

EXHIBIT B

Nixon Tapes Show Roots of Marijuana Prohibition: Misinformation, Culture Wars and Prejudice

Declassified Oval Office tapes from 1971-1972 demonstrate that the foundation of marijuana criminalization is misinformation, culture war and prejudice. The release of the newest set of tapes coincides with the 30th Anniversary of the National Commission on Marihuana and Drug Abuse ("the Shafer Commission") appointed by President Nixon, and highlights the discrepancy between Nixon's personal agenda and his Commission's highly researched recommendations.

The most important recommendation of the Commission was the decriminalization of possession and non-profit transfer of marijuana. Decriminalization meant there should be no punishment – criminal or civil – under state or federal law.¹ The day before the Commission released its report President Nixon told Bob Haldeman: "We need, and I use the word 'all out war,' or all fronts . . . have to attack on all fronts."² The conversation went on to plan a speech about why Nixon opposed marijuana legalization and doing "a drug thing every week" during the 1972 presidential election year.

One year after Nixon's "all out war" marijuana arrests jumped over 100,000 to 420,700 people. Since the Commission recommended marijuana offenses not be a crime nearly 15 million people have been arrested.³

The National Commission on Marihuana and Drug Abuse: Background

The 30th Anniversary of the Shafer Commission is on March 22, 2002. When the Congress passed the Comprehensive Drug Abuse and Control Act of 1970 it created a "Presidential Commission" to report on the

effects of marijuana and other drugs and recommend appropriate drug policies. Congress acknowledged it lacked reliable information about marijuana in particular and wanted the commission to advise it on where to place it in the Controlled Substances Act as well as on other marijuana policies.⁴

President Nixon appointed Governor Raymond P. Shafer of Pennsylvania, a former prosecutor known as a "law and order" governor, to head the Commission. The bipartisan panel included a congressman and senator from each party, as well as, nine people appointed by Richard Nixon including the dean of a law school, the head of a mental health hospital, and a retired Chicago police captain.⁵

The Shafer Commission conducted the most extensive and comprehensive examination of marijuana ever performed by the US government. They recorded thousands of pages of transcripts of formal and informal hearings, solicited all points of view, including those of public officials, community leaders, professional experts and students. They commissioned a nationwide survey of public beliefs, information and experience. In addition, they conducted separate surveys of opinion among district attorneys, judges, probation officers, clinicians, university health officials and "free clinic" personnel. They commissioned more than 50 projects, ranging from a study of the effects of marijuana on man to a field survey of enforcement of the marijuana laws in six metropolitan jurisdictions.

¹ National Commission on Marihuana and Drug Abuse, "Marihuana: A Signal of Misunderstanding; First Report, Washington, DC, U.S. Govt. Print. Off, 1972, pg. 151. The report of the Shafer Commission is available online at:

www.druglibrary.org/schaffer/library/studies/nc/ncmenu.htm

² Oval Office Tapes, March 21, 1972, 1:00 pm - 2:15 pm -- Oval Office Conversation No. 690-11 -- in this segment, the President is meeting with H. R. ("Bob") Haldeman. Excerpts from Nixon tape transcripts begin on page five infra. A more complete set of transcripts of conversations about marijuana and the Shafer Commission are available at www.csdp.org.

³ See "Marijuana Arrests 1972-2000" on page six.

⁴ House Report No. 91-1444, Comprehensive Drug Abuse Prevention and Control Act of 1970, page 4579 "In addition, section 601 of the bill provides for the establishment of a Presidential Commission on Marihuana and Drug Abuse. The recommendations of this Commission will be of aid in determining the appropriate disposition of this questions in the future."

⁵ The Honorable Raymond Philip Shafer, Chairman, Dana L. Farnsworth, M.D., Vice Chairman, Henry Brill, M.D., The Honorable Tim Lee Carter, U.S. Representative, Kentucky Joan Ganz Cooney, Charles O. Galvin, S.J.D., John A. Howard, Ph. D., The Honorable Harold E. Hughes, U.S. Senator, Iowa, The Honorable Jacob K. Javits, U.S. Senator, New York, The Honorable Paul G. Rogers, U.S. Representative, Florida, Maurice H. SeEVERS, M.D., Ph. D., and J. Thomas Ungerleider, M.D., Mitchell Ware, J.D. and its Executive Director Michael R. Sonnenreich.

