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Transcription of Keynote Speakers' Address

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EXPLORING DRUG DEPENALIZATION: THE NEXT STEP AFTER PROPOSAL

TRANSCRIPTION OF KEYNOTE SPEAKERS' ADDRESS

Dr. Robert MacCoun
Dr. Peter Reuter

MS. WILLETT: Okay. So I figure we'll get started. As most of you know, I'm Lindsay Willett. And this is the Journal of Medicine and Law's Annual Symposium. This year, it happens to be about medical marijuana ballot proposal that was cast in November, and implications that has for drug depenalization and the drug policy in the future in the United States.

Just to introduce our speakers, my first speaker, who will be calling in via conference call, is Senator Michael Switalski. He is the District 10 Representative for the Michigan Senate. He represents Roseville, Sterling Heights, Utica and Clinton Township, which are all located in Macomb County.

Senator Switalski, a Michigan native, graduated from Roseville High School. He earned a Bachelor of Arts in Classical Languages from Louisiana State University. He also earned a Master of Arts in History at Louisiana State University. And he earned a Master of Letters in politics from the University of Aberdeen in Scotland.

Our first keynote speaker, Robert MacCoun, is professor of public policy at the Goldman School—excuse me—at the Goldman School of Public Policy at the University of California, Berkeley, and a professor of law in the Jurisprudence and Social Policy Programs at the University of California Boalt Hall School of Law. He earned a Bachelor of Arts in Psychology from Kalamazoo College. Dr. MacCoun also earned a Master of Arts in Social Psychology and a Ph.D in Social Psychology from our fine institution, Michigan State University.

From Northwestern University, he earned an NIMH Post Fellow-Post-Doctoral Fellowship. His research interest included drug use, drug dealing and drug policy, judgment and decision-making, especially by juries, dispute resolution, procedural and distributive justice, group influences on individual behavior and bias in the research process.

Our second keynote speaker, Dr. Peter Reuter, is a professor at the University of Maryland's School of Public Policy and the Department of Criminology. His expertise is Policy for Illicit Drugs and Organized Crime.
Dr. Reuter earned a Bachelor of Arts with honors at the University of New South Wales in Sydney, Australia, and he also earned a Master's and Ph.D in Economics from Yale University. Dr. Reuter's early research focused on the organization of illegal markets and resulted in the publication of Disorganized Crime: The Economics of the Visible Hand, which won the Leslie Wilkins' Award as the most outstanding book of the year in criminology and criminal justice. Since 1985, most of his research has dealt with alternative approaches to controlling drug problems, both in the United States and Western Europe.

And last, but certainly not least, Mr. Greg Francisco is the founder and Executive Director of the Michigan Medical Marijuana Association. The MMMA is the largest medical marijuana patient advocacy group in Michigan, and with approximately 3,000 registered members and over 300 due-paying members. The Michigan Medical Marijuana Association is dedicated to education, advocacy and open communication about the use of medicinal marijuana and also empowering the medical marijuana community. It does not facilitate the drug - the direct transfer of medical marijuana seeds or clones, however.

And with that, could we please welcome all three of our fine speakers.

Thank you very much. And just to set the stage for today's symposium, I've prepared a quick PowerPoint slide which may look familiar, depending on whether you came to our Fall event or not.

The Michigan Coalition for Compassionate Care sponsored the ballot proposal, and they followed the appropriate timeline. In 2007, they obtained an appropriate amount of signatures. In 2008, the signatures were verified with the very high validity rate. And April 11 last year, they were approved for appearing on the Michigan ballot, because the Michigan Legislature failed to take the action to enact the law themselves.

The process in Michigan works if there's a ballot proposal, and it receives the amount of signatures. Instead of it appearing on the Michigan ballot in the next election cycle, the Legislature has the opportunity to take that up and consider passing it themselves. If they don't, it subsequently is on the ballot.

This is a copy of the ballot language. Most of you probably saw that in November when voting. It just generally states the program itself - it says that physician-approved use of marijuana will be allowed. It says the Department of Community Health has to promulgate the rules, as the administrative agency in charge of this. And it just asked a simple question - should this be proposal be adopted?

If you look in front of you, the full text of the ballot proposal is in part of the hand-outs. As you can see, it's about 10 pages long and very detailed. But yet, this is the language that voters saw on the ballot when they actually approved the bill. There's a few differences, if you notice. The full text lists a bunch of states, including Alaska, California, Colorado, Hawaii, Maine, Mon-
tana, Nevada, New Mexico, Oregon, Vermont, Rhode Island and Washington which do not penalize the medical use and cultivation of marijuana.

There's something that the ballot proposal did not mention. Again, the ballot, which has to be approved by the Election Committee, and it was doubted that, if it included those states, that it would be eligible before it became a ballot, because that might be viewed as biasing the turnout, one way or the other. Again, you'll also notice that the ballot language only lists a few diseases that would qualify, but yet the full text includes a vast majority of diseases, including Crohn's, Alzheimer's, and a medical condition that causes one or more symptoms that's debilitating to the person.

I haven’t had a chance to look through all the rules promulgated by the administration that happened on April 4th, but I know that some states, like California for example, base a debilitating condition off of the Americans with Disabilities Act. And I would presume that that would also be what Michigan will do.

That language, most importantly, did not mention how much marijuana any one person could possess, falling under the program. But the full text stated 2.5 ounces or less of usable marijuana, and growers could have 12 marijuana plants in an enclosed, locked facility.

Since the Board's approval, the Michigan Medical Marijuana Program has been administered by the Michigan Department of Community Health in the Bureau of Health Professionals. And its mission statement is to assure that the registration process is conducted efficiently and effectively, consistent with all statutes and administrative roles pertaining to the MMMP. [unclear] that's pretty vague as to what they're actually going to be doing. But they do have some responsibilities.

And in one of the handouts is the administrative rules that were promulgated just recently. If you notice, it has a pretty thorough program set up, in that patients have to apply. They're issued identification cards and they have to also renew those cards as and when they expire. The Bureau is also required to maintain confidentiality, provide statistics, and especially maintain the number of applications or to the number of cards that are revoked, due to in-not complying with the requirements of the program.

They had 120 days from the effective date of the Act, which was last week. And so they have those administrative rules now promulgated. If you're interested, there's a hard copy that can also be found at this link. And the top, they did a very good job of promulgating these rules as it includes even instructions for persons who are under 18, but still would need to participate in this program. That's a segment of the population that is often overlooked it seems, from the reading I have done.

Just to compare this, our ballot proposal, to California. California was the first state to pass a ballot proposal. It was passed in 1996. Subsequently, Senate Bill 420 provided amendments for the program and mandated that a voluntary patient registry be ran. This has not been implemented yet, however.
If you notice that this provides for eight ounces of dried marijuana, six mature or 12 immature plants, which is a significant amount more than what Michigan is allowing for. However, the program’s administered by county. And so each county has the authority to allow its residents, who are members of the program, to have additional supplies of marijuana, beyond eight ounces, if they promulgate the rules to reflect that.

Furthermore, counties provide identification cards. Each person has to register each year in California or re-register. And most importantly, outside of medicinal marijuana aspect, California has stated that possession of 28 and a half grams or less of marijuana is not an arrestable offense under their law. So they’ve also dealt with the scheme of use of marijuana outside of the medical situation.

With that, that is the end of my slide show. Senator Switalski should be calling in very shortly. Does anybody have any questions right now— comments?

MS. WILLET: Yes. Questions?

UNIDENTIFIED SPEAKER: Just pointing out that you had [unclear] What—what’s going to constitute an enclosed, locked facility? Can you just have this in your back porch? I mean, that’s an enclosed, locked facility.

MS. WILLET: No. Right, no. That’s a good question. The rules—I believe the text of the rules specify. They have a definition. However, if you notice, enclosed, locked facility is still rather ambiguous. If you keep slanting through it, they have the annual [unclear], confidentiality, management. So the other—if you look on Page 6, under management of medical marijuana— It could be in your buddy’s new backyard, whether it’s at a greenhouse or whether it’s somewhere else. That’s one of the things they still have to work out.

I tried to get someone from DCH to speak about these rules, but they were not quite willing to do that. So unfortunately, I guess we’ll just have to wait and see what enclosed, locked facility means. I know that one of the penalties for violating the administrative rules [unclear] along with this is revocation of your identification card. So it seems that a person who did not follow what they consider to be an enclosed, locked facility, could have their card revoked.

Chris?

UNIDENTIFIED SPEAKER: I’m wondering if anybody has any insight as to how 2.5 ounces was decided on? Like, why that amount, and is that comparable to other states? California’s was eight.

MR. FRANCISCO: Mmm hmm.

UNIDENTIFIED SPEAKER: It seems like a lot. I’m just wondering how— you know, if— I mean it seems like one of their concerns would be people who could get it legally would pass it along to those who would not be able to. Why not a smaller amount?

PROF. MACCOUN: I actually don’t know how they came up with that amount. I agree, it is you know, the challenge with these laws is always to fig-
uren out how someone has access to a ready supply. And particularly if you have someone who's not mobile, who can't easily leave their home. But I know that part of the concern was that it's actually, for some of the patients, quite a hardship to go and get the amount.

Now, to some extent, people can have a representative obtain it for them. But it certainly is a higher number than I think other states and.

UNIDENTIFIED SPEAKER: Yeah.

MR. FRANCISCO: 'Cause I had conversations with people that actually wrote the proposal, and their strategic decisions were made two years before it ever came up. Quite simply, they would not fund this, unless anything on it had to pull at least 60 percent. And so that was what came back from focus groups. That was the highest amount that could pull at least 60 percent and that's - and that's why it was chosen.

PROF. MACCOUN: 'Cause that, of course, raises the question-

MR. FRANCISCO: Yeah.

PROF. MACCOUN: -why-why did they need to-

MR. FRANCISCO: Because of as you were saying, to ensure a safe, reliable supply, so.

PROF. MACCOUN: Was it a strategic decision to leave it off of the ballot proposal language?

MR. FRANCISCO: The - to - oh, no, the State decides what goes on the ballot. Certainly, MCC did make suggestions, but it was not word-for-word. You know, what was on the ballot was not word-for-word what they suggested.

PROF. MACCOUN: Okay.

UNIDENTIFIED SPEAKER: I notice that - I think it's either the ballot language or the law itself that says that there's no prescribed way of obtaining the marijuana legally. So if you can't obtain it legally, either-

MR. FRANCISCO: Mmm hmm.

UNIDENTIFIED SPEAKER: -that kind of insinuates that the only way to obtain it is illegally.

MR. FRANCISCO: Mmm hmm.

UNIDENTIFIED SPEAKER: And does - is this law almost rendered moot, unless somebody challenges this, or-

UNIDENTIFIED SPEAKER: The Michigan law?

UNIDENTIFIED SPEAKER: Yeah.

UNIDENTIFIED SPEAKER: [unclear] Michigan law?

UNIDENTIFIED SPEAKER: Will you repeat it, one more time?

