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## Targeted Marijuana Law Enforcement in Los Angeles, 1914–1959

Sarah Brady Siff

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# TARGETED MARIJUANA LAW ENFORCEMENT IN LOS ANGELES, 1914–1959

*Sarah Brady Siff\**

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## INTRODUCTION

Marijuana<sup>1</sup> was illegal to possess or sell in California for 103 years.<sup>2</sup> The state first banned it in 1913,<sup>3</sup> grouping it with opiates and cocaine on a list of prohibited vice drugs adopted six years earlier, meaning that it was subject to the same penalties as these other, far more dangerous, drugs until 1961.<sup>4</sup> This can be explained in part by the irrational and violent behavior reported to arise from marijuana use and exploited by early drug warriors to justify the new prohibition. But these frightening effects that were

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\* Sarah Brady Siff is a historian at the Drug Enforcement & Policy Center, Moritz College of Law, The Ohio State University. She teaches a seminar called “Drug Law Enforcement & the Bill of Rights” and is writing a book manuscript titled “The Name of the Weed: Marijuana Effects and Plant Alkaloids in the History of Drug Prohibition.”

1. Marijuana was spelled mariguana, marahuana, and marihuana before it was spelled marijuana (and marajuana). Quotations and citations throughout use original spellings.

2. California first prohibited marijuana in 1913 by legislative act, Act to Amend the Poison Act, ch. 342, sec. 6, § 8(a), 1913 Cal. Stat. 692, 697, and legalized it for recreational use 103 years later by ballot initiative. *See* Control, Regulate and Tax Adult Use of Marijuana Act, Prop. 64, 2016 Cal. Stat. A-92.

3. *See* Act to Amend the Poison Act, ch. 342, sec. 6, § 8(a).

4. *See* Act of May 4, 1961, ch. 274, sec. 1, § 11500, 1961 Cal. Stat. 1301, 1301 (providing a separate penalty structure for marijuana for the first time in California law).

commonly attributed to marijuana did not correspond to cannabis effects; and indeed, the word marijuana was not synonymous with cannabis until decades later. Initially framed as a “Mexican” drug, marijuana’s prohibition enforcement began on the periphery of Los Angeles in older Latino neighborhoods and agricultural outposts where indigenous and immigrant families lived, worked, and gardened.<sup>5</sup> As the suburbs transformed into white residential neighborhoods, local police forces carried on the tradition of arresting and jailing Mexican and Mexican American citizens for marijuana crimes, primarily cannabis cultivation. Los Angeles police turned toward the city center, targeting Black residential neighborhoods around Central Avenue as well as the avenue itself, with its jazz musicians and multiracial nightlife. Cannabis smoking grew popular in hip Los Angeles circles despite the drug’s stubborn condemnation by the city’s deeply propagandized, white Christian majority. Actors and musicians in nearby Hollywood also drew the enforcers’ attention, and wealthy stars endured deeply invasive policing and publicity related to cannabis use. By 1950, Los Angeles police were arresting more people for the possession or sale of marijuana than for heroin, other opiates, and cocaine combined.<sup>6</sup> Mexican, Mexican American, and Black citizens were the targets of this enforcement in sharp disproportion to their presence there.<sup>7</sup>

### I. ANTI-MEXICAN AIMS OF THE FIRST MARIJUANA BAN

Beginning in the late 1800s, anti-opium laws in California targeted Chinese immigrants;<sup>8</sup> similarly, the state’s first anti-marijuana law targeted nonwhite residents whom officials called “Indian” or “Mexican.” Marijuana prohibition began with a 1913 revision of the Poison Act that made possession of “narcotic preparations of hemp, or loco-weed” a misdemeanor.<sup>9</sup> This amendment’s purpose was unhidden: “The reason for

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5. See, e.g., *infra* notes 15–18, 26–30 and accompanying text.

6. See EVALUATION OF NARCOTIC PROSECUTIONS CONDUCTED BY THE DISTRICT ATTORNEY’S OFFICE OF LOS ANGELES COUNTY, CALIFORNIA FOR THE CALENDAR YEAR 1950 (1951) [hereinafter EVALUATION OF NARCOTIC PROSECUTIONS] (on file with author).

