pot smokers can't think straight. If you are a regular head and use it regularly, you are not using your priorities correctly. You are not judging what is most important. You have a kind of a will-less way of thinking. And he described it, [unintelligible], as guys walking along a meadow, and have the same appearance, but some parts were boggy and***

quicksandy and some were firm, and that's the kind of thinking that pot smokers have...

RN: "I know. Well, you know I suppose they could say that, alcoholics don't think straight too, can't they?"

AL: "Yes. [unintelligible] Really. But, but ***another big difference between marijuana and alcohol is that when people s-smoke marijuana, they smoke it to get high. In every case, when most people drink, they drink to be sociable.*** *You don't see people —"*

RN: "That's right, that's right."

*AL: "****They sit down with a marijuana cigarette to get high.****"*

RN: "A person does not drink to get drunk."

AL: "That's right."

*RN: "****A person drinks to have fun.****"*

AL: "I'd say smoke marijuana, ***you smoke marijuana to get high."***

*RN: "****Smoke marijuana, er, uh, you want to get a charge —"*** *[charge as in a 'buzz']*

AL: "Right now —"

*RN: "— ****of some sort, you want to get a charge, and float, and this and that and the other thing."***

RN: "I have seen systems, I have seen the countries of Asia and the Middle East, portions of Latin America, and ***I have seen what drugs have done to those countries. Uh, everybody knows what it's done to the Chinese, the Indians are hopeless anyway, the Burmese.*** *They have different forms of drugs —"*

AL: "That's right."

RN: "[unintelligible] ***China and the rest of them, they've all gone down.***

RN:...And look at the north countries. The Swedes drink too much, the Finns drink too much, the British have always been heavy boozers and all the rest, but uh, and the Irish of course the most, uh, but uh, on the other hand, ***they survive as strong races.*** *There's another, it's a very significant difference.*

AL: "That's right."

RN: "And your ***drug societies, uh, are, are, inevitably come apart.*** *They—"*

*AL: "****They lose motivation."***

*RN: "—****mind"***

*AL: "****No discipline."***

RN: "Yeah."

*RN: "****At least with liquor, I don't lose motivation.****"*

[*Tape 042–024, April 6, 1971, White House Telephone: President Richard Nixon talks with HEW Secretary cabinet member Elliot Richardson to wish him well on his upcoming trip to Europe.*]

RN: Are you on your way to the airport now?

ER: In about an hour.

RN: Oh I see.

ER: Yes.

RN: I see. Well, Get over there, and a, go to Paris, and a, ya know, ***sort of drink it up a little while.*** *I mean, you deserve it..*

COMMENT:
In the first conversation, Linkletter alludes to the statements of Dr. David Harvey Powelson (b.1920-d.1991, M.D., UCSF, 1944), director of the Student Psychiatric Clinic at Cowell Memorial Hospital, UC Berkeley from 1964–1972, who, it was reported in a March 29, 1971 *New York Post* article under the headline "Expert Switches, Sees Harm in Pot", had decided to publicly

recant his prior pronouncements about minimal harm being associated with use of the drug (which fits Linkletter's "about two months ago" timeline, but his turnabout had actually made national headlines a year earlier—see below). Nixon ultimately rejects Linkletter's argument which relies on Powelson's new views about marijuana leading to cloudy thinking as anything special, since, as Nixon points out: "*I suppose they could say that, alcoholics don't think straight too, can't they?*" Nevertheless, since Powelson's views made it into the White House Oval Office, it is worth exploring his views and background.

Powelson's notoriety with the subject of marijuana started with publication on April 12, 1967, of an article by Laurel Murphy in the *Daily Californian*, UC Berkeley's student newspaper, headlined as: "'Legalize Pot, Down with Acid' Says Cowell Psych." In that piece, Powelson, in discussing marijuana, was quoted as saying:

"There is no evidence it does anything except make people feel good. It has never made anyone into a criminal or a narcotics addict." Over one year prior to this, Powelson had co-authored an op-ed piece with psychologist Mervin Freedamn published in *The Nation* magazine on January 31, 1966, entitled "Drugs on Campus: Turned On and Tuned Out" in which they asserted:

"[*I*]*t is difficult to fashion a serious case against smoking marijuana except that a user will find himself in serious trouble if he is caught by the police. The effects on society at large, were pot smoking to be as ubiquitous as the consumption of alcohol, are unknown, but within the current limits of use, there is little evidence that marijuana damages the individuals who smoke it. Occasionally a person of somewhat precarious emotional stability may be thrown into a panic state or even a psychosis as a result of smoking pot, but this seldom happens. Similarly, there is little basis for asserting that pot smoking is often a prelude to self-destructive or socially damaging acts. No data exist, for example, to demonstrate that marijuana contributes significantly to an individual's criminal tendencies.*

"[*P*]*erhaps the most serious charge that may be made against pot is that it is psychologically damaging. Since it is officially banned, its use reinforces rebellious and anti-social tendencies. Individuals who smoke pot regularly—as opposed to those who experiment with it on one or a few occasions—are likely to scoff at such a remark. Divorced as they are from traditional American culture and*

society, they are hardly frightened by the prospect of further alienation. Indeed, they are apt to welcome it.

"[*T*]*he consistent pot smokers are for the most part graduate students in the arts, philosophy, the humanities and, to some extent, in the social sciences. The rebellion they express in many ways, pot smoking among them, stems from their disillusion with American life and values. They oppose American intervention in Vietnam, they are angered by the lot of Negroes and other disadvantaged minority groups. And they are militant. Aside from enjoying pot's intrinsic satisfactions—relaxation, heightened sensibility, etc.—these students get pleasure from sharing a rebellious, illegal activity. The more rebellious or "anti" the movement, the greater the likelihood that pot smokers will be drawn to it.…"*

Over the years, apparently Powelson's views on marijuana diametrically changed. Around July of 1970, the Associated Press ran a story which discussed Powelson's turnabout. He now asserted that, based on his clinical experience with hundreds of students, he found that users of marijuana "can't think straight". He reported that he had seen people who had stopped using marijuana six months prior and found that "their thinking is still not clear and they know it." He even asserted: "They develop a particular kind of gait. It looks like somebody moving his arms and legs with strings. The central integrating mechanism is somehow defective. And it's much the same with their thinking." Apparently what Powelson previously saw as a relatively safe psychoactive substance for most, the use of which was associated with an anti-traditionalist worldview, he now saw as actually a toxic agent to the brain which caused unclear thinking and abnormal gait. Powelson's new argument, which evolved from his prior position in which he saw marijuana users as not ill but rather part of a political antiestablishment class, shows the all-to-common slippage that can occur from identifying social differences as being of a political nature to being of a psychopathological one.