UNIDENTIFIED SPEAKER: This supply-the whole-

UNIDENTIFIED SPEAKER: No-

UNIDENTIFIED SPEAKER: -supply question, why is it that we left off a supply, a-a-

UNIDENTIFIED SPEAKER: There's-

UNIDENTIFIED SPEAKER: -distribution?

UNIDENTIFIED SPEAKER: -there's no provision. In fact,
it specifically states that there’s no provision for any-

UNIDENTIFIED SPEAKER: Right.

UNIDENTIFIED SPEAKER: -[talking over] legal, which-

MR. FRANCISCO: Okay. The patient or the caregiver, acting on behalf of the patient, may obtain marijuana from any willing vendor, and they are protected. It’s the person that sells it to them that is still at risk. So the law protects the patient or the caregiver acting on behalf of the patient, but it does not protect the vendor. And the reason that any kind of distribution system was left out is because the conflict with state and federal law was simply too big. Right now we have a conflict on possession. And that, again, we could-we could get away with. But we do not believe that the federal government would allow us to set up a regulated distribution system, as much as we would like it. So patients are protected-

PROF. MACCOUN: And that is [unclear] So California, of course as you all know, has this network of buyers. Of course, one of the things we’ve seen is, all that the state allowed for these buyers [unclear] federal government under the previous administration it had numerous raids. The attorney general has stated he doesn’t intend to continue that policy. I think it remains to be seen, but I think it’s probably likely in California that the buyers’ clubs will [unclear] as long as they don’t push the issue. And if their people are profiled, they probably won’t encounter any federal problems during the Obama Administration.

But it does raise other issues that Michigan would have to look at. I mean, there’s a-there’s a lot of advertising going on in California-

MR. FRANCISCO: Mmm hmm.

PROF. MACCOUN: -and that was not supposed to happen. But there’s pretty accurate promotions. Some of the ads have a sort of a wink, wink, nudge, nudge element about sort of raising, if you will, some of these - I should’ve brought some with me. But some of these ads, you look at these and you’re saying, it’s not really clear whether they’re [inaudible-coughing] issued to medical patients or whether they’re [unclear] advertising to medical patients, you know, people who want to participate. So it does raise a lot of issues. And I think the-the federal/state issue seems to have quieted down, but just even at the state level it’s a challenge.

MR. FRANCISCO: You know, I think it probably goes to the motivation for passing the law in California. As I remember, federal government made a major effort to had a major campaign against the [unclear] initiative in-in California. And from polls that were done before the ballot itself, two things came out. One was the [unclear] Californians who were offended by the aggressiveness of the federal government and-

[New File Recording]

MR. FRANCISCO: -sure about the medicine. But they really didn’t want the existing marijuana policy, and so it was a liberalization, so that was fine. So it was only partially seen by the populous as a medical marijuana measure.

MS. WILLETT: Senator Switalski, are you there?
SEN. SWITALSKI: Yes, I am, Lindsay.
MS. WILLETT: Hi. How are you?
SEN. SWITALSKI: I’m doing well. Thanks for having me.
MS. WILLETT: Well, thank you for calling in. We have our panel here. We have our—the two authors of Drug War Heresies, Robert MacCoun and Peter Reuter. And we also have Greg Francisco from Michigan-Michigan Medical Marijuana Association.
SEN. SWITALSKI: Excellent.
MS. WILLETT: And we have about 25 members of the Journal and law students here in the audience. And you can go ahead, whenever you’re ready.
SEN. SWITALSKI: I am ready.
MS. WILLETT: Okay.
Can everybody hear?
[No Verbal Response]
MS. WILLETT: No?
UNIDENTIFIED SPEAKER: Can you turn it up?
MS. WILLETT: Okay. I-I have to turn this up.
Okay. Can you say something?
SEN. SWITALSKI: Good afternoon. It’s great being here.
MS. WILLETT: Okay.
SEN. SWITALSKI: Can you hear me?
MS. WILLETT: Yeah, that’s good. Thank you.
SEN. SWITALSKI: Okay.
It’s great being here, even if being here means voice only. So I hope you can hear me. If you can’t, at any-at any point, stop and interrupt me and we’ll make some adjustments. So I will speak slowly, so you can hear me, although that seems like it might be cruel and unusual punishment and that’s banned by the Constitution, and I’m sworn to uphold the Constitution. So please stop me, if I’m committing a crime. I’m in Baltimore right now at my sister’s house. And we’re preparing for our annual Holy Saturday soccer showdown between the Switalski and McDonald clans. And the Switalskis are 2 and 0, and we expect our dominance to continue.

Yesterday, we went to Baltimore and it was lovely. We got excellent seats from a scalper at Camden Yards. And the scalper even offered us his cell phone number, and if we wanted any tickets in the future, he said to call him. So I think scalping deserves a new chapter in the next edition of Drug War Heresies.

If you use StubHub for Cobbs or Yankee games, or followed the recent lawsuit against Ticketmaster, and their outrageous system for transferring online buyers to more lucrative resale markets, then you would agree that scalping merits a chapter. It fits into the general category of activities that Drug War Heresies so insightfully detailed. These are activities that we formerly though of as illegal, but that we have come to tolerate. Such enlightened policy requires some moral flexibility and some rudimentary economic analy-
sis but, in the end, it yields some guilty pleasure. I think, for my 16-year-old son, the best part of the day was that we bought tickets from a scalper.

Fortunately for us, the Yankees pasted the Orioles 11 to 2 yesterday. And despite the lovely sunshine, we also had to watch the scoreboard and see the Detroit Tigers 2 to nothin’ lead melt away to a 6 to 2 loss. On the positive side, my nephew and son and I took batting practice last night, and I did wrist run, Henry Aaron’s style, over the left center field fence.

So while I’ve been having fun, I want to commend you all for coming in to work today on Good Friday. And let me describe how we got here, from my perspective. I’ve been teaching a course for the last three years in a women’s prison. The course is called Drugs, Crime and Justice. One of the books we used last year was Drug War Heresies, which I found surfing the Internet. It turned out to be a great book; thought provoking and insightful. It’s a tough read, but the prisoners who turn out to be highly motivated and engaged students, had a lot to say about it.

I would’ve used it again this year, but it was too expensive. I have to buy the book for my 28 students—actually, I split the cost with some Eastern Michigan University and University of Michigan, Dearborn professors. So I hope the authors will come out with a new edition, condensed and cheaper, so I can use it again. And it should have a new section—

**UNIDENTIFIED SPEAKER:** [talking over] copy from a scalper, I believe.

**SEN. SWITALSKI:** Yeah. With a new section on scalping and another new section on caffeine. Anyway, I was intrigued by the book’s approach and unique perspectives. I hadn’t thought about drug policy in the way the authors did. I suggested to my intern, Lindsay Willett, that she read the book as a young law student and tell me what she thought of it.

Now, for another commercial interruption, if I might take a moment, I want to thank Lindsay for inviting me to speak today, and for the outstanding job she has done the last few years interning in my office. I’ve had some great interns during my 11 years in Lansing. And when I started getting law school interns, I found the quality and capability of the interns was a quantum leap in comparison to the average James Madison political science sophomore. If any of you are interested, talk to Lindsay or to Marie Gordon in my office. Don’t believe all that stuff about what a jackass I am.

**MS. WILLETT:** Oh, we—

**SEN. SWITALSKI:** We would—you don’t? Good.

Marie was an intern while in MSU Law School. After her internship, I hired her and she’s worked for me for about six years. In this economy, internships are useful. Ask Lindsay. I helped her get a paid position with Representative Acciavitti in the House. And one of my interns, Irene Kepler, won the Rosenthal Intern of the Year Award and is now a county commissioner. Another, Sam Buckhalter, is now on the Senate Democratic Policy staff. I think the rest are in jail. All right. Let that then be my final commercial.
You all should read Drug War Heresies and tell me what you think about it. If you all buy it, it'll make the price go down if you sell your used copies on the Internet. So that's how we got here. Lindsay was working for me, helping me with some of the lectures for my class at the prison. We talked about the book. From that, Lindsay went on to invite the two authors, Robert MacCoun and Peter Reuter to appear at this forum, and invited me to speak and required all of you to come on Good Friday. So now you can say that you rival my prisoners in motivation and dedication. So that's how we got here.

Now to the substance of the book. What I found most valuable is right in the subtitle. Looking at drug policy in comparison to other vices, times and places. Some of these issues may seem vaguely obvious to you. On the hazy periphery of our trivia memories we believe cocaine used to be legal and sold in Coca Cola, and that alcohol went through prohibition in the Roaring '20s; that marijuana is legal in Holland and government heroin is available in England. But while these factoids are obvious, if not completely accurate, there is an interesting history in rich detail with each of those examples that is very instructive to review. For a policymaker, the subtleties and questions that arise in the course of making a general policy are often the most important of all. Needle exchange programs and smoking licenses are things most lawmakers never imagine, let alone really grapple with. That discussion is far more enlightening than a couple of partisan pundits arguing about the legalization of marijuana. We could all pontificate on that for two hours, without ever having an original thought. Fox and MSMBC make a living out of staging those echo chambers.

MacCoun and Reuter ask us to think new thoughts. Drug War Heresies are heresies because we don't allow ourselves to think of them. There are many things I had never thought about. I had not thought about comparing drug policy to how we treat gambling and prostitution. That is the category I spoke earlier of, and things that we thought of as illegal, but that we now increasingly tolerate. Why is it that our society tolerates those vices in various measures and places, but is unwilling to tolerate other behaviors? Those are important questions to ask and consider.

The subtleties in the book that I found fascinating were the distinction between decriminalization and depenalization. As the authors point out, decriminalization is not only politically impossible, but it actually leads to increased usage, which is not a preferable policy goal. Government should not be in the business of promoting drug use. But if government chooses to tolerate certain behavior, within acceptable limits, depenalization provides a viable policy choice.

Drug policy is only beginning to emerge from an, off with their heads, lock 'em up and throw away the key mentality. I see the results of that mentality when I teach my prisoners, when I review the state budget, where we spend more on corrections than on higher education, and when I hear from constituents whose child got arrested on campus for an MIP and who now has to pay thousands of dollars in legal fees, probation fees, drug screen fees,
and gets a blot on their record that may exclude them from certain professions for the rest of their lives.

I found the book very realistic about the possibilities of reform to our laws and how difficult it is to change our draconian mindset, in spite of the evidence that it promotes organized crime, inhibits treatment and costs billions. But the authors also suggested that sometimes such overwhelmingly common attitudes can change quickly. These common attitudes are a mile wide and an inch deep. I was surprised that the Michigan Medical Marijuana Initiative passed. And I hope you ask the authors what the implications are for other states and drug policy. I've been thinking about that, and I would be very interested in what they think.