7. See *id.*; see also *Historical Census Racial/Ethnic Numbers in Los Angeles County 1850 to 1980*, L.A. ALMANAC, <http://www.laalmanac.com/population/po20.php> [https://perma.cc/Q348-MHPG] (last visited Jan. 18, 2022).

8. See, e.g., Jason L. Bates, *The “Drug Evil”: Narcotics Law, Race, and the Making of America’s Composite Penal State* 30, 32 (2016) (Ph.D. dissertation, Vanderbilt University) (ProQuest).

9. Act to Amend the Poison Act, ch. 342, sec. 6, § 8(a), 1913 Cal. Stat. 692, 697. Violation was punishable by a fine of \$100 to \$400, or imprisonment from 50 to 180 days, or both, and subsequent offenses drew increasing penalties, with the third offense punishable by one to five years in state prison. See *id.* at 694. It had been a misdemeanor to sell opiates and cocaine without a medical prescription since 1907 and to possess the same

the action is the increased use of the weed among Mexican laborers,” a Los Angeles newspaper noted in 1911.<sup>10</sup> Another explained: “In view of the increasing use of marihuano [sic] or loco weed as an intoxicant among a large class of Mexican laborers, F.C. Boden, inspector of the State Board of Pharmacy . . . [is] asking that the drug be included in the list of prohibited narcotics.”<sup>11</sup> Boden and other members or employees of the Pharmacy Board had been serving as the nation’s first state narcotics squad since 1907, policing the Poison Act’s prohibition of the unprescribed use of cocaine and opiates. Marijuana’s omission from that original law was an oversight, Boden claimed in 1911,<sup>12</sup> and the need to add it to the list of prohibited drugs was growing urgent. According to the *Los Angeles Times*: “Probably one-third of the adult male Mexican population are more or less familiar with the use of the narcotic and the inspectors of the State Board are anxious for authority to inaugurate repressive measures without delay.”<sup>13</sup>

But the California Legislature met only every other year, so after a short delay, said repressive measures commenced in the Los Angeles area — almost entirely, as promised, against Mexican laborers.<sup>14</sup> During autumn of 1914, the following incidents were recorded in Los Angeles newspapers<sup>15</sup>: Juan Torres was convicted of possession and sentenced to 100 days in the city jail;<sup>16</sup> “several Mexicans” were arrested in San Gabriel with “about twelve pounds of dried Indian Hemp”;<sup>17</sup> and Asencion Romo was tried for growing marijuana in his backyard in the central L.A. neighborhood then called Sonoratown, while Maria Ybona, a resident of the same block, was cited for plants growing in her yard.<sup>18</sup> Frank Aviles

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since 1909. See, e.g., Poison Act, ch. 102, § 8, 1907 Cal. Stat. 124, 126; Act to Amend the Poison Act, ch. 279, sec. 4, § 8, 1909 Cal. Stat. 422, 424.

10. *To Ban “Loco” Weed*, L.A. REC., Oct. 19, 1911, at 2.

11. *See id.*

12. *See Would Prohibit Sale of Weed*, L.A. TIMES, Oct. 19, 1911, at 116.

13. *Id.*

14. Writing in 1970 about the earliest state anti-marijuana laws, Richard Bonnie and Charles Whitebread concluded that racial prejudice toward Mexican Americans was the most prominent factor in their adoption. See Richard J. Bonnie & Charles H. Whitebread, II, *The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition*, 56 VA. L. REV. 971, 1011–12 (also noting that marijuana prohibitionists sometimes made “vociferous allusion to the criminal conduct inevitably generated when Mexicans ate ‘the killer weed’”).

15. These articles likely represent at least the majority of those arrested during this first season of enforcement.

16. *See Drug Gets Man 100-Day Term*, L.A. EXPRESS, Oct. 19, 1914, at 4.

17. “*Bhang*” *Captured by Local Officers*, S. PASADENA REC., Oct. 1, 1914, at 3.