Views similar to Powelson's were in fact presented at the public hearings of the Presidential Commission on Marihuana and Drug Abuse and roundly refuted. Philadelphia psychiatrists Harold Kolansky and William Moore were invited to testify to the Commission on May 17, 1971, the day before the above conversation between Nixon and Linkletter took place. Kolansky and Moore had written a paper entitled "Effects of Marihuana on Adolescents and Young Adults" in JAMA which the month before had garnered much media attention. They described thirty-eight patients, ages

thirteen to twenty-four, seen in their private practice over a 5 year period starting in 1965. They noted that these patients, who reportedly used no other illicit drugs, showed an onset of psychiatric problems shortly after the beginning of marihuana use which they used moderately or heavily. Their testimony related to their study was quoted and summarized in national press reports. For example, *The Express* in Lock Haven, PA, printed the following on 5/19/1971:

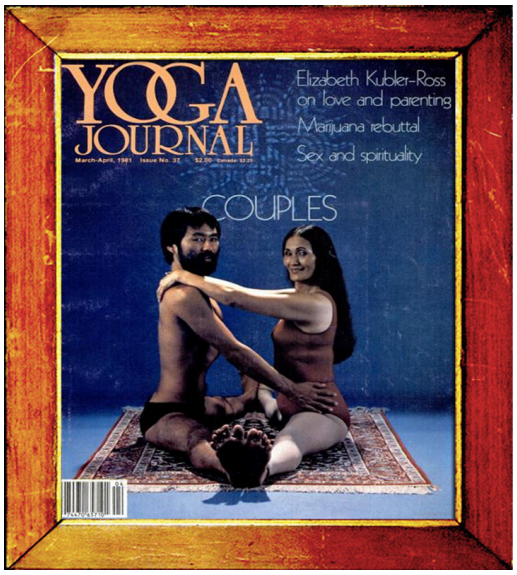
Drs. Harold Kolansky and William Moore outlined their heavily publicized study of 38 psychiatric patients, which they said showed marijuana "produces a brain syndrome marked by distortion of perception and reality which leads …" to impaired judgment, lagging attention spans, slowing of a sense of time and trouble talking. They concluded the mental problems observed in their patients resulted from marijuana smoking and recommended a "get tough" policy to control the drug.

Several experts refuted Kolansky and Moore's conclusions, predominantly on the grounds that no causation, but simply an association between marijuana and mental illness had been shown. Dr. Bertram Brown, director of the National Institute of Mental Health (NIMH) (see below) stated in a media interview that it would be possible to find 38 marijuana smokers who consumed it 3–4x/week over the course of 4 years who graduated from college with honors, e.g., "Phi Beta Kappa, summa cum laude". Harvard psychiatrist and drug expert Norman Zinberg, M.D. said Kolansky & Moore's findings could very well have been applicable to a group of college beer drinkers. Johns Hopkins psychopharmacologist Solomon Snyder, M.D. who currently is one of the 10 most-often cited biologists in world, wrote that their data would not allow anyone to be able to draw any conclusions about the harms of marijuana.

As a noteworthy follow-up, on May 9, 1974, Dr. Powelson was invited to testify at a Hearing before an Internal Security Subcommittee of the US Senate Judiciary Committee entitled "Marijuana-Hashish Epidemic and Its Impact on United States Security" led by Mississippi Senator James O. Eastland (b.1904-d.1986). Senator Eastland, according to his *New York Times* obituary, was a "wealthy Mississippi plantation owner" "best known nationally as a symbol of Southern resistence [sic] to racial desegregation in most of his years in the Senate". Eastland frequently referred to Blacks as an "inferior race" and often spoke on the floor of the Senate about the "mongrelization" of the races. At Eastland's hearing, Dr. Powelson testified

that he believed marijuana "to be the most dangerous drug we have to contend with." Seven months after his testimony to Congress, in December 1974, Powelson published a piece in *Reader's Digest* entitled "Marijuana: More Dangerous Than You Know" (105: 95–99) in which he gave a fuller description of his views. He appeared on the NBC Nightly News in November 1974 describing the sexual impotence that he believed inevitably befell marijuana users.

In a March 1981 issue of *Yoga Journal*, an anonymous account was published of a student who claimed to have been surveyed by Powelson in his Medical Physics II class at UC Berkeley taught by Professor Hardin Jones who had appeared with Powelson in Senator Eastland's hearings.



March-April 1981 issue of Yoga Journal

The student recalls that one day Powelson, who was a friend of their Professor, had come to their class and handed out a two-page questionnaire to the students which contained questions such as: "Explain what we mean when we say a rolling stone gathers no moss." It was known to the class that Powelson believed that marijuana users were unable to reason abstractly. They found his entire questionnaire and underlying premises laughable, so they went about answering his questions in "the most ridiculously bizarre and incomprehensible manner" they could. Apparently, Powelson "dutifully gathered up the questionnaires and returned home to analyze the data." He returned to the class approximately 3 weeks later looking very distraught. He apparently announced to the students: "I want you to know that a good percentage of you have organic brain damage."

Interestingly, Powelson's views, 40 years later, still appear today verbatim on many evangelical Christian websites and publications.