But I came here to talk about caffeine. I am lobbying for a new chapter in the next edition of Drug War Heresies called, Caffeine, Low Man on the Speed Spectrum. [unclear] into the general category of drugs that we have tolerated that are becoming increase-and that are becoming increasingly abused. I would expect that if trends continue, we would begin to regulate caffeine, and that it could follow the trajectory of drugs like alcohol or cocaine that were formerly completely legal and that then became regulated or illegal.

Caffeine is a stimulant. It is the most widely-used psychoactive substance in the world, yet it is almost entirely unregulated. It is probably fanciful that something as popular and endemic as caffeine would ever be illegal. But one could imagine places where it could certainly be regulated and restricted to certain ages. And there could even be criminal penalties for selling concentrated forms to minors.

Given all the mistakes we have made regulating other drugs, it seems like a good time to start thinking about what an intelligent policy should look like, because there is something going on out there in the marketplace. There's a caffeine war going on.

I introduced the bill - Senate Bill 230 - to require manufacturers to list caffeine content on the can, just like we do with sugar, sodium, calories and fat. Caffeine is the most active ingredient in these drinks; it should be listed. Check out my YouTube commercial on energy drinks. And don’t be too critical; it was my first try.

My bill just says manufacturers have to tell you how much caffeine is in the drink. I introduced it as part of my children's health initiative, which also included three bills regarding high school steroid use.

Let's review the brief history of caffeine in drinks. Adults drink coffee at about 75 to a hundred milligrams of caffeine a cup. Kids started drinking with Coke and Pepsi at 35 milligrams of caffeine in a 12-ounce can. Mountain Dew came along at 51 milligrams, spiked in popularity, and people in marketing and product development took notice and energy drinks were soon born. Red Bull clocks in at 80 milligrams in an 8.4-ounce can, and now we have Jolt at 280.

I believe the evidence is clear that we have an arms race in caffeine content going on, and that the target consumer for caffeine is getting younger and
younger. Sports figures are promoting these drinks now, and they advertise on Daly and Colbert. Some of the packaging is clearly aimed at children; check out Zipfizz. Furthermore, many of the names of these drinks come right out of the drug trade. There’s Dopamine and Fixx, and there’s even a drink called Cocaine, the Legal Alternative. What’s next - Crystal Meth?

I got into an argument with one of my interns about concentration. I offered my bill, which requires manufacturers to list the caffeine content. In one of our press releases promoting the bill, we listed energy drink caffeine content per 12-ounce serving. Now Jolt is like 20 ounces, so the table had the effect of raising this figure for Red Bull and lowering it for Jolt. But it did something else. I’m sure some of you have tried five-hour energy. After 10 minutes of listening to me, some of you are probably drinking one right now.

I find the rising level of concentration to be especially pernicious. As dietary supplements, these products are entirely unregulated. So now we have six-hour energy. But you know, some days you’re really dragging, so you need seven-hour energy. Then one day my intern - and it was not Lindsay - walked in with the latest, 80-hour energy-that’s 8-0. It’s a spray you put under your tongue. I find this trend troublesome, not least of all because these products are highly concentrated. They come in a two-ounce bottle. If your high school days were anything like mine - and mine were in the golden age when the drinking age in Michigan was 18 - then you must have observed the macho competitions over who had drunk the most beer.

So it’s one thing to choke down 280 milligrams of caffeine in a 20-ounce can of Jolt; a person can only drink so much liquid. But a person could easily throw down 500 milligrams of five-hour energy. So that’s what my intern and I argued about-whether it’s fair to standardize drinks by eight ounces, and thereby get a measure of concentration. I think it’s fair game.

Last October a hundred of the nation’s leading doctors and scientists sent a letter to the FDA, demanding that caffeine content be listed, that the total amount be limited, and that a warning label be required. The FDA has done nothing to date. My bill only asks for the content to be listed. I say it’s a free country, so choose your poison. Unless you know the facts, your choice isn’t really free. Thank you, Socrates. I’m a Democrat in the Senate minority. I have discussed my bill with the Republic Committee Chairman, and I got the two doctors in the Senate, who are both Republican, to cosponsor the bill. I hope to pass it this year.

Let me conclude with some general observations about Michigan Drug Policy. I think we’re seeing a movement away from the lock ‘em up mentality towards managing the problem within acceptable limits. Motivation comes in large part from budget constraints and the economic crisis. As evidence, I would cite the falling corrections budget and closure of several prisons. Concurrently, there are rising expenditures on community corrections, tethering and alternative sentencing options like drug courts. I do not expect penalties to shrink, but parole rates are rising, and there is a movement demonstrated by the State’s funding of the Council of State Government Sentencing Com-
mission Study to emphasize parole, after the prisoner has served their minimum sentence, assuming they have good behavior and no tickets while in prison.

Part of this would be to more accurately describe the minimum as the ERD or the earliest release date. I think this is important, because minimum sounds like bare minimum. In other words, it creates the presumption that you should serve more. I'd say the ERD is what the judge wanted you to serve, and if you misbehave in prison your stay could be extended. Even the 650-Lifer Reforms, which have yet to correct pipeline cases, did not reduce sentences so much as make people eligible for parole. These are the first halting steps toward a more rational drug policy in this country.

I think I've droned on long enough. I'll try to answer any questions you have. And if they're too hard or if I don't know the answer, I'll just act like I can't hear you, hang up and pretend we lost our connection. Then I'll call back in about a half-hour from now, and you'll be gone, and I'll say I couldn't get through.

Anyway, thank you very much. Thanks very much for having me, and I hope you find the day [unclear] stimulating.

MS. WILLETT: Thank you, Senator.

Does anybody have any questions?

PROF. MACCOUN: Yeah. This is Rob MacCoun. First I just want to thank you so much for the kind comments about our book. And it's really gratifying that you found - that you read the book so closely and that you found it useful. In terms of getting copies for your students, we should talk. There must be some solution to this problem, and so we can talk offline about whether we can figure out a way to solve that problem.

SEN. SWITALSKI: I gotta tell you, it's Robert, right?

PROF. MACCOUN: That's right.

SEN. SWITALSKI: I gotta tell ya, I created a tax-free foundation.

PROF. MACCOUN: Uh-huh.

SEN. SWITALSKI: And I used the money from there to pay for the books. And some of the money comes from tobacco companies. So ironic.

PROF. MACCOUN: Well, what better use for it. So, in terms of your comments about both scalpers and caffeine, I mean, those are wonderful comments. Actually, I think scalping markets are quite interesting. And I actually - although I've done some reading on caffeine, I learned quite a bit from your remarks about caffeine. And it's - you know, it is - when you look at scalping and you look at caffeine it is-I'm considerably struck by how just these strange accidents of history. Some of these activities fall on one side of a bright line and we treat them one way, and other activities, just through historical accidents, fall on the other side of the line.

If we were starting from scratch, it is not at all clear that we would have the caffeine regime we have right now or the marijuana regime we have right now, or the alcohol regime. And when you - when you try to - you try to link up all these difference vices into some coherent theory, it's very hard to find
any coherent historical evolution of some coherent theory that-for our current policies.

And so anyway, I thank you so much. Your comments were wonderful.

SEN. SWITALSKI: All right. Your book made me realize that. You know, as I mentioned with the gambling and the prostitution, which I never would've thought of, and that is a tremendous insight. And I thank you guys for that.

PROF. REUTER: It's interesting with - I mean coffee was, in earlier eras seen, in some countries, as as evil. For those of you who are musical, there's a Bach Cantata - the Coffee Cantata, which is early 18th Century, late-17th Century - and is about, you know, a father trying to prohibit his daughter from drinking coffee. She, of course, evades him - it wouldn't be interesting otherwise. And it was, I think approved in Turkey, but that seems odd - I think it was Turkey, in which it was prohibited. It's you know, the notion that anything that's attractive must have evil consequences is sort of historically widely distributed. Sometimes we overcome that, but not always. So-

SEN. SWITALSKI: It-

PROF. REUTER: -it-it-you know, coffee has been on the wrong side of the line at times. But I think the other thing is that the bright line turns out to be not so bright. And so, in a way, gay marriage is the one where we're sort of seeing the line - 25 years ago it was inconceivable, and somehow the [unclear] is 25 years from now, no one will be talking about it. And-

SEN. SWITALSKI: Yeah.

PROF. REUTER: And that seems - and with gambling, 50 years ago, gambling was two race tracks - Pimlico, for example - and I think the one in Michigan-

PROF. REUTER: Yeah. Yeah, it was just a tiny little sector and was illegal. And when I had studied organized crime in the early '70s, that was still a dogma of activity. And now it's - you know, New York Stock Exchange is full of this stuff. And I'm not referring to gaming on stocks, you know, I mean, stocks for gambling. And that sort of happens without anybody-you know, without anything new emerging. It just shows the general change in cultures.

SEN. SWITALSKI: And it takes so long to change it, and it's amazing how these things, you know, fall into these categories. And you know, it's extremely difficult to change it. Although it makes - a lot of it makes no sense.

PROF. REUTER: Well, I mean, I think you can make some social sense out of it.

SEN. SWITALSKI: Yeah.

PROF. REUTER: But-and what's curious about marijuana, that as many of you know, in 1973 there was a Commission that President Nixon appointed, which wrote a very liberal study on marijuana policy. And Nixon sort of rejected the report, even before it reached him. It turns out that Nixon himself actually didn't think there was anything particularly wrong with marijuana, but it just wasn't politically acceptable to do that.
And there was a law professor, Richard Bonnie, who was very significantly involved in that Commission as a staff person. He wrote a book a couple of years later, which it ends by saying, look, this is just one of these oddities about time and it'll go away pretty quickly—that is, the prohibition of marijuana would go away. I talked to him 25 years later, and he thought that perhaps had been a little bold as a declaration. But there’s always the sense that somehow this one—why has this one lasted, and so much else has changed over the 35 years since that Commission reported. And yet, with marijuana, the change seems so incremental, and I think neither Rob nor I have a good explanation about why that’s the case.

MS. WILLETT: Does anybody else have any—

UNIDENTIFIED SPEAKER: Senator, my question for you is, what are the negative effects of caffeine that would warrant this kind of regulation? Obviously, we regulate people drinking and driving, because obviously they’re impaired, but what kind of impairment does caffeine cause that would require such regulation?

SEN. SWITALSKI: Okay. Now by such regulation, what I’m calling for is to print it on the label, right? Which is just education, right? Just the same as we print sugar and sodium and calories. So is that justified? And I mean, you could—I’ve cited a hundred doctors and scientists, but you know, you’ve also got data from, like, poison control centers that get calls for caffeine overdose.

And I think, in an adult level, it’s probably not really an issue. But you’ve got it going to younger and younger kids, and it does seem that there’s a health issue there and it bears investigation. At the bare minimum, it bears printing it on the label.

MS. WILLETT: Follow-up question?

UNIDENTIFIED SPEAKER: Senator, if we’re going to require labels to be—the caffeine must be printed, how much is it going to cost to educate the public on what is an acceptable amount, and is this even going to be able to reach children who you claim that think that it’s going to be most effective on? And how many people actually look at labels?