This inquiry focused on the American experience. However, the Commission was well aware from the outset that the scope of marijuana use in the United States differs considerably from that in other countries where the drug has been used for centuries. Accordingly, the Commission sought to put the American experience in perspective by seeing the situation first hand in India, Greece, North Africa, Jamaica, Afghanistan, and other countries.

President Nixon on the National Commission

When President Nixon first heard that the Commission was going in the decriminalization direction he warned Governor Shafer stating: "... you're enough of a 'pro' to know that for you to come out with something that would run counter to what the Congress feels and what the country feels and what we're planning to do, would make your Commission just look bad as hell."⁶ Nixon urges Shafer: "Keep your Commission in line." Nixon also urges Shafer to not "go to HEW" (US Department of Health, Education and Welfare) describing them as "a bunch of muddle-headed psychiatrists" who let "their hearts run their brains, and it should be the other way around." It is worth noting that, at this time, Governor Shafer was also being considered for a federal judgeship – an appointment he never received.

Nixon also explains that the image of the Commission is important:

"You see, the thing that is so terribly important here is that it not appear that the Commission's frankly just a bunch of do-gooders, I mean, they say they're a bunch of old men [who] don't understand, that's fine, I wouldn't mind that, but if they get the idea you're just a bunch of do-gooders that are going to come out with a quote 'soft on marijuana' report, that'll destroy it, right off the bat. I think there's a need to come out with a report that is totally oblivious to some obvious differences between marijuana and other drugs, other dangerous drugs, there are differences. And also that you don't go into the matter of penalties and that sort of thing, as to whether there should be uniformity in penalties, whether in courts, I'd much rather have uniformity than diversity, but uh, different approaches."

⁶ Oval Office Tapes, September 9, 1971, 3:03 pm - 3:34 pm -- Oval Office Conversation No. 568-4 -- The President met with Raymond P. Shafer, Jerome H. Jaffe, and Egil G. ("Bud") Krogh, Jr.; the White House photographer was present at the beginning of the meeting.

President Nixon let Governor Shafer know that he was strongly against marijuana legalization saying he has

"That some of these original fears were unfounded and that others were exaggerated has been clear for many years. Yet, many of these early beliefs continue to affect contemporary public attitudes and concerns."

*National Commission on Marihuana and Drug Abuse
March 22, 1972*

"very strong feelings [on marijuana] the, best final analysis, that once you start down that road the chances of going further down that road are greater. I'm aware some disagree with that . . ."

They also discussed whether the Commission would recommend legalization of marijuana. Shafer acknowledged that there were some commissioners who favored legalization but they were seeking unanimity and Shafer assured the president that the Commission would not go that far. Egil Krogh asks him directly if the Commission is supporting legalization.

- Krogh: "So far you're staying away from any possible endorsement of legalization of marijuana."
- Shafer: "Absolutely, absolutely."
- Nixon: "I would keep in mind that, you [unintelligible], you would run too strongly against the public tide, but suppose it ought to be done."
- Shafer: "Well, I understand that."
- Nixon: "You're just, you have a great problem."
- Shafer: "We have, we have four congressman on the Commission, two Republicans, two Democrats, and, at least one of the opposition would like to take over. We've prevented that. I think that we've got the Commission moving in the right direction. We're seeking unanimity, I think we're going to have that, and we're staying away from that, quote legalization endquote, syndrome that could create, uh, very--"

President Nixon on Marijuana

One of the primary goals of the Shafer Commission was to separate myth from fact. The Commission noted: "Recognizing the extensive degree of misinformation about marihuana as a drug we have tried to demythologize it. Viewing the use of marihuana in its

wider social context, we have tried to desymbolize it.”⁷ But, from the Nixon tapes it is evident that the President believed many of the myths about marijuana and tied it very closely to the blacks, Jews and the counterculture.

