

### About the Author

John Kaplan graduated from Harvard College in 1951, majoring in physics, and Harvard Law School in 1954. After a year serving as law clerk to Justice Tom C. Clark of the United States Supreme Court, he worked in criminology in Vienna on a grant from the Austrian government. From 1957 to 1961 he served as a federal criminal prosecutor, first for the United States Department of Justice in Washington, D.C., then as a special prosecutor in Chicago, and finally as an Assistant United States Attorney in San Francisco. Subsequently he went into teaching and has taught at the Northwestern Law School in Chicago, the University of California at Los Angeles, and the University of California (Berkeley) Law School. Presently he is Professor of Law at the Stanford University School of Law, where he teaches criminal law, criminal procedure, and a seminar in drug control. Professor Kaplan is a former Reporter to the Joint Legislative Committee to revise the Penal Code of California and is spending this year as the first Fellow of the Institute for the Study of Drug Dependence in London. He is a co-author of *The Trial of Jack Ruby* and the author of many articles in publications as disparate as the *Stanford Law Review* and *The Journal of Clinical Pharmacology*.

*Marijuana*

to allege this since, until I began my own study of the problem, it never occurred to me to ask more than whether the penalties for marijuana offenses were somewhat too stringent. It is easy to understand how, under the historical and social conditions present in this country at the time, the emergence of a strange intoxicant such as marijuana might have been felt to justify the official and popular apprehension it received. Nor is it difficult to see why in such a situation the first reaction would be an attempt at suppression of the drug—especially since at the time the social costs of enforcing the law were so much less than they are today.

Now, however, we have an increased familiarity with marijuana, from its wide use, from a more careful look at what has long been known about the drug, and from recent studies. Much more important, we are now aware of the enormous costs to our society of our present marijuana policy. I believe that we cannot delay facing this issue a great deal longer and that the only responsible course of action—indeed, in the long run, the only course of action available within the framework of a democratic society—is a liberalization of the marijuana law so extensive as to constitute an abandonment of primary reliance on the criminal law in this area.

In a preface, it is customary to thank all those whose help is visible in the final product. In this case, however, I am unable to do so, first because they are far too numerous, and second because their contributions are so intertwined with those of differing specialties that they would be most difficult to sort out. Nonetheless, without the wholehearted cooperation of the resources of more than one university community, this book would not have been possible.

The students in my drug-control seminars at both the Stanford and the University of California (Berkeley) law schools, though lacking the academic credentials, were invaluable both because they knew—often from personal experience—a great deal about the drug and its use, and because they were willing to work hard, honestly, and intelligently. Moreover, the pharmacologists, psychiatrists, psychologists, physicians, sociologists, anthropologists, historians, and criminologists who gave many hours of their time and checked over endless drafts know that my gratitude is

forever theirs. It is customary to add at this point that any errors or distortions are my responsibility and not theirs. This, of course, is true; but, on the other hand, candor compels the acknowledgment that if, indeed, there are any errors or distortions, I will hold personally responsible those who allowed me to fall into error.

Finally with respect to the legislature's attempt to revise the penal code, the Preliminary Tentative Draft on Marijuana was issued in 1969 over the signatures of all the Reporters. It recommended the adoption of the vice model for marijuana and supported this recommendation with earlier versions of Chapters II, IV, V, VII, VIII, and the first half of IX. In some sense, this book is an effort to reach a tribunal of higher resort, because shortly after the release of the draft, the Legislative Committee summarily fired all of the Reporters and replaced them with a prosecutor from the attorney general's office.

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J. K.