SEN. SWITALSKI: Well, I would hope that there are parents who buy the stuff would look at the labels. And how much would it cost I—you know, I—it would seem to me, if you’re printing a lot of other stuff on the label, it wouldn’t cost you anything to print the caffeine on the label.

MS. WILLETT: Well—you know, go ahead.

UNIDENTIFIED SPEAKER: I guess I was more referring to, how much is it going to cost to educate the public on what an acceptable amount of caffeine is?

SEN. SWITALSKI: Okay. And that’s a question for the medical community, which I don’t think they’ve really looked at, because I think energy drinks are a new phenomenon, and that the market is increasing about 49 percent a year. That’s a big part of the drink industry, and I think the use, among younger and younger kids, is something new. I don’t know anybody that really would give coffee to their children. So I don’t think it’s ever been
an issue before, but I think it is becoming an issue. And you know, the medical authorities, the surgeon general, should look at it, the FDA should look at it and decide what is an acceptable amount.

PROF. MACCOUN: If I could comment on that. It seems to me that, even without defining an acceptable amount, if the label simply said, you know, one ounce of this is the equivalent of X-ounces of ordinary coffee, that itself would provide a lot of information about just how much more potent the drink is. And that would allow people to sort of anticipate what kind of effect they’re going to get from consuming that. I think a lot of people probably don’t know how much more potent it really is.

UNIDENTIFIED SPEAKER: I guess my question is, we’re talking about finding out how much caffeine is in the stuff and we don’t want kids to be drinking too much. But what is the negative effect? I mean I understand the-the potential of-

[New File Recording]

UNIDENTIFIED SPEAKER: -too much, but, I mean, you can overdose on too much of a lot of things. I what are the negative-the negative effects of, you know, a kid or a child drinking coffee? I mean, what is the impact of caffeine that-that makes it this beast that we need to really regulate it?

PROF. MACCOUN: My guess is, you don’t have kids.

UNIDENTIFIED SPEAKER: Having seen my children drink a can of Coca Cola and then bounce off the walls, it’s - there’s definitely some - whether it needs to be regulated is a different question, but I

UNIDENTIFIED SPEAKER: Okay. Well, yeah, I mean I definitely - I under - I don’t think there’s anything real negative to placing a note or a notification, like on the labels of, you know, on content, as long as that’s as far as it goes. It just seemed like that was - through the speech, it was kind of leading up to, maybe this is the first step to create a regulation. And in that case-

SEN. SWITALSKI: Slippery slope - the slippery slope of where, oh, gee, if we, you know, start makin’ ‘em put how much is on the label, then the next thing will be what doctors and [inaudible-warped] has asked for, a limit on the total amount and then a warning label, and then maybe, you know, restrictions on sales to youth. I understand the argument that, you know, once you start going down this road that, we’ll wind up with treating it like heroin or something, where’s it’s you know, illegal to drink coffee. That doesn’t seem realistic to me. And that’s why in the law, things progress very slowly.

And even, like we were talking a few minutes ago, when you have bad law, it takes a long time to change it to good law. But where, in this area, where we have no law, you start very slowly with, hey, let’s just say how much is - you know, how much are we drinking? Just inform people of how much is in there. That’s like the very most basic thing you can start to do is measure something. Whether further restrictions are justified, I think I’m not willing to go there right now, ‘cause I don’t know. I have, you know - you know, kind of reports from different poison control centers, different things, but you know,
those aren’t really comprehensive long-studied, peer-reviewed studies yet. It’s too early to do that kind of thing. But I figured I would start out at the most basic minimum, which is just identify how much is in there and put it on the label.

MS. WILLETT: Any other questions?

MR. FRANCISCO: Could I just - I’m sorry I came in late, so I - cut me off if you’ve already talked about this. But I think the medical evidence shows that caffeine is definitely detrimental to unborn children. So the mom drinking coffee, as little as two or three cups a day, has been shown to produce low birth weights in babies. So I think, in terms of making people aware of how much caffeine is in coffee or any other foods, I think that’s where this kind of information would be very valuable.

SEN. SWITALSKI: That is true. The FDA has said - they have issued a warning to pregnant woman to limit their intake of caffeine. So we have gone that far on the health front. That’s an excellent point.

MS. WILLETT: Any other questions, comments?
[No Verbal Response]

MS. WILLETT: Okay. Well, Senator Switalski, thank you very much for giving up part of Good Friday to participate. We wish you could be here, but we understand that you can’t. Are there any concluding remarks you’d like to make?

SEN. SWITALSKI: I just want to thank you, Lindsay. I hope to some day meet the authors, and I hope I get a few interns out of your crowd there.

MS. WILLETT: Oh, thank you.
SEN. SWITALSKI: Bye.
MS. WILLETT: Bye.
PROF. MACCOUN: Okay, Lindsay.
MS. WILLETT: Yes.
[New File Recording]
[Various People Talking]

PROF. MACCOUN: Think about drug use in the United States. I think people, while we talk about the ‘60s, because symbolically the ‘60s was the counterculture, but in fact, the peak for illicit drug use in this country was in the mid- to late-1970s, when I was in high school and college. And then we see a pretty steady decline until about 1992. And then we’ve seen an increase, again, although it’s not returned to previous levels, and it seems to be leveling up and something like one in five high school students trying marijuana. Peter will talk about some international trends here, so I’m not going to - I’m not - I [unclear] to say that.

Over the same period, some survey organizations have been asking people about legalization—specifically about marijuana legalization. I’ve seen very few survey questions about heroin or cocaine. Most of the questions have been about marijuana. And so here we have the black squares, our adults in the Gallup Poll. The white triangles are adults in the NORC polls in various
years. You see, it's not complete; we don't - there's some years the question wasn't asked.

And then this is the high school senior data. And what we're looking at here is the percentage of people who say that they would oppose legalizing marijuana. Marijuana is the - legalization refers not only to elimination of penalties for use, but also penalties for sales. The legalization requires that there's actual legal access to the drug. And it's not always clear that people understand the distinction when the question's being asked, and you get somewhat different findings, depending on how you ask the question. And there are some polls that really break it down into particular dimensions.

But what you see here is that the majority of American adults opposed marijuana legalization-somewhere between 65 and- and 80 percent - and some fluctuation over time. But we have some spotty data, suggesting that opposition is declining. And I think one of the things that starts happening here is the Medical Marijuana Movement. Whether the Medical Marijuana Movement has led to changes in attitudes for recreational marijuana legalization, or whether changes in attitudes for marijuana more generally, have made it possible to pass medical marijuana laws. It's hard to figure out cause and effect.

But we are starting to see some changes, from softening of people's attitudes about marijuana prohibition. Not surprisingly, high school seniors are less opposed to it - to legalization than adults. And the trends actually are parallel. Now, there are lots of different ways that one could design a legal regime for marijuana.

And this comes - this chart comes from a paper we wrote with Mr. Tom Schelling. And this is our attempt to just try to lay out some of the different options that one might consider. And this is relevant not just to marijuana, but to other substances and other vices. And there's some pretty dramatic variations, in terms of regulatory - even within regulators schemes, we could talk about a free market, and the late Milton Friedman was an advocate of marijuana legalization. And he was really talking about a complete free market, like caffeine.

There's a bill in California - the Ammiano Bill - to legalize marijuana - really envision something a little bit closer to the alcohol model. In our book, we look at some other possibilities, including license [inaudible-coughing], where you have a license to use, that you could lose. There can be regulatory prescriptive models, and this is closer to the medical marijuana model, of course. That doesn't make sense for recreation - a prescription for recreational marijuana doesn't really make sense.

Marijuana doesn't really have use as a maintenance drug, the way Methadone is a maintenance drug for heroin. So that doesn't really make sense. Nor - but anyway - so right now we're in this [inaudible-coughing] for the most states of the country. Increasing numbers of states are softening, at least for medical users, and we're shifting downward. So one change we can talk about is moving toward some sort of a regulated access.
A second change, that's really a separate dimension, is for any of these regimes, how aggressively you enforce the regime, how aggressively you arrest people, how you penalize people. In fact, when we talk about decriminalization, decriminalization really doesn't have anything to do with these different models. Decriminalization, rather, refers to [inaudible-coughing] prohibition regime, how stiff are the sanctions and if the sanctions get applied to. And involves things like quantity, limits-age limits and first offense versus second offense. And it's not endorsed and abnormal, but they had a nice chart with states. And rather than make my own, I stole theirs.

And so 13 states have legalized medical marijuana use as - if you look on Google News and you search on marijuana, you will see that the debate, really, in recent years is dominated by medical marijuana. Michigan, of course, the most recent entry to this list. One of the things you see when you actually look at it as a map, is that there is some regional variation going on here. And I don't want to talk about [unclear] a theory of the regional variation, but it is intriguing. Certainly what you do notice is that there are large regions of the country that have not yet made this change. My slide here says 12 states, but of course it's 13 with Michigan.

But one of the things I wanted to highlight here is I've underlined the states that have also decriminalized, or what we call depenalized possession of use for recreational users. And so some of these states have done both; the last three California, Colorado, Maine and Oregon. Others have only relaxed the medical marijuana prohibition, but not the recreational. And Michigan [unclear] There are medical marijuana schemes in place in other countries and [unclear] will say more about that later.

So what is - if we - if Michigan were to move beyond medical marijuana to a more general decriminalization regime, it's important to say what we might mean by that. One could mean a legalization with fully legal access with a alcohol-type model or tobacco-type model. The word, decriminalization, as it's used in state legislatures does not refer to that at all. In fact, one of these I think Peter and I will both emphasize is if you actually look at what decriminalization really means in state laws, it's a far less dramatic change than you might think. I think one of the things we want to impress upon you is that it is actually - Michigan can easily decriminalize possession of marijuana, with very little detectable facts on local abuse [inaudible-coughing]

I want to suggest that contemplating a legal regime for marijuana is a much more radical proposal, and that there's no direct connection between the fact that decriminalization is a very minor change that would have little effect. It was not implied that legalization would have very little effect. In fact, I think [unclear] legalization would have a more dramatic effect as we have talked about.

[New File Recording]

PROF. MACCOUN: -of the '60s and '70s and people's memories of that, and that's changing. Your birth cohorts are much less concerned about the kind of culture wars in the Nixon era and the Vietnam era. And I think,
frankly, one of the reasons why we see that decline, in opposition to marijuana legalization, is because for 20 years marijuana legalization was seen as a symbol for wild, crazy, long-haired people in the streets, trying to overturn society. That's just not the image that younger people have of marijuana reform. In fact, marijuana reformers have really gotten professional. And so, I - you know [unclear] a time.

MR. FRANCISCO: Can I - can I tell why we have repeated the Ann Arbor model? After the Ann Arbor law passed, a similar law was also passed here in East Lansing, which later was repealed. But the state government was so angry about it that they changed the Constitution, so that no other city can do what Ann Arbor did. No other city can set a penalty lower than what the state is. So, instead, we're going to be coming back with them in the next 12 months with low enforcement priority, which is fine. You can keep the law; just don't enforce it.