Nixon wasn’t as concerned with correcting misinformation. His view regarding educating the public on marijuana was: “Enforce the law, you’ve got to scare them.”⁸

After a lengthy process of taking testimony, surveying the public and reviewing research the Commission

that out of this sonofabitching, uh, Domestic Council? . . . I mean one on marijuana that just tears the ass out of them.”¹⁰

Regarding marijuana leading to other drug use, in a conversation with Art Linkletter, President Nixon said: “But, believe me, it is true, the thing about the drug, once people cross that line from the [unintelligible] straight society to the drug society, it’s a very great possibility they’re going to go further.”¹¹ In fact, the Shafer Commission found that marijuana does not lead to hard drug use (see box below).

Findings of the National Commission on Marijuana and Drug Abuse include:

- “No significant physical, biochemical, or mental abnormalities could be attributed solely to their marihuana smoking.” (National Commission on Marihuana and Drug Abuse, “Marihuana: A Signal of Misunderstanding; First Report, Washington, DC, U.S. Govt. Print. Off, 1972, p. 61)
- “No valid stereotype of a marihuana user or non-user can be drawn.” (p. 36)
- “Young people who choose to experiment with marihuana are fundamentally the same people, socially and psychologically, as those who use alcohol and tobacco.” (p. 42)
- “No verification is found of a causal relationship between marihuana use and subsequent heroin use.” (p. 88)
- “Most users, young and old, demonstrate an average or above-average degree of social functioning, academic achievement, and job performance.” (p. 96)
- “In sum, the weight of the evidence is that marihuana does not cause violent or aggressive behavior; if anything marihuana serves to inhibit the expression of such behavior.” (p. 73)
- “In short marihuana is not generally viewed by participants in the criminal justice community as a major contributing influence in the commission of delinquent or criminal acts.” (p. 75)
- “Neither the marihuana user nor the drug itself can be said to constitute a danger to public safety.” (p. 78)
- “Recent research has not yet proven that marihuana use significantly impairs driving ability or performance.” (p. 79)
- “No reliable evidence exists indicating that marihuana causes genetic defects in man.” (p. 84)
- “Marihuana’s relative potential for harm to the vast majority of individual users and its actual impact on society does not justify a social policy designed to seek out and firmly punish those who use it.” (p. 130)

appointed by Nixon concluded: “The most notable statement that can be made about the vast majority of marihuana users – experimenters and intermittent users – is that they are essentially indistinguishable from their non-marihuana using peers by any fundamental criterion other than their marihuana use.”⁹

But, President Nixon, speaking with Bob Haldeman in the Oval Office one month after he had been told his national commission would urge marijuana decriminalization had a different agenda: “I want a Goddamn strong statement about marijuana. Can I get

In the same conversation Nixon compared alcohol to marijuana claiming marijuana consumers smoke “to get high” while “a person drinks to have fun.”¹² Nixon also saw marijuana leading to loss of motivation and discipline but claimed: “At least with liquor I don’t lose motivation.”¹³

The marijuana issue also played into the culture wars of the time. President Nixon saw a connection between civil rights and anti-war demonstrators and marijuana

⁷ National Commission on Marihuana and Drug Abuse, “First Report,” page 167

⁸ Oval Office Tapes, March 21, 1972, 1:00 pm - 2:15 pm -- Oval Office Conversation No. 690-11 -- in this segment, the President is meeting with H. R. (“Bob”) Haldeman.

⁹ National Commission on Marihuana and Drug Abuse, “First Report,” page 41.

¹⁰ May 26, 1971, 10:03 am - 11:35 am -- Oval Office Conversation 505-4 -- Meeting with Nixon and Bob Haldeman

¹¹ Oval Office Tapes, May 18, 1971, 12:16 pm - 12:35 pm -- Oval Office Conversation No. 500-17 -- The President met with Arthur G. (Art) Linkletter and DeVan L. Shumway; Oliver F. (“Ollie”) Atkins was present at the beginning of the meeting.