Returning back to the Nixon-Linkletter conversation, Nixon seems to be convinced by Linkletter that marijuana users consume simply to feel a buzz

or “charge” whereas alcohol consumers do not drink to “get drunk” but rather to be sociable. This statement certainly ignores the fact that many consume marijuana in social settings to bolster conviviality, and many drink alcohol to achieve ‘a buzz’, akin to what Nixon is implying when he tells his HEW Secretary that he deserves to “drink it up” on his Europe trip. Interestingly, Art Linkletter, according to his NYTimes obituary published in May 2010, publicly announced in 1972 that he had changed his position on marijuana after much thought and study and now believed that the drug was relatively harmless and should not be a focus of law enforcement officials.

Nixon, however, has a more “sophisticated” argument about why marijuana and drugs have to be suppressed: it has do with the destinies of societies. Those civilizations that are weak are those which have allowed drugs, and those societies which are full of drunkenness are nevertheless still “strong races”. This blatantly Eurocentricism racist logic naturally tracks right along standard white supremacy lines. As alluded to earlier, Nixon had a deep fear that tolerant attitudes towards drugs would lead to loss of motivation in society across the board which would “inevitably” cause society as we know it “to come apart”.

That racism was a core aspect of Nixon’s worldview is also supported by the diary kept by Haldeman, Nixon’s Chief of Staff, the text of which was first made public in 1994, which echo the same sentiments as found above. On April 28, 1969, discussing the issue of the welfare system, Haldeman wrote: [Nixon] emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to. Pointed out that there has never in history been an adequate black nation, and they are the only race of which this is true. Says Africa is hopeless. “The worst there is Liberia, which we built.”

May Day 1971, Washington

"ARREST THE WHOLE DAMN LOT"

May 18, 1971, 12:16 pm—12:35 pm—Oval Office Conversation No. 500–17—The President met with Arthur G. (Art) Linkletter and DeVan L. Shumway; Oliver F. ("Ollie") Atkins was present at the beginning of the meeting.

RN: "The [unintelligible] to these, uh, **these, uh, more radical demonstrators that were here the last, oh, two weeks ago.** [**unintelligible**] **They're all on drugs. Oh yeah, horrible, it's just a—when I say all, virtually all. And uh, uh, just raising hell, and, uh."**

AL: "That's right. And of **course one of the reasons you can beat them is that so many of them are on drugs.** The police are organized and did a great job. You know [unintelligible] I was here in town, [unintelligible]."

RN: "Yeah, I, I [unintelligible] I got a hold**, I got a hold of Mitchell on, uh, Saturday night, I said, bust them. And** [**unintelligible**]**, and don't hurt anybody, I said don't hurt anybody, I don't want anything like Chicago,**

but I says, arrest the whole damn lot, if they don't clear the streets. And they arrested them, and the police chief did a hell of a job."

AL: "He did, yes. And I think you get a lot of credit across the country for that, and he does too, but I mean the whole situation, when I mentioned in my talks that I was here, there's applause. Voluntary applause, because **the people want to have that kind of stuff put down.** And you did just right. Just right."

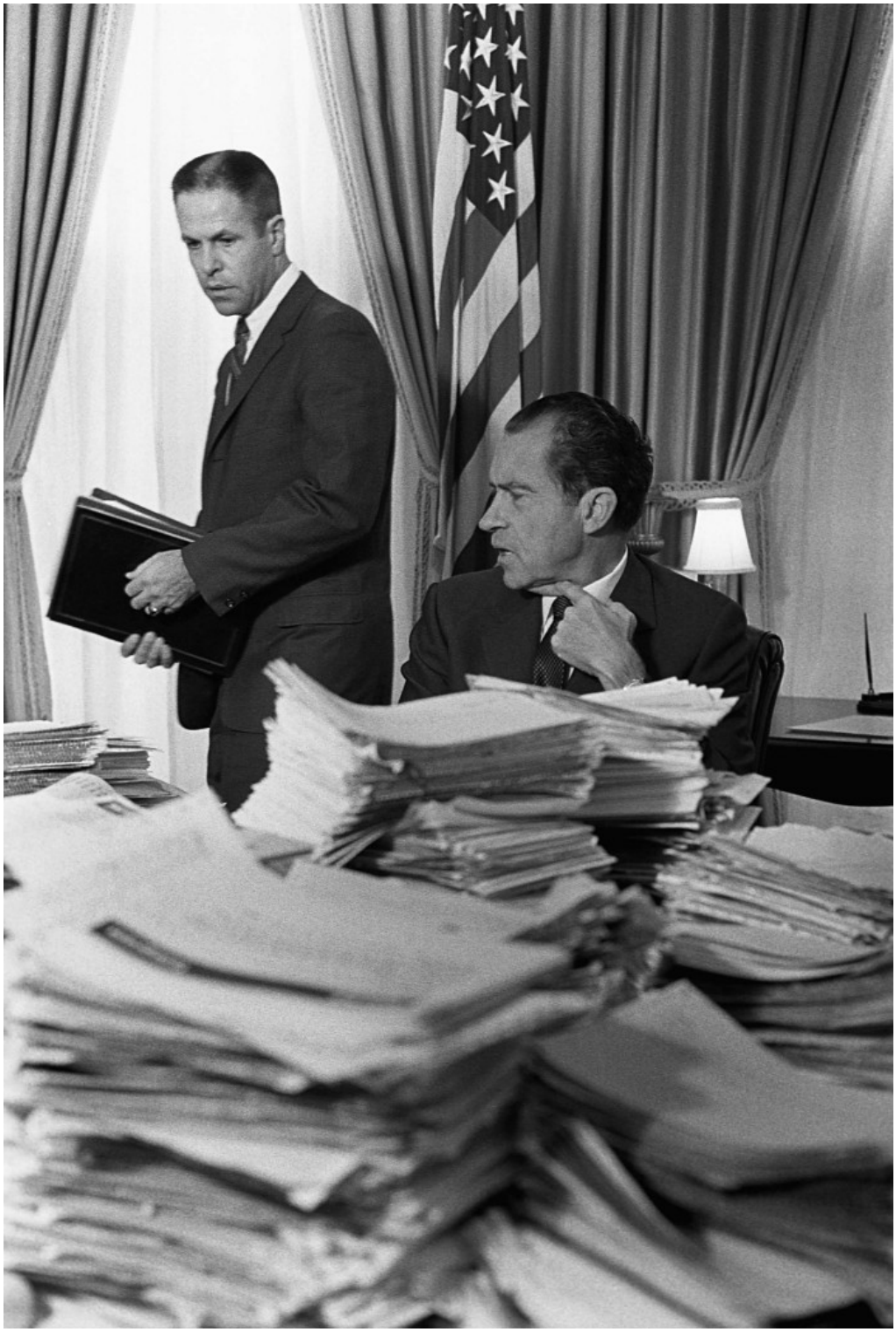
COMMENT:
The incident that Nixon is describing here is what has become known as the 1971 May Day Protests against the Vietnam War. The arrests that Nixon proudly ordered totaled over 12,500, making it the largest mass arrest in US history. Nixon is quick to emphatically point out that he believed virtually all the protesters were "on drugs", and Linkletter implies that their docility due to them being 'on drugs' helped the police subdue them and achieve the victory over them. The association between drug use and disruptive protesters is clearly present, as is the idea that it would be very important from an authoritarian social control standpoint to not lose the ability to use drug use/possession as a grounds for detainment and arrest of individuals. Interestingly,in the final outcome, it was the radical protestors who won against the government. With the help of the ACLU, a class action lawsuit was filed on the basis of mass violation of demonstrators' constitutional right of assembly, and as part of the terms of the settlement, the US Congress agreed to monetarily compensate those arrested, "making them some of the only citizens in US history to receive financial compensation for violation of the constitutional right of free assembly."