PROF. MACCOUN: But you know, part of the perception is that a lot of people in East Lansing are being sanctioned for marijuana use.

UNIDENTIFIED SPEAKER: Mmm hmm.

PROF. MACCOUN: And without having seen the data, I'll say I'm very skeptical. I doubt-for example, the City of Oakland a couple of years ago passed this resolution of marijuana enforcement was the lowest - can become the lowest priority in the City of Oakland. And [unclear] think about [unclear] And he said, I don't think it was a priority before. You know, there was not - it was extremely low priority. I don't think a lot of this will have any detectable effect. The fact of the matter is, unless you're really in your face flamboyant in Oakland, you're not going to be arrested.

The one twist, at least in California - I don't know about Michigan - is parole violations. And the big part of what we see in California statistics is people being sent back to prison for testing positive for cannabis. And this is - this is really hard to justify from a retribution standpoint, from a crowd and crime control standpoint. But increasingly, people are beginning to realize it's hard to justify it from a fiscal standpoint. This is an extraordinarily expensive idea. And so if we really want to -- the - I think the states - the key benefit from softening marijuana sanctions is - is to stop throwing people back into prison for - for testing positive for cannabis.

Other questions?

UNIDENTIFIED SPEAKER: I guess, so in that case, you know, I think that's a very valid point then.

UNIDENTIFIED SPEAKER: We're hoping for [unclear] like that. But in general, if - at least from the statistics that we - we saw - if most people aren't actually spending any kind of jail time anyway, and the difference between what people think in depenalized states versus penalized states is also proved minimal, then what - I mean what's the big deal? If it doesn't really cause any kind of substantial change-.

PROF. MACCOUN: Yeah. And that - and that cuts both ways. I mean, I can tell people who are panicky about language about decriminalization, I-I
can tell them, calm down; there’s nothing there to worry about. But at the same time, after this, you’ll want to say that there’s this human rights issue. Yes, there are individuals that you could argue their human rights are being violated because of marijuana possession laws. So there exists such people. But what we are talking about is a very modest infringement of liberties, compared to racial profiling and drug-you know, on the streets and-and there are lots of issues that will get much more stark human rights violations.

So those-you know, it’s from this public standpoint, it’s a fairly peripheral issue from both health standpoint. For drugs, we really need to be talking about [unclear] about methamphetamine, what are we going to do about it, cocaine, which hasn’t gone away, and what are we going to do about aging cocaine or heroine addicts. And from a public health standpoint, those are the big social costs. But those aren’t - they don’t have the same sort of symbolism or cache as talking about marijuana, because we all know people who’ve used marijuana and we don’t consider [mumbling]

UNIDENTIFIED SPEAKER: I’m curious if you think that marijuana is a exception that should be carved out of an otherwise valid rule, or if all of the Schedule I drugs should be available for medicinal purposes.

PROF. MACCOUN: Well there are - there are legitimate medical uses of cocaine and-

[New File Recording]
[ED.- START OF KEYNOTE SPEECH NUMBER 2 WAS CUT OFF]

PROF. REUTER: - this is the probability of getting arrested if you are a cannabis user. And here are some very speculative figures. John Hawkins and I specialize in BOTEC - back of the envelope calculations and we find them very satisfying.

Actually, there’s - when people are [unclear] simple arithmetic - we take a number of arrests for marijuana possession, take the estimates of the number of marijuana-people who used marijuana in the last year, divide the first by the second, and what we find is that in most countries it’s about three percent. A three percent chance that if you use cannabis - marijuana - in the last year, you’ll get arrested, okay? Is that a big or small number? It’s not obvious what to make of that when you think about it.

So if you use marijuana for 10 years, there’s a one in three chance of getting arrested. It doesn’t sound so small. You know, arrest doesn’t lead to much, but still, somehow if you told a kid when he’s - you know, as he’s making his decision to start out on marijuana use, there’s a one in three chance of getting arrested over the next 10 years of his - 10 years is probably more than the average [unclear] - not very high [unclear] That might be a bit of a deterrent.

I doubt that that is the right way to - that is not the way that 18-year-olds or14-year-olds - not if that’s when they start using - 14-year-olds make this decision. It may be they ask, what is the probability I’ll get arrested the first time I use marijuana? And the answer to that is something like one in 3,000. And that’s not an impressive number; that’s not a deterrent number. But
that's probably across a lot of countries. [unclear] one in 1,000 or one in 3,000.

So it can - ask about how much would decriminalization be likely to change behavior, particularly by adolescents? And by the way, I've been [unclear] by decriminalization in those states. The - you know, let's put aside that fine point. It's hard to believe that the current regime looks like a serious deterrent, given such a low risk of arrest for each offense.

Since we are sitting in [unclear] campus, just let me linger a moment on this. An odd thing has emerged. Is a sudden increase - and sudden in terms of the last few years - in the number of people who are seeking treatment because of marijuana problems. And when it emerged in this country - I think both Rob and I - so our reaction is, sure there are all these arrests, the increase in arrests, the reason people are coming to seek treatment is that one of the ways of making sure that the judge just gives you a fine is you say, Your Honor, I'm in treatment for my marijuana problem. Yeah, and maybe that's true, but we see the same thing in the Netherlands.

Nobody's being arrested there for simple possession of marijuana. They stop looking around. It's so essentially true throughout the western world. We've been accustomed to adult [unclear] on [unclear], Italy and Spain. And I think nobody - in fact, I'm confident, nobody knows what to make of this. It's real. But what's driving it is very hard to work out. There's been an increasing concern that, you know, marijuana triggers psychosis and so on, but this - that doesn't - it's hard to relate that to the actual elements of treatment seeking. That sort of - I'm not quite sure where - I don't know what the implications of this are. So one of the things you should keep in mind, as you think about the changes and rules, with respect to cannabis [unclear] So, you know, lots of things that you can do [unclear] why there might be more people and-and I haven't a clue about how the-

PROF. MACCOUN: You know, I don't a see potency on there - increased potency, but you talked about-

PROF. REUTER: That's interesting. Yeah, I'm - I'm-

PROF. MACCOUN: I mean, it may be-

PROF. REUTER: Yes-

PROF. MACCOUN: -they can't-

PROF. REUTER: -okay.

PROF. MACCOUN: -can't titrate the doses; that they're just getting-they're using too much.

PROF. REUTER: Well, it says many potential, not [inaudible-laughing] we should've put that on. As you know, everyone feels like making supplementary comments and ask some questions along

the [unclear] See the current criminalization ratio, you know, which is - exists in - in many - most western countries, it's not [unclear] cannabis were being widely used - I would preserve the data on this, but it's readily accessible. And in terms of, you know, if you're thinking about substituting for an alcohol and cannabis and you ask, well, what's the cost per hour of altered...
state? It’s quite comparable. The prices are lower in some countries, but yeah, it’s - despite decriminalization, if you were [unclear] something very calculated about what’s the cheapest way of an altered state, cannabis might be worth [unclear] your choice.

In lots of in most countries, lots of users have at least some encounter with the criminal justice system, over the course of their use. And that could be a [unclear] source of, I think, [unclear] reform [unclear] And I think I’d like to go over all the different regimes, and so I’ll talk about what we know from other - from other countries, about the effects of changing the ratio.

So you know, Australia, this country of origin, there have been three jurisdictions - one state and two territories, which I always call states, which have moved further than the states - the American states that we’ve decriminalized. Because what they have done is also allow cultivations for your own use or gifts, and not for commercial sale. The leading jurisdiction is South Australia, which in 1988 changed the law so that you were issued, for possession of a small amount of cannabis or for having [unclear] up to 10 plants - it’s now down to two, because 10 turned out to be a large number, given modern cultivation techniques in particular—that you would be issued a fine, called a Cannabis Expiation Notice - CEN. And if you paid the fine, then that was the end of the matter and you didn’t [unclear]

And two other - actually, three other jurisdictions essentially followed that model. And so this is a-you know, this is a cleaner model of decriminalization than exists in the U.S. I don’t know whether - I think this covers use as well as possession. But I don’t - I mean, I’m sort of inferring that. We have never asked that specific question, but I [unclear] And the research that’s been done in Australia about this has found no evidence of an increase in cannabis as a result.

The second conclusion, so just repeating that, as in the U.S., most people who are arrested under the pre-decriminalization scheme didn’t - few - the probability of getting arrested was pretty small. But the social costs of criminal conviction [unclear] those of a similar penalty system, and I want to talk about this [inaudible-coughing] quite-quite interesting.

So this - the simple research stuff, this is Western Australia, which is a country where the [inaudible] made the most recent change in 2004. And here we have estimates of the prevalence amongst the population 14 years and above. And the national figure shows a decline in [unclear] - they do this every three years - between that - 2001 and 2007, about one-third [unclear] percent and it’s - yeah, an even larger change in Western Australia. But the biggest change was a big difference was in pre-decim, but we see a substantial decline there. If you do look at kids in secondary schools, you will again see the root raw data that’s available, the same decline that you saw in the rest of the country for younger kids.

What’s interesting is a special study that was done as part of the preparation for this change in law. They looked at what happened to a sample of arrestees in the period when it was-when a marijuana arrest resulted in criminal
processing, as compared to what happened after they changed the law. What they found is that nearly a third of those who were arrested [unclear] had some employment effect, as their employer would you know, they either lost their job or their employer knew about it and took some action on the basis of that; that they had problems, and the one I really want to refer to is with travel.

Now you say, what’s that referring to? Would anybody - could anyone guess at what that’s referring to? This is the extraterritorial reach for the United States. To get a visa here you have to answer a question about criminal conviction. In the old regime, if you answered honestly you [unclear] got a criminal conviction, you might be denied a visa from the U.S. Now for the Western Australians, that’s a serious penalty, not being able to come to the U.S. With the change in regime, that went away.

And the irony that I like here - I have an overdeveloped taste for irony - is that the extraterritorial reach of the U.S. was one of the motivations for Western Australian change in law. In other words, the fact that criminal arrest - conviction in Western Australia could cost you the access to the U.S. meant that Western Australia wanted to get rid of this criminal conviction as a penalty. This - I mean, there was a sense of unfairness. It’s one thing for Western Australia, as a state and as a government and as a people, to impose a penalty. But for the Americans to impose a penalty, that was imperialism. And so I really like that one. Unfortunately for this story, there’s a new conservative government that’s just come into power and [unclear] want to reverse it, but maybe, you know, Obama will [unclear] get that far. I’m not sure about that.

But it is - I mean, having made fun of that, it is interesting. I thought this was a very useful study in reminding us that we focus on what the criminal justice does directly, and don’t think about the consequences for the individual of interactions with the criminal justice system.

And go back to my tale about pre-trial incarceration and - in Maryland, and think about people who are out of jobs for three days, and the consequences that may have for their employment. There are lots of - I mean for - the research is focused on what’s easily measured, and this kind of study gives you another sort of insight into the way in which criminal-decriminalization might have, sort of the [unclear] may have-have consequences that we don’t pay attention to.