¹² Ibid.

¹³ Ibid.

use even though the Shafer Commission tried to minimize the differences in lifestyle and the effect of marijuana on social order.¹⁴ Nixon discussed this with entertainer Art Linkletter claiming: "... radical demonstrators that were here ... two weeks ago ... They're all on drugs, virtually all."¹⁵

Another area where President Nixon and the expert commission he appointed disagreed was whether marijuana use was leading to the downfall of the United States. The Shafer Commission noted: "It is unlikely that ~~marihuana~~ will affect the future strength, stability, or vitality of our social and political institutions."¹⁶ Nixon on the other hand repeatedly claimed that marijuana use would lead to the "downfall" of the United States, unlike drinking which is used in "strong" countries like Russia, England and Ireland. Nixon claimed nations had not been destroyed by alcohol but "an awful lot of nations have been destroyed by drugs."¹⁷

In another conversation he links drug use, homosexuality and immorality to the downfall of great countries concluding: "You see, homosexuality, dope, immorality in general. These are the enemies of strong societies. That's why the Communists and the left-wingers are pushing the stuff, they're trying to destroy us."¹⁸

The marijuana debate also played into Nixon's prejudices – especially against Jews. In a conversation with Bob Haldeman, Nixon says: "I see another thing in the news summary this morning about it. That's a funny thing, every one of the bastards that are out for legalizing marijuana is Jewish. What the Christ is the matter with the Jews, Bob, what is the matter with them? I suppose it's because most of them are psychiatrists, you know, there's so many, all the greatest psychiatrists are Jewish. By God we are going to hit the marijuana thing, and I

¹⁴ National Commission on Marihuana and Drug Abuse, "First Report," page 92. "Concerns about marihuana use expressed in the 1930s related primarily to a perceived inconsistency between the lifestyles and values of these individuals and the social and moral order."

¹⁵ Oval Office Tapes, May 18, 1971, 12:16 pm - 12:35 pm -- Oval Office Conversation No. 500-17.

¹⁶ National Commission on Marihuana and Drug Abuse, "First Report," page 102.

¹⁷ Nixon: "But, basically, I mean, uh, I know, uh, another way to look at it is this, if I may say so, in regard to, if you get to a, a little more sophisticated audience who really care about destiny, and if you uh, history, has ever been destroyed by alcohol. An awful lot of nations have been destroyed by drugs." Oval Office Tape, May 18, 1971, 12:16 pm - 12:35 pm -- Oval Office Conversation No. 500-17; Oval Office Tape, May 13, 1971, between 10:30am and 12:30pm -- Oval Office Conversation 498-5 -- meeting with Nixon, Haldeman and Ehrlichman

¹⁸ Oval Office Tape, May 13, 1971, between 10:32am and 12:20pm -- Oval Office Conversation 498-5

want to hit it right square in the puss, I want to find a way of putting more on that."¹⁹

The Impact Today

The marijuana issue continues to be hotly debated today. Unfortunately, many of the myths about marijuana put forward by Nixon continue to be stated today as if they were incontrovertible truth. The conclusion of the Shafer Commission rings true today: "That some of these original fears were unfounded and that others were ~~exaggerated~~ has been clear for many years. Yet, many of these early beliefs continue to affect contemporary public attitudes and concerns." The impact of the marijuana laws has grown. In fact in recent years the FBI has reported a record number of marijuana arrests – last year 734,497 were arrested for marijuana, 80 percent for possession.²⁰ From 1972-2000, 13,265,105 were Americans arrested on marijuana charges,²¹ countless families have been destroyed by marijuana enforcement. To what end? The marijuana laws have not prevented nearly 80 million Americans from trying marijuana, nor have they prevented marijuana from becoming the most valuable cash crop in many states.