The above interpretation is supported by Nixon aide John Ehrlichman (b. 1925-d. 1999). He was interviewed by journalist Dan Baum in 1992, years after his imprisonment for the Watergate Scandal (for which he was not pardoned as others were) and made the following telling remarks:

...."[L]ook, we understood we couldn't make it illegal to be young or poor or black in the United States, but we could criminalize their common pleasure. We understood that drugs were not the health problem we were making them out to be, but it was such a perfect issue for the Nixon White House that we couldn't resist it."

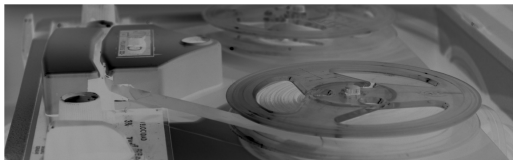
…*"[T]he Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar Left, and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black. But by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did."*

notes: Interviewed in 1992 by journalist Dan Baum, author of *Smoke and Mirrors: The War on Drugs and the Politics of Failure*, full quote in "Truth, Lies, and Audiotape" by Dan Baum (2012), collected in *The Moment: Wild, Poignant, Life-changing Stories* (Harper Perennial, 2012, ed. Larry Smith)



Nixon and Haldeman in the Oval Office

SACK THE NATIONAL INSTITUTE OF MENTAL HEALTH "MUDDLE-HEADED" PSYCHIATRISTS

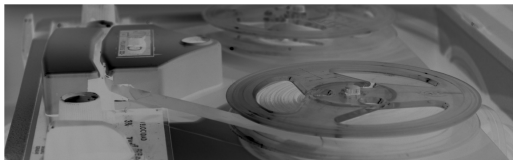


May 18, 1971, 12:16 pm—12:35 pm—Oval Office Conversation No. 500–17—The President met with TV personality Arthur G. (Art) Linkletter and DeVan L. Shumway; Oliver F. ("Ollie") Atkins was present at the beginning of the meeting.

*AL: "**...you can't tell me that this guy Brown, from your NIMH who was quoted this morning as saying that, uh, marijuana is really nothing and perhaps should be, uh, should be given the same penalty as a parking ticket. Good night!"***

*RN: "Now did you see this statement by Brown, the National Institute of Mental Health this morning? Uh, **he should be out. I mean, today, today.** If he's a presidential appointee [unintelligible] do is **fire the son of a bitch, and I mean today! Get the son of a bitch out of here.** Don't know whether he's, probably just a [unintelligible] but **he's going to be out."***

*AL: "**Good.** That's a terrible thing for a guy in his position to say. A parking ticket would be the equivalent, he was quoted as saying. **Because, uh, because, uh, marijuana is insidious. It can be harmless, and nothing, and it can be terrible."***



[Date: May 28, 1971, Time: 9:45 am—9:49 am, Location: White House Telephone, in conversation with John Ehrlichman. AUDIO:

AUDIO:

http://nixontapeaudio.org/chron1/rmn_e003c.mp3 10:25]

*RN: **I really want to take the program...the drug program away from the Institute of Mental Health***

JE: Maybe we can work

*RN: I really feel, you know what I mean? I was kind to Richardson and everything...**Let Brown get people on the couch and whatever these other people do with him, but goddamn it, keep 'em out of the drug business.***

[*September 9, 1971, 3:03 pm—3:34 pm—Oval Office Conversation No. 568–4—The President met with Raymond P. Shafer, Jerome H. Jaffe, and Egil G. ("Bud") Krogh, Jr.; the White House photographer was present at the beginning of the meeting.*]

*RN: "...So we'll be very interested in your recommendations in that respect. But let me just say one. **Don't go to HEW.**"*

RPS: "Oh for heaven's sakes no —"

*RN: "**Don't go to HEW.** Well we might, we might have big problems with HEW too. The difficulty that, that, well, Bureau, as an old prosecutor, and, uh, as an old prosecutor, I, I, I don't mind somebody putting in J. Edgar Hoover's hands, but, the, I, I come down very hardly on the side of putting in, uh, hard-headed doctors, **rather than a bunch of muddle-headed psychiatrists."***

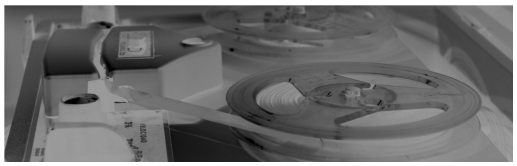
RPS: "Well you've, you've hit on —"

*RN: "**They're all muddle-headed. You know what I mean?"***

RN: "I know those people over there, doc—"

*RN: "Too many of them are, I mean, their, **they get so that their hearts run their brains, and it should be the other way around, most of the time."***

AUDIO AT: 7:24–8:13 of http://nixontapeaudio.org/chron1/rmn_e253b.mp3]



[May 26, 1971, between 4:11pm—5:20pm, Location: Executive Office Building. The President met with J. Edgar Hoover, John N. Mitchell, John D. Ehrlichman, and Egil ("Bud") Krogh, Jr.