The Australian studies and U.S. studies show the civil penalty system is a cheaper one to administer this U.S. literature on this as well. There are some interesting problems with civil penalty schemes. Again, my taste for irony may overexpose these. In South Australia it turned out people don’t pay their fines very much. And actually that turns out to be a fairly universal picture. And so it turned out that more people went to jail for failing to pay the fine that had previously gone to jail for violations of the cannabis laws. Now, this is - there’s a fix to that, and I’ve got the [unclear] picking that out now they’re doing more to find similar ways [unclear] But the [unclear] was a real shuffle. That is the - you have now made it easier for the police to arrest someone, and no
longer have to take them down to the station and go through all of that paperwork. It's just like issuing a parking ticket.

Well, the - you know, for the police, they have different morals of what drives police behavior, but the police are interested in having tools to deal with populations that they regard as troublesome. And that had just sort made the cost of using this tool much less. And so the South Australian police dramatically increased the number of arrests for cannabis offenses.

In the U.K., there have been similar reforms. In the U.K., when again there was a reduction in penalty that reduced the burden on the police of making an arrest, you saw not quite as large, but you saw a very large increase. I don't know the explanation for why West Australia managed to avoid that. But you know, that's an issue with the standard form of decriminalization. And the you know, in terms of disparate impact, again, in South Australia the increase in arrests and the increase in incarcerations, particularly amongst [unclear]

Let - let me turn now to the Netherlands. And this is where Rob and I lived about 10 years ago. And you know, as everybody knows, there are coffee shops in the Netherlands in which you can buy cannabis openly. And there's a sort of a history to this. In 1976, after a Commission had recommended removal of you know, a move to a system - essentially, legal access to cannabis, really in order to break the connection from [unclear] marketing and marketing in [inaudible], the government allowed the sale - distributions through sort of youth clubs and so on. It was pretty hard to find in the mid-mid '80s-around '84, I think, they moved to a system whereby municipalities licensed coffee shops to sell cannabis.

And we did some work that suggested that that censorship of 1984 was important in that you saw now more of the commercialization and glamorization, and that there was an increase - a substantial increase in the prevalence of cannabis use. And we still stand by our analysis. However, probably the most important fact is that at the end - many years later, even though cannabis is rarely accessible to adults - not under the age of 18 - but adults in the Netherlands - the Netherlands does not have a particularly high rate of cannabis use. Amongst European Union members, it stands right in the middle of the pack. So the notion somehow that opening this - and it is very - has been very often the government, for a variety of reasons, is now making it less accessible.

But yeah, we are, in some sense, we've done the experiment. That is a nation some - pretty much like us, has made this available in a way not unlike alcohol. There are restrictions or some [unclear] or [unclear] supermarket, but you can do, yes. But you know, it's fairly accessible. And it turned out that maybe it's just not a very exciting drug [unclear] to the Dutch. And so, you know, the Dutch don't seem to use it very [inaudible-coughing] Well, that's a fairly important-fairly important finding. I actually don't want to [mumbling]

The Dutch had to face up to what's called the back-door or front-door problem, which is we can walk into the front door of the - you walk out of the
front door of a coffee shop with your five grams of cannabis. Given how potent it is, that's a lot that is [unclear] couple of days. But the purchase of 500 grams at the back door is still illegal. And every now and then a [unclear] of the justice - a [unclear] of a health says this is silly. And then the attorney general, he - and she says it out in public what the attorney general has to say in private. Unfortunately, there are international treaty obligations that just don't allow us to go into legalization, and it's not an issue - it's no longer an issue Dutch politics.

And the Dutch have been unhappy about the extent to which they attract drug tourists. You can see it, because if you worked at [unclear] a few years ago and where the big coffee shops were, one of them were right at the border, so it's easy for the Belgians to just cross the border, buy their cannabis and go home again. The Dutch didn't that, the Belgians didn't like that, the Germans and French didn't want that - the German and French [unclear] the Belgians didn't like it - the Belgians were doing it.

And there was a sense of, you know, lots of [inaudible] I think some of the changes just their general [inaudible] to a [inaudible] But that's a reform - that's a reform. It's very hard to see, apart from this concern about the international tourists, and we're now going [inaudible] Canadian tourist if we would've had coffee shops in Detroit. But you know, that-that's [unclear] you know, if the

U.S. acted alone, there are consequences different than if Canada did the same thing. So I'm - and I'll get to the [inaudible] I may want to say that if you look at the experiments, like Australia and the Netherlands, it's very hard to see that anything bad happened. And there are these important fine points that led to [inaudible] and Australia concerned about creating some local nuisance around coffee shops in the Netherlands.

But the experience of increasing access - or sorry - reducing penalties, preventing - I'm going to tell you - we said that the-that there was more [unclear] of cannabis in the Netherlands, but I'm sure there's less advertising of cannabis in the Netherlands than there is in California right now. Is that-

PROF. MACCOUN: Yeah, now that is true. If you know these free newspapers that come out every weekend in every city in the U.S.-you have the same thing in the Netherlands - and I have file folders from the 1980s and 1990s. The Dutch ones, they were just full of very blatant ads for marijuana at the coffee shops, with pot leaves and-and bongs and joints and so on. Now you see ads - these big full-color ads in the California papers - L.A. Weekly and so on.

In the Netherlands, you don't see the pot leaves, you don't see the joints. You see Rastafarian colors or a picture of Bob Marley or Cheech and Chong, you know, so that it's coded language, so people know what's going on, but it's not so in your face. And so we have this funny situation right now in California is move - that that's why I said the buyers' clubs are really moving toward this commercialized promotion model, which is - I don't think it's true
in other states that have got medical marijuana. But it's - it's become a big business.

PROF. REUTER: So the western world is - experiences of the western world, with changes in several, with respect to decriminalization, and they tend to be supportive of the notion that decriminalization's the modern age of change and I think, also suggests that it- without the - if you can avoid the [unclear] it has some desirable effects, in terms of reducing the disparate [inaudible] outcome [inaudible] and [mumbling]

Do you want to ask questions?

MS. WILLETT: Yes. Do you have any questions for both of our keynote speakers?

UNIDENTIFIED SPEAKER: Yeah, just kind of a general question. I'm curious if anybody's examined, like, the history why it was originally made a Schedule I drug and why it maintains? The reason I ask is, you know, I saw an interesting - I think it was on, like, Discovery Channel or something - that suggested that it was - at one point it was a - kind of a slanderous ad against Mexican immigration and migrant workers. You know, I've seen 'Reefer Madness', which, you know, you smoke a joint and you're maniacal and murderer. And when I was in middle school, it was - gateway was the big thing. You know, you can't smoke without trying heroin.

Now the commercials seem to say, you know, you're going to be unemployed and unattractive and live in your mom's basement. You know, the reasoning continually shifts. You know, is it just trying to maintain the status quo and that's why it's still classified?

PROF. MACCOUN: It's important to distinguish the scheduling through the prohibition. Prohibition pre-dates the scheduling by quite a bit. And the prohibition of marijuana, I think there's a good social history claim that it had a lot to do with who was associated with marijuana use that was associated with Hispanic and African Americans, and that was - and that prejudice played some role. The scheduling happened later. The scheduling, I don't think you can tell the same - I think the scheduling, although I don't think the logic was real compelling, I think it was - that now we say, well, of course marijuana believes all kinds of suffering, because we're familiar with these arguments.

But at the time that the scheduling took place, those were still pretty novel arguments. And you could probably find, in the folk medicine literature, some claims for that. But basically, when they went to say well, they're legitimate medical uses, doctors were saying, well, we don't use to - you know, we don't prescribe it. And so, since it was already prohibited, they put in Schedule I, because they couldn't think of any reason not to.

And so I think it was little more - the scheduling - I don't think it was well thought out, but I don't think it was quite as nefarious as their earlier decision -

UNIDENTIFIED SPEAKER: Okay.

PROF. MACCOUN: -or prohibit in the first place.
MS. WILLETT: Any other?

UNIDENTIFIED SPEAKER: I—one of my hangups with the prohibition is it just always seems so much less harmful than alcohol use. And you were alluding to that in your - but I notice - and you said, not counting motor vehicle accidents, it's less harmful. Do you have any idea how much - I mean how it - what the statistics are, as far as the harm when you add in motor vehicles?

PROF. REUTER: The literature on contribution of marijuana use to auto accidents is very murky. Some studies find it's negligible; some find it quite substantial. And I actually think you've read the-

PROF. MACCOUN: Yeah, well the-

PROF. REUTER: -[talking over]

PROF. MACCOUN: -the problem is, if you operationalize it as, is there an association between having cannabis in your bloodstream and having an accident? And it looks like it's a pretty serious problem. If you require that the person not also have alcohol in their bloodstream, then it looks much less serious.

Part of the problem is, a lot of the people in these studies, that had cannabis in their bloodstream also had a lot of alcohol in their bloodstream. So that's the first problem. It may be the - either alcohol alone or alcohol, in combination with marijuana, is doing the impairment, rather than the marijuana per se.

Second problem, cannabis stays in your bloodstream far longer than alcohol does. When they do these toxicology studies they pick up cannabis that may have been - I mean, the person may not have been intoxicated at all. Okay? So what do you do - you can do these driving simulation studies and so you can - you can give people dose response curves. And if you have people in these driving simulators, under the influence of different drugs, the first thing you find, that no one in the federal government likes to talk about is that cocaine improves performance.

PROF. REUTER: [inaudible-laughing] first.

PROF. MACCOUN: And but then the second thing you find is, marijuana users make more mistakes when something bad happens, they handle it worse, but they drive slower. And because they drive slower, they're actually slightly less vul-

[New File Recording]

PROF. MACCOUN: -when someone under the influence of marijuana gets into an accident situation, they will handle it badly, compared to if they weren't intoxicated. But because they're driving slower, it's kind of a [unclear]

Now, just to further complicate it, they need to be driving slower, 'cause it's illegal, and they don't want to get in trouble with the police. And so if you legalize it, they might start driving as fast as everybody else.

Now, you guys are too young to remember Pat Paulsen. But there was an American comedian named Pat Paulsen, who used to run for president every four years. And he used to be on the Smothers Brothers TV show, which
you're also too young to remember - a very funny, poker-faced guy. When we were writing the book, I sent him an e-mail. He had a winery in Marin County and I sent him an e-mail and-and said, Candidate Paulsen, you know, we'd very much like to know your views on marijuana legalization. And he wrote back and he said, I'm against it. He said, people drive too slow already. That's a footnote in the book. I insisted we put that in the book.

MS. WILLETT: Any questions?

UNIDENTIFIED SPEAKER: I was wondering if you had any data on whether there's a correlation between marijuana usage and criminal activity?