Voters in eight states have voted for medical marijuana by large majorities,²² and a recent report from the Department of Justice indicates most local officials do not see marijuana as a significant problem.²³ Yet, the marijuana wars are getting more aggressive under the current presidential administration. The DEA is in the process of trying to ban hemp foods even though they have no intoxicating effect. And, they are using precious law enforcement resources, at a time of a domestic and international war against terrorism, to raid medical marijuana dispensaries in California. The latter is especially relevant because the Shafer Commission was created by Congress to advise whether marijuana should be placed in Schedule I banning its medical use.

¹⁹ Oval Office Tape, May 26, 1971 -- Oval Office Conversation: 505-4 -- President met with HR 'Bob' Haldeman, approximately 10:05 am.

²⁰ Federal Bureau of Investigation Uniform Crime Report, "Crime in America 2000" (Washington, DC: US Dept. of Justice, Oct. 2001).

²¹ FBI Uniform Crime Reports 1973-2000.

²² Statewide votes allowing medical marijuana occurred in Alaska, Arizona, California, Colorado, Maine, Nevada, Oregon and Washington in the 1996, 1998, and 2000 elections.

²³ "Indeed, most state and local law enforcement agencies that responded to the National Drug Threat Survey 2001 identified marijuana availability and use as high, but the bulk of these agencies also identified the threat of marijuana to public safety and health as medium to low, and stable." National Drug Treat Assessment, National Drug Intelligence Center, US Dept. of Justice, December 2001.

At the same time the Shafer Commission reported to the US, the Bain Commission reported to Holland with similar recommendations. The Dutch followed the advice of their experts and thirty years later their marijuana use rate is half that of the US – their hard drug use rates are even lower; they spend less on law enforcement and incarceration and have less problems related to drug abuse.²⁴ The Dutch have proven the Shafer Commission was right. Indeed, most of Europe is “going Dutch.”²⁵ The Nixon “marijuana war” approach has been tried for three decades. Perhaps it is time to follow the recommendations of the Shafer Commission and reform the marijuana laws, decriminalize possession and small sales of marijuana.

Nixon Conversations

Drugs and the Counterculture

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

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

- Nixon: “Yeah, I, I [unintelligible] I got a hold, I got a hold of Mitchell on, uh, Saturday night, I said, bust them. And [unintelligible], and don’t hurt anybody, I said don’t hurt anybody, I don’t want anything like Chicago, but I says, arrest the whole damn lot, if they

²⁴ Netherlands: Lifetime prevalence of marijuana use ages 12-up, 15.6%; past month, 2.5% (source: Abraham, Manja D., et al., “Licit and Illicit Drug Use in the Netherlands, 1997” (Amsterdam: University of Amsterdam Center for Drug Research, Sept. 1999); US: lifetime prevalence of marijuana use ages 12-up, 34.2%; past month, 4.8% (source: SAMHSA, US Dept. of Health and Human Services, “Summary of Findings from the 2000 National Household Survey on Drug Abuse (Rockville, MD: SAMHSA, Sept. 2001), p. 132, Table F.2, from the web at <http://www.samhsa.gov/oas/NHSDA/2kNHSDA/2kNHSDA.htm>.

²⁵ Among the countries where marijuana offenses have been decriminalized is Belgium, Denmark, Germany, Italy, Luxembourg, Portugal, Spain, Switzerland. Most recently Great Britain has moved toward marijuana decriminalization. This March 14, the United Kingdom’s “Government’s Advisory Council on the Misuse of Drugs recommended reform making very similar findings as the Shafer Commission, e.g., marijuana use does not lead to health problems for most individuals or society, marijuana is safer than many other drugs, marijuana dependence is milder than for alcohol or tobacco, the risk of marijuana leading to other drug use is less than associated with alcohol or tobacco.”

don’t clear the streets. And they arrested them, and the police chief did a hell of a job.”

- Linkletter: “He did, yes. And I think you get a lot of credit across the country for that, and he does too, but I mean the whole situation, when I mentioned in my talks that I was here, there’s applause. Voluntary applause, because the people want to have that kind of stuff put down. And you did just right. Just right.”²⁶

Marijuana compared to alcohol

- Linkletter: “They sit down with a marijuana cigarette to get high --”

- Nixon: “A person does not drink to get drunk.”