RN:...I am a hardliner. ***I am a hardliner on the drug thing. I mean, This whole Brown over here. HEW. Remember? Who comes out and makes a speech on marijuana is the same as a traffic ticket and we should pay no attention to it.***

The hell with him!

Who put him in the Clinical...who put him in the..I mean...in the...Institute of Health? [*inaudible*] *Anyway* [*inaudible*] *that I am...I am basically extremely, I am frankly, more unreasonable, more hardline*[*inaudible*] *around here. And I... and I...I feel that now, if the pla, if we're going to tilt any way, we ought to be tilting in that direction.*

JEH: Have you given some thought...

RN: Tilting in that direction.

JEH: ...opposite the IACP, the International Association of Chiefs of Police, come here, and meet with you in the White House?

[*March 21, 1972, 1:00 pm—2:15 pm—Oval Office Conversation No. 690–11—in this segment, the President is meeting with H. R. ("Bob") Haldeman.*]

*RN: "...****You know, psychiatry is a God damned racket."***

COMMENT:

Above, in the first passage, Art Linkletter and Richard Nixon were discussing quotes printed that morning (May 18, 1971) in a front-page *Washington Post* article under the headline "NIMH Director, Narcotics Chief Clash Over Marijuana Penalties" of Dr. Bertram Brown (b.1931), who was speaking in his capacity as the director of the National Institute of Mental Health (NIMH), an Institute of the NIH, at a public hearing the day before where he was testifying before the Presidential Commission on Marihuana and Drug Abuse. Brown was stating his own view that the penalties for marijuana possession should be "minimal or non-existent ... a fine, like for a

parking ticket." However, developing the position now known as 'decriminalization', he also insisted that uncertainty about long-term effects and widespread use justified "keeping marihuana illegal" ("NIMH Director, Narcotics Chief Clash Over Marijuana Penalties," *Washington Post*, 18 May 1971, p. A-1 as quoted in Bonnie and Whitebread).

For some context about these comments, a little background is necessary. On June 30, 1970, a few months prior to the October passage of the 1970 Controlled Substances Act, Congress enacted the "Marihuana and Health Reporting Act" which had required the Secretary of Health, Education, and Welfare (HEW) to submit a preliminary report within 90 days and annual reports thereafter on the health consequences of marijuana use and any relevant policy recommendations (the reporting frequency was later changed to biennially). The first annual report, multidisciplinary in nature, was prepared by the NIMH and sent by HEW Secretary Richardson to Congress on February 1, 1971. A summary of the report was published, along with other research articles and commentaries, including one by Dr. Brown, in the August 1971 issue of the *American Journal of Psychiatry.*

As recounted by Bonnie and Whitebread:

In February 1971 when NIMH's first Marihuana and Health report was issued, Dr. Brown stated that the "general deleterious effects are minimal" for most casual users although "firm scientific knowledge about the effects of long-term chronic use" was still to be achieved. Although presenting a comprehensive summary of the medical literature, the NIMH report carefully avoided the social policy issues, an omission chastized by the press ("U.S. Cites Marijuana's Ill Effects But Foresees Some Medical Use," Washington Post, 2 Feb. 1971, p. A-1; "HEW on Marijuana," Washington Post [editorial] 3 Feb. 1971).

So, three months after the report's issuance, during the Presidential Commission on Marihuana and Drug Abuse hearing in May 1971, Brown finally did publicly state his opinion of the social policy implications of the National Institute of Mental Health's scientific assessment that marijuana's deleterious effects are "minimal", and this infuriated Nixon because Brown was advocating lenient treatment tantamount to "parking tickets" *at most* for run-of-the-mill marijuana law violations. This is what led Nixon to state privately his disdain for psychiatrists and psychiatry, calling the whole field of medical professionals "muddle-headed" and disparaging their use of

"heart", i.e., empathy, when assessing health and social policies. His disdain turned into retaliation. Recalling the past, Dr. Brown testified to a Congressional Committee six years later in 1977 about what transpired after the *Washington Post* published that story "was an attempt by the last President to fire me".

Edward Epstein, in *Agency of Fear: Opiates and Political Power in America*, an account of Nixon's creation of the rogue federal law enforcement agency D.E.A., details the sequence of events after Brown's views were publicized in the *Washington Post*, from the recollections of Bud Krogh, one of Nixon's close advisers:

Since [Brown's views] conflicted directly with the administration's bete-noire strategy, to appear merciless and unrelenting in prosecuting crimes, Krogh recalled, "The president hit the ceiling." He even wrote Krogh a personal note suggesting "that clown Brown" be fired immediately, and then angrily reiterated this demand in a meeting a few days later with Ehrlichman, Krogh, and Krogh's assistant, Jeffrey Donfeld. According to Donfeld, Krogh then asked him to prepare a memorandum for the president which would provide "evidence of incompetency." Donfeld investigated and found that Brown was a close friend of Elliot Richardson's [Secretary of HEW], and that Richardson would not be easily persuaded to fire Brown to please the White House. Realizing that Richardson was not a man to be trifled with, the president ordered the matter dropped.

Hence this is the context of Nixon's comment recorded on the tapes when wanting to push ahead with removing drugs issues from purview of NIMH, a move which ultimately led to the creation in 1974 of naturally scientifically-biased institute N.I.D.A.: "I really want to take the drug program...away from the institute of mental health...I was kind to Richardson and everything... Let Brown get people on the couch and whatever these other people do with him, but goddamn it, keep 'em out of the drug business."