PROF. REUTER: Yes is the answer. And yes is the second answer. What to make of that correlation-

PROF. MACCOUN: There's a very high correlation. If defined by people who either self report or, according to official records, are engaged in various kinds of felonies -non-drug felonies - their marijuana use is disproportionately higher than noncriminal people. Unfortunately, that's open to many different causal stories.

And we have a lengthy paper we did for the National Institute of Justice, where we go through the different possible causes and interpretations. And we said that there's really no compelling evidence that the actual psychophysiological experience of being stoned on marijuana makes anyone more criminogetic. In fact, probably the contrary, because it tends to suppress motivation, which we-we-we now laugh about, the suppressed motivation but, in fact, the data bear out. [unclear] motivation, I think it's well established. And that's a good thing for criminals to be less [inaudible-laughing].

So there's this big correlation, but it's - I think it mostly just telling us that people who are breaking the law are engaged in lots of hedonic activities and marijuana is simply one of those. This is very different than - you know, in the book we talked about heroin and cocaine, where you could really make a credible case that people are committing income-generating crimes to pay for their habit. And in fact, one of the big arguments for - the irony of marijuana is it's less harmful than heroin or cocaine, but there's also less payoff of legalizing it. Because if you legalize heroin or cocaine, you can at least eliminate all that-the violence associated with income-generating crime and drug dealing. If you legalize marijuana, there wasn't that much crime cause by it anyway, so you don't alleviate that crime. There isn't needle sharing with it, you don't get HIV from sharing a joint. And I-

[New File Recording]

[ED.- START OF MR. FRANCISCO’S SPEECH WAS CUT OFF]

MR. FRANCISCO: [unclear] cannot be broken. If we all hang together and we all unite and all work together, we can make this happen and we can make this successful. There was another case a week ago in Madison Heights, where we had a patient, we had his recommendation, he didn't have his card yet, because nobody has their cards yet. But the Madison Heights police came, kicked his door in, they took away 21 plants, you know, one a good four inches tall. The Association immediately sprung into action. The first thing we did
was go over to rehang his door, so he was secure in his home. And then we've been working with him to recover his [unclear] property, got him hooked up with an attorney. My understanding is the attorney's now talking to Madison Heights about just how big the settlement will be, because they knew that went off badly. But these are the kinds of things that the Association does.

The law itself, and some things that you need - you probably want to be aware of. We actually have a two-track protection under this law. You're supposed to register. If someone goes to their doctor, gets the recommendation, pays the fee, submits the application - a recommendation fee and application to the State and they get their card. That has to be renewed every year. It allows the patient to possess two and a half ounces of marijuana and the marijuana and to have 12 plants.

Then it also allows the patient to designate a caregiver who may cultivate the plants for the patient, and it's either/or. The patient can't get - cannot get half; the caregiver have the other half. It's an either/or. And it's a total 12. Okay? It's a total of two and a half. The patient and caregiver together make this [unclear] to two and half ounces.

So this is the registry card. But we also have an affirmative defense of medical necessity. And this is a much more liberal, much more expansive law that basically allows anyone to argue on medical necessity and go into court and present their case for any condition, no matter - now the registry card - you can only get for those nine conditions - those nine diseases and five conditions, cancer, AIDS, hepatitis, spasms, chronic pain, nausea. But under the affirmative defense, it's any serious condition for which marijuana may be helpful. So if you can get a doctor to write a recommendation for diabetes, depression, whatever, that will hold up, hopefully, under the affirmative defense when someone gets into court. So much more expansive.

And it also says that it allows the person to have an amount of marijuana, sufficient to guarantee an uninterrupted supply. Two and a half ounces sounds like a lot of marijuana to somebody who smokes, but to someone who eats marijuana, it's not uncommon to eat a quarter to a half a pound of marijuana a day, if that's how they're taking - you know, how they're ingesting it. Certainly, eating is a lot safer than smoking. So, all of a sudden, that two and a half ounces is less than a week's supply for someone that has - that eats their marijuana or drinks it in tea.

So the affirmative defense then allows those larger quantities and allows other conditions to be included - to be protected. We're really seeing a lot more of this affirmative defense stuff, because this is really - this is where it's going to play out. The registry part is pretty cut and dried. The affirmative defense is - we're going to see where it goes. Some of the questions, under the law, that are still got-need to be resolved, one has, what exactly is an enclosed, locked facility? I mean, honestly, a closet, a crawl space, something like that, is a locked and closed facility. A greenhouse, a locked and closed facility, as long as there's a lock on it.
The real question comes down to outdoors. Because of my agricultural background, I look at, what's an enclosure? The [unclear] you know, enclosure, well that's a fenced-in area that's contiguous to a barn or a house, that's used to house livestock or for a garden. So if I've a fenced-in yard next to my house or barn or apartment, that means-to me, that meets the requirement for enclosure. But I'm not the one sitting on the bench, making that decision.

When we're talking to these prosecutors and sheriffs, this is a question that we're bringing up. It's really going to come down to local jurisdictions. And what - I've reframed it slightly and I've asked the prosecutors, will you regard any garden that's open to the sky as not meeting the requirement? In other words, if it's open to the sky, no matter how high the walls are, how much concertina wire you put on there, it still doesn't meet the criteria. When you frame it like that, the prosecutor's saying, well, no, I would think, with adequate security, no, you could do that. Just exactly where I want them to be.

So now let's talk about what that is. And it seems to be most professors we're talking to, you've got an eight-foot privacy fence, you've got security cameras, maybe you have some barbed wire or electric fence, privacy fence - a tall, privacy fence, so it's screened from public view, and you take adequate security precautions, probably that will meet the criteria as an enclosed, locked facility, probably. It's going to come down to local jurisdiction.

Another question that is coming up is driving. Under our Michigan law, of course, it's against the law to drive with any controlled substances in your blood system, unless of course you have a prescription for that. Some things clear out of your system fairly quickly, but marijuana can stay in for two, three, four weeks after last used, is still detectable on the blood test. Obviously, that person is still not intoxicated, but under our Michigan law - it's called the Per Se Law - simply that they - those metabolites are present, that per se is driving under the influence of drugs, even if the last use was two or three weeks previously. And [unclear] have been penalized - sanctioned heavily in this state - under the Per Se Law.

The Michigan Medical Marijuana Law protects patients for internal possession. The Michigan State Police know this, through the Freedom of Information Act. They've looked at some of their internal documents - things are going out. They know this. Some of the prosecutors, particularly in the outlying parts of the state, are blowing smoke on this, saying if medical marijuana is good enough for a marijuana card, you're going to have to surrender your driver's license - just bang. They're putting that out there. We've had a lot of panicked patients in the last two weeks, particularly the Kalkaska was the really a problem. There was another one in the U.P. But Kalkaska, the guy up there continues to put this out.

However, the law protects internal possession. So this will be something that you're going to watch and see what do the judges do on that one.

Distribution system. We did not include distribution system, because of the times when it was state and federal law. But we're going to have distribution system. I mean there's - it's [unclear] one way or another. What we have
right now is one - or one caregiver and five patients. There's [unclear] caregiver groups with one - one caregiver and up to five patients. We have these little distribution networks. We like to find a way to let them network. And this - but the way to do that, without getting arrested, that's the question.

But we would really like to find a way for these groups to start networking and doing lateral transfers between the groups. And we really would like to keep this as not-for-profit cooperatives. Our hope, as a community, is that we can keep out these for profit dispensaries and this -this gold rush mentality, with you know, let's cash in on marijuana. We're seeing a lot of it. My appointments next week with a group that wants to put together a program where they will get exclusive monopoly on the production, distribution of medical marijuana. We want to sell this to the State and let, you know, so the State will give 'em a contract to do that. They want us to meet with them, to explain to them how they can go about [unclear] the medical marijuana community.

We've met with several of these groups, and basically what we do, as the Medical Marijuana Association is say, well there is a consulting team for that at $400.00. We go in, we get the $400.00 and then we say, we can't do it under Michigan law. Thanks for the 400 bucks. These cooperatives is really the way we want to go in this state, as our community, we want to go. Not-for-profit, community-based cooperatives, based on friendship circles, family circles, neighborhood circles, school, among the circles, just to very - we want to keep it dispersed, and we want to keep it not-for-profit.

Employment is going to be one to watch. Our medical marijuana [unclear] is protected in the work place. The Act itself is very explicit that employers do not have to accommodate medical marijuana use in the work place. That means it would not be legal to possess medical marijuana at work, to be under the influence at work. Okay? Or to use, be intoxicated or to possess. But what about the medical marijuana - the patient that medicates at home, then comes to work and is caught in a random, [unclear] drug screen-has to pee in a cup? In all likelihood, that employee is not protected. Case law is not on our side on this one.

Michigan had a case about three years ago, where three secretaries - three or four secretaries out in Okemos lost their job. The company's insurance company, they passed a policy, tobacco - nicotine users -drove up their insurance costs. So they had to get off nicotine. They offered all kinds of help, with smoking classes, [unclear] the patch, whatever. They worked with their employees. And there was this small group of secretaries, for whatever reason, refused or weren't able to stop, break the nicotine habit, and they were terminated when they tested positive for nicotine. And that held up. I mean they tried to get their jobs back and no. So if employers can fire people for nicotine, they certainly could fire them for marijuana.

There was a case in California about a month - about a year ago of a razor decision, but the same thing. This company said, we have federal contracts and federal [unclear] requires us to be drug free.
Last week there was a case in Montana, in the Montana Supreme Court, also said, you lost your job. And he got caught up in a suspicionless drug screen; he worked for [unclear] and lost his job. And the Montana Supreme Court held that. Our law is [unclear] it's Montana and Rhode Island. So, probably employees are not protected.

Another one I have a really hard time explaining to our members is this whole idea of compensation for costs. The law allows caregivers to be compensated for costs in producing marijuana. They are selling a service; they are not selling marijuana. The marijuana - the whole right to possess the marijuana belongs to the patient. The patient transfers a limited license to the caregiver, to do it on their behalf, but it all originates with the patient. That means that the marijuana, from the word go, belongs to the patient. The patient - and this could happen - the patient could agree with a caregiver, to grow the marijuana, and let it go over 12, 14 weeks and then show up and say, that's my marijuana, and take it right out and leave the caregiver with nothing. Right?

Now the caregiver, of course, does have all the recourses. The point is though that that belongs to the patient. It's really no different than if I had a piece of property [inaudible-coughing] materials, and I went to a contractor and I said, I'd like you to build a house for me, 'cause I don't have the time and I don't know how to do it. So the contractor builds the house for me, and at the end I say, ha, it's my house, it's my [unclear], I'm not going to pay you. The contractor cannot prevent me from taking occupation of that house. But of course, the contractor has recourse, taking me to court, where I would be [unclear] And it would be the same thing here.

The whole point though is, back on the [unclear], the caregiver is selling his or her services; it's not selling marijuana. The marijuana belongs to the patient. So the caregiver has to come up with a scheme that will reimburse him adequately, or her, adequately, without actually selling marijuana. They're selling their services, and they're selling their actual costs. Some costs are easy. You know, how much did the lights cost - prorate that out. How much did the electricity, the nutrients, those types of things.