- Linkletter: “That’s right.”

- Nixon: “A person drinks to have fun.”²⁷

Dope, homosexuality and immorality

- Nixon: “Do you know what happened to the Romans, Romans? The last six Roman emperors were fags. The last six. Nero had a public wedding to a boy. Yeah. And they’d [unintelligible]. You know that. You know what happened to the Popes? It’s all right that, po-po-Popes were laying the nuns, that’s been going on for years, centuries, but, when the popes, when the Catholic Church went to hell, in, I don’t know, three or four centuries ago, it was homosexual. And finally it had to be cleaned out. Now, that’s what’s happened to Britain, it happened earlier to France. And let’s look at the strong societies. The Russians. God damn it, they root them out, they don’t let them around at all. You know what I mean? I don’t know what they do with them. Now, we are allowing this in this country when we show [unintelligible]. Dope? Do you think the Russians allow dope? Hell no. Not if they can allow, not if they can catch it, they send them up. You see, homosexuality, dope, immorality in general: These are the enemies of strong societies. That’s why the Communists and the left-wingers are pushing the stuff, they’re trying to destroy us.”²⁸

²⁶ Oval Office Tapes, May 18, 1971, 12:16 pm - 12:35 pm -- Oval Office Conversation No. 500-17.

²⁷ Ibid.

²⁸ Oval Office Tape, May 13, 1971, between 10:32am and 12:20pm - Oval Office -- meeting with Nixon, Haldeman and Ehrlichman -- conv. 498-5

Marijuana and the downfall of society

- Nixon: "I have seen systems, I have seen the countries of Asia and the Middle East, portions of Latin America, and I have seen what drugs have done to those countries. Uh, everybody knows what it's done to the Chinese, the Indians are hopeless anyway, the Burmese. They have different forms of drugs--"
- Linkletter: "That's right."
- Nixon: "[unintelligible] China and the rest of them, they've all gone down. The, countries, the north countries for the example -- why the hell are those Communists so hard on drugs? Well why they're so hard on drugs is because, uh, they love to booze. I mean, the Russians, they drink pretty good."
- Linkletter: "That's right."
- Nixon: "But they don't allow any drugs. Like that. And look at the north countries. The Swedes drink too much, the Finns drink too much, the British have always been heavy boozers and the rest, but uh, and the Irish of course the most, uh, but uh, on the other hand, they survive as strong races. There's another, it's a very significant difference."
- Linkletter: "That's right."
- Nixon: "And your drug societies, uh, are, are, inevitably come apart. They--"
- Linkletter: "They lose motivation."
- Nixon: "--mind"
- Linkletter: "No discipline."
- Nixon: "Yeah."
- Linkletter: "You know I did a show--"
- Nixon: "At least with liquor I don't lose motivation [unintelligible]"²⁹

Marijuana Arrests 1972-2000³⁰

1972	292,179
1973	420,700
1974	445,000
1975	416,100
1976	441,100
1977	457,600
1978	445,800
1979	391,600
1980	405,600
1981	400,300
1982	455,600
1983	406,900
1984	419,400
1985	451,138
1986	361,780
1987	378,709
1988	391,600
1989	398,977
1990	326,850
1991	287,850
1992	342,314
1993	380,689
1994	499,122
1995	588,963
1996	641,642
1997	695,200
1998	682,885
1999	704,812
2000	734,695

Common Sense for Drug Policy

Kevin B. Zeese, President

3220 N Street NW #141

Washington, DC 20007

202-299-9780 - fax 202-518-4028

www.csdp.org - www.drugwarfacts.org

www.narcoterror.org - www.drugwardistortions.org

info@csdp.org

Our thanks to the staff at the National Archives and Records Administration for assistance with the Nixon tape archive.

²⁹ Oval Office Tape, May 18, 1971, 12:16 pm - 12:35 pm -- Oval Office Conversation No. 500-17

³⁰ FBI, Uniform Crime Reports, 1972-2000.