So who was 'Brown', this director of NIMH whose job as an NIH Institute Director was retained simply due to the good graces of a well-positioned friend? Bertram Brown, M.D., M.P.H. was the third-ever director of the NIMH and served in this capacity from 1970–1977. He held an M.D. from Cornell University Medical College (1956), completed a Pediatrics internship at Yale, and completed a psychiatry residency at the

Massachusetts Mental Health Center along with an M.P.H. from the Harvard School of Public Health (1960). Brown was an accomplished researcher and specialist in developmental disorders. In an oral history interview housed in the National Library of Medicine recorded in June 1975, Brown recalls his most productive year as a researcher, 1960–1961, at the Mental Health Study Center, recounting "the year there was my most productive year in terms of research papers. Eight Research papers for which I was the number two and number three authors. Each of which has seriously become a classic…"

Interestingly, as an aside that helps to underscore the excavation we are presently doing here, just prior to beginning his directorship at NIMH in 1969, Brown relayed in another oral history interview now housed in the John F. Kennedy Presidential Library the following insight about the role of personality in the unfolding of historical events. Speaking to the interviewer, he stated:

I realize that the exercise we're in is exploring—you know, oral history, getting as close to the facts and the experience and the nature and some judgment and perspective, and things balance off. But in participating in this exercise brings to mind…Dave Musto [David Musto], who's a psychiatrist and an historian, you know, the chap we have on our staff, for it seems to me the thing that Dave had done by being an historian and a psychiatrist—and it's terribly important to the field of history—is to point out that many of the things that happen in an historical exercise have to do with the psychodynamics and personalities of the people as opposed to the substance.

Brown puts his finger on the very reason that I am taking the reader in this section through the transcripts of the Nixon tapes—to show how much of the way that history unfolded with regards to cannabis and psychedelics law and scientific input therein has to do with "psychodynamics and personalities of the people as opposed to substance." What's even more interesting is that the "chap" Brown refers to, David Musto (b. 1936-d. 2010, M.D., University of Washington, 1961) went on to write one of the classics of American drug policy history published in 1973 entitled *The American Disease: Origins of Narcotic Control* which showed the historical connection between drug prohibitions and over-zealous missionaries, racism, classism, medical and pharmaceutical professionalization and power consolidation.

Musto published this work after he had moved from NIMH to the faculty of Yale University.

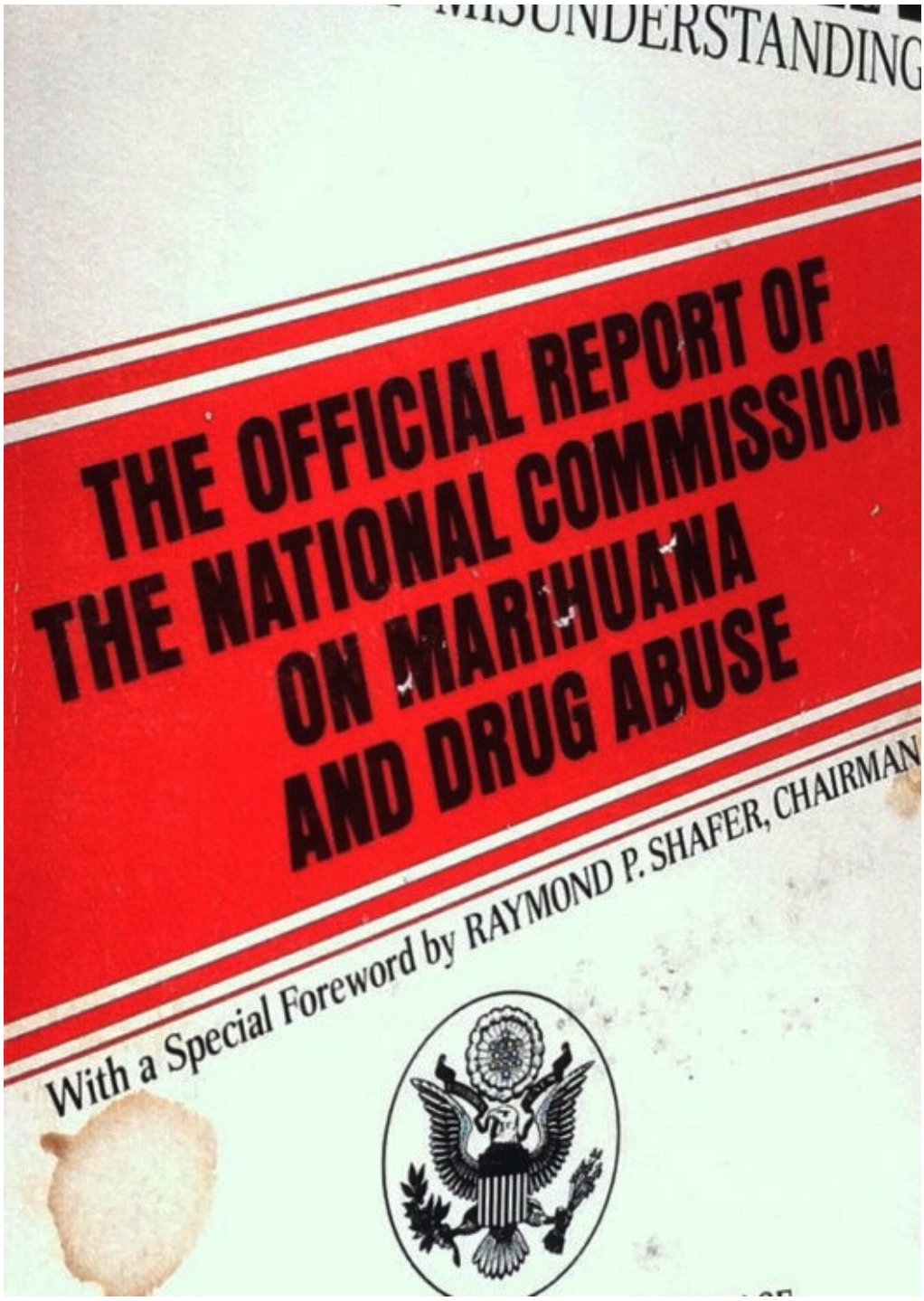
One year prior to the publication of *The American Disease*, in 1972, another former NIMH official, Tod Mikuriya, M.D. (b.1933-d. 2007, M.D., Temple University School of Medicine, 1962), went on to publish another landmark text: his edited collection *Marijuana Medical Papers: 1839–1972*. It consisted of many 19th and early 20th century classic clinical and scientific studies on cannabis that had been long-buried after the Anslinger reefer madness campaigns of the 1930s. Mikuriya's book brought to light a body of medical knowledge that had been long-forgotten by physicians; he had excavated many of these papers while doing research at the National Library of Medicine during his own stint at NIMH from July to October 1967, when he was appointed as Consulting Research Psychiatrist for Non-Classified Marijuana Research in the Center for Narcotics and Drug Abuse Studies. While at NIMH, Mikuriya wrote a stunning white paper which even-handedly summed up the contemporary scientific understanding of marijuana use and recommended that NIMH take a position in favor of a national policy that emphasized a "psychosocial" approach as opposed to a "criminal" approach to its use and further recommended that marijuana be regulated by the FDA. Apparently, per Mikuriya, the institution was not interested in taking such as a stance at the time and was more interested in "spying" on hippie subcultures of marijuana use and, to quote Mikuriya, "developing a propaganda campaign." He was asked to resign from NIMH the when higher-ups got wind from one Patrick H. Hughes, M.D. (b.1935-d.2010, *B.A., M.D., University of Pittsburgh, 1960*) that Mikuriya and several of his colleagues from the Center had split for consumption amongst themselves a one-kilogram batch of marijuana from California. Mikuriya noted that NIMH officials preferred that he leave quietly lest a much larger scandal unfold within their ranks. Interestingly, Hughes, who informed on Mikuriya, would go on to author papers focused on illicit drug exposés: surveys of substance use behaviors in medical students, residents, and physicians and papers promulgating the alarmist notion that certain forms of drug use spread through society as "contagions". According to his paid-for death notice in the NYTimes, "as a professor at the University of Chicago, he went into the Chicago ghetto to understand heroine [sic] addiction and discovered "copping areas.""