Other cost things, like, risk parts. What is the risk involved with growing marijuana in your house? Because there is a risk. What's that worth? You know, is it worth $5.00 an ounce; it is worth $500.00 an ounce? What is the caregiver's expertise worth, their time worth? Those things can be sold, making [unclear] be compensated for it. But they cannot sell the marijuana. And I cringe when I hear the caregivers talk about making a profit. They cannot make a profit. Profit needs to be [unclear] from their vocabulary, as they cannot make a profit. They can simply be paid for their services.

There are some affirmative defense cases that have already have come up, here in Michigan. And about a couple of them real quick. There was one that affirmative defense is retroactive. So there was one where a man was busted for cultivating in Tuscola County in 2007. The case is still open. He was out there - he was about getting ready to a sentencing and the law passed, the Act went into effect December 4. The end of December, his attorney
went in and filed for a dismissal. They argued some more, for a couple of months, and then it’s ultimately dismissed. It was retroactive.

We had another one in Macomb County, where we had a guy that had his recommendation, then was busted. And that one has already been dismissed. Okay? Now we had one other case in which somebody tried to use the affirmative defense, and she fell flat on her face. This was the one that was already on probation for cultivating marijuana. She went, got a recommendation, she’s out, of course, on prob - or on - not probation - what is it - you’ve been sentenced and you’re-is that probation-instead of going to jail, you’ve got to act right for a while, you got to pee in a cup every now and then.

So she then went, got a recommendation. Then went back to her probation officer and said, hey, I’ve got this recommendation for medical marijuana, and I smoked a joint on the way over here, and there’s nothing you can do about it.

I got an e-mail from her yesterday. She’s on - I think she’s got 90 days; she’s on work release. And she sent me an e-mail to say, thank you very much for coming to my hearing on the probation violation; I got 90 days. So they can-if you’re already under court supervision, you need to get permission from the judge before you use the medical marijuana.

And so the-I guess that’s the whole point of that - it’s a long, convoluted story - is people that are already under court supervision, do need to get the permission from a judge first. They can’t just use this as a screen.

And one other thing I’ll hit on real quick is access to doctors. Doctors are the gatekeepers in our program. A doctor’s recommendation is not subject to review by the Department and Licensing Board or a judge. A judge can’t make a doctor come into court and justify a recommendation. The doctor’s words are final. The problem that our patients are having right now is finding doctors that are willing to take patients for medical marijuana assessment. A few clinics are springing up. I would - in the last - there was one THC clinic. They operate in eight different states. They’ve been operating here since January. They’ve written about 400 recommendations so far, out of about 600 that have been written. So obviously the State has got their eye on them already. But they travel throughout the state - the THC clinic - and they [unclear] in different places around the state. They were in Southfield earlier this week, they’ll be in Houghton Lake and Grand Rapids later this month, they’ll be in Marquette next month.

There are a few other doctors that are starting to advertise or put the word about that they will take patients for new assessments. What we really like though is for these assessments to come from family physicians. And this is for a lot of reasons. One is continuity of care. You know, you don’t really want to go to these specialist marijuana doctors and then not see them again for a year. So for continuity care, we’d like people to go to their own physician. And also, just to normalize the whole process. If all these family physicians all over the state are writing recommendations, it’s going to make it that much harder to take this away.
And that's really what I want to conclude with. We are so just dedicated to getting this so firmly entrenched in the state for the next two years that we can never go backwards. You lost it once. You had it in '79 to '81. We are determined that that's not going to happen again. And the way that we see this happening is to get this so normalized and so entrenched in the state, everywhere, that there's just no way to go backwards.

Proposal 1 passed by 63 percent of the vote. That's impressive. But what's even more impressive, it passed in every single House and Senate district in the state. So every single one of those senators and representatives sitting on their house or their district that passed medical marijuana - that passed Proposal 1. Now there are a few of 'em where it was a matter of 50 votes, but hey, a win is a win. We just want to keep this. We want this to work. We want to form a community that works, that benefits everyone, not [unclear] a form of community model that does not allow for undue enrichment. We just want to protect patients, and we just want to be left alone and just treated like anybody else, no different than our peers, except for the fact we use marijuana to treat the symptoms of our very, very real disabled individuals.

Does anyone have any questions?

Sure.

UNIDENTIFIED SPEAKER: I just find it troubling that a lot of the regulation proposal is written very [unclear] broadly, and then I think that, specifically the enclosed, locked facility area. And I think it's kind of hypocritical to be on one side, advocating and saying that it should be broadly, that we don't enough, but then going to the police and saying, you'd better enforce it this way. If you look at the planned meaning of the enclosed, locked facility, it doesn't entail some area outside that you should be able to grow it.

MR. FRANCISCO: Mmm hmm.

UNIDENTIFIED SPEAKER: And I just thought I'd [unclear]

MR. FRANCISCO: So to you, a locked, enclosed facility implies surrounded on all six sides and not open to the sky?

UNIDENTIFIED SPEAKER: Correct.

MR. FRANCISCO: Okay. I mean, that's why we have judges and-to me, it honestly-in all honesty, that's -- enclosed - a locked, enclosed facility will include a-a garden-outdoor garden that is secure.

UNIDENTIFIED SPEAKER: If that's the case, why wasn't this more specific then?

MR. FRANCISCO: Well, because we did the focus groups and we want to see what - what would work, you know? And that's the wording that got the 60 percent for us. And our-our-our goal was to win. Plain and simple. To win.

PROF. MACCOUN: I wanted to ask you about the Sativex and-and-

MR. FRANCISCO: Mmm hmm.

PROF. MACCOUN: -the nasal sprays and-

MR. FRANCISCO: Yeah.
PROF. MACCOUN: -and what you foresee happening. Do people come well, you can - if you can explain.

MR. FRANCISCO: Sure. Sativex and also Marinol. It's often said that we have pharmaceutical compounds that are the same, so we don't need marijuana. I like - I think I'm going to push that we outlaw oranges, because we have Vitamin C tablets, so we don't really need oranges. The fact is, there are many things in the whole plant that are not in those pharmaceuticals. The Sativex and the Marinol are pure THC, don't have any of the other cannabinoids in them. It's the whole plant. It's a synergistic effect of all those cannabinoids working together to give the effect. So they're inadequate.

And there's also - we-our community, pretty much, believes in more than natural health, of using natural substances and foods, as opposed to the pharmaceuticals. We want to take our own health care back from the pharmaceutical companies. So we look at those with a great deal of suspicion really. And taking them-that's not the model that we want to go with, at least in exclusive [unclear] We want many options.

UNIDENTIFIED SPEAKER: Would you mind explaining to me the impaired effect that an orange has on somebody?

MR. FRANCISCO: The impaired effect of an orange? I - what I - the Marinol is just as intoxicating as the whole plant, in fact, more so. Many patients complain that Marinol-taking Marinol, that it comes on so strongly that it's just simply overwhelming. People can smoke a joint or - we actually encourage people to vaporize, which is aromatherapy. And they can take a few puffs and then stop. They will see what effect does that have? The Marinol, because it's a capsule, you either take it or you don't. I mean, you can't cut it in half, because it's actually an oil inside the capsule. So if you cut it in half, it just oozes all over. You take it or you don't. And then a half-hour later, you find out it was enough. There's really no way to effectively adjust the dose.

One of the - one of the effects of these other cannabinoids is to buffer the psychoactive effects of the THC. So with a Marinol pill, you're getting pure THC. There's no buffer to that. It just hits, bang. It's a - whereas with a whole plant, the effect - that psychoactive effect is - comes on slower, it's much easier. It goes up, it goes down, it's - a lot of - not a significant number, but a number of people ask me, how could I get the beneficial effects of marijuana, without the psychoactive effect. And that's really simple. Just put your marijuana in the oven at 350 degrees for 10 minutes, take it out and then use it. It will not have the psychoactive effect, but it will still have those pain relief effects. So not everybody's there because they want that-that marijuana high. Mmm hmm.

UNIDENTIFIED SPEAKER: Go ahead, Brian. Go ahead.

UNIDENTIFIED SPEAKER: Why is it necessary that people be able to cultivate it themselves? I mean, I understand that it definitely has proven medicinal uses, without question, but it's - everybody else has to get prescription drugs and go to a pharmacy, and regardless of what condition you have,
that isn’t—that are more debilitating than chronic pain, they still have to go to a pharmacy and - or they can even have

‘em - I mean, now you can have, you know-

MR. FRANCISCO: Uh-

UNIDENTIFIED SPEAKER: -perscriptions-or excuse me - prescriptions mailed to us. So what’s the necessity-

MR. FRANCISCO: Well, when you’re—that’s actually the [unclear] of the-the way that marijuana is scheduled. Marijuana is incorrectly scheduled with the other pharmaceuticals and it should not. It should be treated as other whole plants, as other herbs and should be regulated in that way. Why should people do - be able to grow their own? Because it gives them another option.

I would say people should be able to grow their own at home, for the same reason that a lot of people brew their own beer or just [unclear] It’s not a perfect analogy, but it just comes down to control-self-determination and control and giving people more options. And there’s also the cost factor. It’s much cheaper to grow your own than to buy it.

UNIDENTIFIED SPEAKER: But isn’t that more of a legalization argument as opposed to a medicinal use argument?

MR. FRANCISCO: Not really. I mean, sick people have to pinch their pennies like everyone else. I just - you want to give people as many options as possible. We’re not telling people they have to grow at home, but we’d like to have that option. Many of us just want to be left alone by the government. More than anything else, we just want to be loved.

UNIDENTIFIED SPEAKER: I posed the question to the other panelists, and I’m curious as to what you think, whether the marijuana should be an exception to a good rule, with the rest of the Schedule I drugs as no valid medical purpose, or if you would like to see the rest of the Schedule I drugs have a medicinal exception as well?

MR. FRANCISCO: I have a long history as a legalizer, and so I’ve been - I can’t, all of a sudden [unclear] had this epiphany in the last six months, I’m going to deny it. I mean, I personally, yes, I’d like to see drugs legalized, regulated and taxed. If I were in control, I think that that’s how we would control them.

Prohibition is not working. And the only thing worse than legalizing and regulating, taxing and controlling, is to continue prohibition. So yeah, I’d like to see marijuana come completely off the schedule - completely, and put over with the other medicinal herbs.

But yes, I personally want to see all drugs legalized, regulated, taxed and controlled. We had it that way for many, many years in this country. And it wasn’t until the early1900s that they - the liberals - the do-gooder liberals, came up with prohibition for us.

UNIDENTIFIED SPEAKER: Thank you.

MR. FRANCISCO: Okay.

MS. WILLETT: Any additional questions?

[No Verbal Response]
MS. WILLETT: Okay.

Well, if I could thank all of our panel for a very-Mr. Francisco has left some information, if anybody’s interested. And with that, thank you for coming. I know it’s Good Friday, and I really appreciate this.