Despite his short stint and quiet dismissal, it is possible that Mikuriya's time at NIMH might have had some lasting effects there. NIMH Director

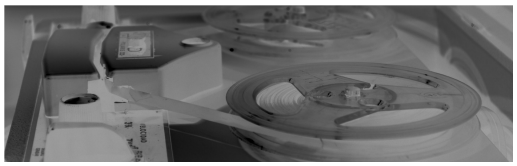
Bertram Brown's immediate predecessor, Dr. Stanley Yolles (b.1919-d.2001), served as its director from 1964 to 1970 during the period of Mikuriya's service. Yolles held a bachelor's in biology from Brooklyn College, a Master's in parasitology from Harvard, an M.D. from NYU and completed his residency at the Public Health Service hospital in Lexington, KY. As director of NIMH, he helped establish at least 200 community mental health centers and led the first delegation to study psychiatric practice in the Soviet Union.

Despite his scholarly credentials, Nixon was not "kind" to Dr. Yolles because he too did not stick to the party line. According to his *New York Times* obituary printed in 2001: "Dr. Stanley F. Yolles, who as the nation's top official on mental health in the 1960's denounced what he saw as ''stupid, punitive laws'' on drug use and was eventually forced out by the Nixon administration". In a 1969 hearing before Congress, Dr. Yolles spoke about how the scientific and medical facts were totally disregarded when it came to marijuana laws, and as far as the crime of marijuana use goes, he stated: "I know of no clearer instance in which the punishment for an infraction of the law is more harmful than the crime." (Hearings Before the House of Representatives Select Committee on Crime, Crime in America—Views on Marihuana, 91st Cong., 1st sess., October 14 and 15, 1969, 67, 50.) According to the NYTimes, shortly after Dr. Yolles remarked to the media ''I felt I had to speak out against stupid, punitive laws'', he was dismissed by the Nixon administration on June 2, 1970, the same day he submitted his resignation letter.

KEEPING THE "SON-OF-A-BITCHING" COMMISSIONERS IN LINE



On March 22nd, 1972, the Commission issued a report entitled "Marihuana: A Signal of Misunderstanding." They recommended that the government no longer classify cannabis with heroin



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PARTIAL AUDIO: https://www.youtube.com/watch?v=0093Tqu8n2E]

*RN: "**I was asked about marijuana —"***

AL: "You should know this —"

*RN: "— **two weeks ago in, uh, California, the, what do you say about this, I said well, we're going to have a commission report, I said,** [**unintelligible**] **can be very clear, whatever it says, I'm against legalizing."***

AL: "Absolutely."

*RN: "I said, now, as far as penalties are concerned, that's something else, they should of course be uniform **but we, I'm against legalizing, period. I think you've got to draw the line on the damn thing because—"***

AL: "That's right. That's right."

[*May 26, 1971, Time: 10:03 am—11:35 am—Oval Office —Conversation: 505–4 —Meeting with Nixon and HR 'Bob' Haldeman*]

*RN: "Now, this is one thing I want. **I want a Goddamn strong statement on marijuana. Can I get that out of this sonofabitching, uh, Domestic Council?"***

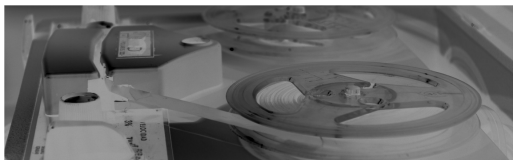
HRH: "Sure."

*RN: "**I mean one on marijuana that just tears the ass out of them.** I see another thing in the news summary this morning about it. **You know it's a funny thing, every one of the bastards that are out for legalizing marijuana is Jewish. What the Christ is the matter with the Jews, Bob, what is the matter with them? I suppose it's because most of them are psychiatrists**, you know, there's so many, all the greatest psychiatrists are*

Jewish. ***By God we are going to hit the marijuana thing, and I want to hit it right square in the puss****, I want to find a way of putting more on that. More [unintelligible] work with somebody else with this."*

HRH: "Mm hmm, yep."

*RN: "****I want to hit it, against legalizing and all that sort of thing.****"*



[September 9, 1971, 3:03 pm—3:34 pm—Oval Office Conversation No. 568–4—The President met with Raymond P. Shafer, Jerome H. Jaffe, and Egil G. ("Bud")Krogh, Jr.; the White House photographer was present at the beginning of the meeting.]

RPS: "We don't want to give it respectability, and we will not be —"

RN: "Like uh, almost, almost anything in the drug field, it's making it respectable, just make sure you don't.

RN: "You see, the thing that is so terribly important here is that it ***not appear that the Commission's frankly just a bunch of do-gooders****, I mean, they say well they're a bunch of old men who don't understand, that's fine, I wouldn't mind that, but, but if they get the idea you're just a* ***bunch of do-gooders that are going to come out with a quote soft on marijuana report, that'll destroy it, right off the bat. I think there's a need to come out with a report that is totally, uh, uh, oblivious to some obvious, uh, differences between marijuana and other drugs, other dangerous drugs...***

RPS:...And so you can rest assured that we're not going to go off half-cocked, we're not a bunch of stupid, you know?"

RN: "Well, I know about you, you know, but I know your problem of course, Ray"

RPS: "But I'm, I'm, I'm —"

*RN: "**Keep your Commission in line.**"*

RPS: "I'm going to keep the Commission in line and one of the things that I can do it is to raise their morale—"

RN: "Would you say it's a bunch of do-gooders?"

JHJ: "In this interim, gearing up, I, I probably share the, part of the responsibility for not linking up with Mike and others—"

*RN: "Let's try to do that, shall we? **After all, it is a commission that's spending three and a half million dollars**, it will have enormous impact when it hap- happens.*

*RN: "But anyway. It's a [unintelligible] what we did, but, by golly, **the thing to do now is to alert the country to the problem and say now, this far no farther, and I think that that's you want to do, is take a strong line."***

RPS: "I think this can be done, and I think that uh, the report that comes out will be, uh, something that we can, uh, wholeheartedly embrace....

COMMENT:

Nixon's anti-Semitism is apparent here, showing his belief that a scenario in which marijuana was seen as normal or tolerated would be unthinkable and could be expected from the minds of Jews, who he states, as a group, have something "the matter" with them. 'Hitting' the marijuana issue for Nixon was also a way to strike a blow to Jews and the "respectability" they were attempting to bring to marijuana.

Beginning in the Summer of 1969 with an effort spearheaded and initially drafted by Nixon's Attorney General John Mitchell, Congress passed and President Nixon ratified on October 27, 1970, a negotiated law. The Comprehensive Drug Abuse Prevention and Control Act of 1970 mandated the creation of a Presidential Commission on Marihuana and Drug Abuse, later known as the Shafer Commission, named after its Chair, the immediate past Governor of Pennsylvania. Nixon wasted no time to publically express up front his disapproval of the idea of legalization of marijuana. On May 1, 1971, six weeks after the Commission had started its work, Nixon attempted to foreclose the possible outcomes. He told the

press at a press conference in San Clemente, CA: “Even if the Commission does recommend that it be legalized, I will not follow that recommendation.” Nixon alludes to his public statement in the beginning of the above conversation.

According to Congress, one of the key purposes of the Commission was to determine how to classify marijuana. As a House report stated:“[regarding] the appropriate location of marihuana within the schedules of the bill . . . the recommendations of this Commission will be of aid in determining the appropriate disposition of this question in the future.” With regards to the appropriate *initial* schedule classification of marijuana, Congress received input in August 1970 from Nixon Administration official Dr. Roger O. Egeberg, the Assistant Secretary of Health (1969–1971), ostensibly as part of the initial input about marihuana and health that HEW had been required by Congress to provide. Dr. Egeberg was the former personal physician to General Douglas MacArthur and had been hand-picked by President John F. Kennedy in January of 1963 to serve on the President’s Advisory Commission on Narcotics and Drug Abuse. In a letter he wrote to Congress, Egeberg stated that marijuana should be placed in Schedule I temporarily pending the outcome of governmental studies underway, with the understanding that “should those studies make it appropriate for the Attorney General to change the placement of marihuana to a different schedule, he may do so.”

In the conversation above, Nixon privately told the chairman, former Pennsylvania Governor Raymond Shafer, that it was “terribly important” the Commission not come out with a report that was “soft on marijuana.” Strategizing for political expediency over factual review and nuance, Nixon called for obfuscation: “I think there’s a need to come out with a report that is totally, uh, uh, oblivious to some obvious, uh, differences between marijuana and other drugs, other dangerous drugs… ” Nixon further warned Shafer: “Keep your Commission in line.”

On March 22nd, 1972, the Commission issued a report entitled “Marihuana: A Signal of Misunderstanding.” They recommended that the government no longer classify cannabis with heroin (both listed in Schedule I) and that it ought to be placed into a less restrictive category in the international drug treaties. They also recommended a federal policy of “partial prohibition” in which cannabis would be publicly contraband but legally allowed by adults to be possessed, consumed, and cultivated in private or

transferred between adults for small or insignificant remuneration. By the time this recommendation was made, Nixon had succeeded in helping to poison the political waters so that it would cost him little politically to completely ignore the Congressionally-mandated Commission's recommendations.

Still to this day, the federally commissioned panel's recommendation to reclassify cannabis has never been implemented by any branch of the federal government. Marijuana is still classified, with heroin, as a Schedule I drug. This means that, by federal law, it is defined as having a lack of accepted safety for use under medical supervision, a high potential for abuse, and no currently accepted medical use in treatment in the United States. Adjusting for inflation from 1971 to 2014 dollars, the taxpayer cost of the Commission as identified here was over 20.5 million dollars.

END

Thanks to Steve Hyde at Center for the Study of Cannabis and Social Policy (CASP) for assembling the archival photography, graphics and layout. CASP is a Seattle based not-for-profit research think tank dedicated to learning lessons for legal landscapes: www.caspcenter.org

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