18. *See Mexican Arrested on Accusation of Producing Opiate*, L.A. EXPRESS, Sept. 10, 1914, at 16. The headline of this article misidentifies marijuana as an opiate, reflecting the lack of legal distinction among verboten drugs and the novelty of marijuana enforcement.

was hiding behind a telephone pole at Aliso and Alameda streets when he drew the attention of police and was arrested in possession of marijuana.<sup>19</sup> A pharmacy board inspector confiscated six ounces of plant material from seven school boys — according to the report: “One of them is a negro and the others Mexicans” — who said they had gotten it from one Maria Reyes, prompting the officer to visit and discover a large quantity of the drug.<sup>20</sup> When two city detectives arrested Pedro Lopez for being “addicted to the use of marihuana,” they discovered his three children were suffering from hunger, though two of them were at school at the time of the arrest.<sup>21</sup> This article noted: “The juvenile officers took charge of the children and will care for them until the father obtains employment.”<sup>22</sup> Only a couple of news items from 1914 name an offender who might be white.<sup>23</sup> For example, a short description of the sentencing of R. Franks to a fine of \$250 or 180 days in jail noted: “The weed is the builder of soothing dreams and is much used in the local Mexican colony.”<sup>24</sup> The police search of W.H. Johnson and Jesse Burt that turned up marijuana and led to their arrest and detention was undertaken, as the report explained, because “[b]oth men were dressed in rough clothing and had the appearance of having slept in a hay pile;”<sup>25</sup> in other words, they were vagrants.

Through enforcement of the Poison Act, California undertook quite early efforts to stop marijuana cultivation and to eradicate plants growing on privately owned property. In San Bernardino, just east of Los Angeles, pharmacy board agents investigating a ring of marijuana smugglers in 1915 discovered that the plant was not being smuggled but rather cultivated by three Mexican workers.<sup>26</sup> The inspectors confiscated “several tons” of plants for burning according to a news report, which also noted: “The weed, which thrives here as well as it does in Mexico, is smoked and gives the same effect as the use of cocaine.”<sup>27</sup> Miguel Morado, Merced Avila, Phillipa Perez, and Jose Jarilardo each drew a six-month suspended sentence, and the local paper documented: “Mexicans who use the marihuana very often run amuck and terrorize their settlements.”<sup>28</sup> A week later, the sheriff of San Bernardino gathered a posse and “started a raid on

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19. *See Marihuana Causes Mexican's Arrest*, L.A. EXPRESS, Oct. 12, 1914, at 8.

20. *School Boys with "Hop"*, L.A. TIMES, Oct. 22, 1914, at 10.

21. *Marihuana Addict Has Three Hungry Children*, L.A. EXPRESS, Dec. 16, 1914, at 19.

22. *Id.*

23. *See infra* notes 24–25.

24. *Marihuana "Gets" Him*, L.A. TIMES, Sept. 9, 1914, at 17.

25. *2 'New York Tourists' Land in City Prison*, L.A. EXPRESS, Nov. 2, 1914, at 10.

26. *See Opiate Growers Arrested*, OAKLAND TRIB., Aug. 30, 1915, at 5.

27. *Id.*

28. *Marahuana Is Confiscated in a Raid*, SAN BERNARDINO DAILY SUN, Aug. 31, 1915, at 3.

marahuana gardens in various parts of the county where it is declared Mexicans are growing the opiate in large quantities.”<sup>29</sup> In September 1914, the *Los Angeles Times* reported that the Pharmacy Board had declared war on “the growing of marihuana, or Indian hemp” in Oxnard,<sup>30</sup> a town just west of Los Angeles whose residents were primarily Mexican, Chinese, and Japanese immigrants who worked at a sugar beet processing factory.<sup>31</sup> According to the paper, several wagon-loads of the “herb” had been cut and confiscated by drug agents. The report noted: “Among the Mexican users of the drug, it is believed that those who smoke it have the power of prophecy and divination” and “[t]he effects of the drug are similar to those of opium.”<sup>32</sup> The Pharmacy Board stored a ton of dried plants to feed a public bonfire of seized opium and pipes, following the advice of their lawyer, who suggested the public display for its propaganda effect.<sup>33</sup> The *Los Angeles Times* described the scene: “The fire burning low, the destroyers sent flames vaulting by throwing on branches and sacks of dried marihuana.”<sup>34</sup>

This first season of enforcement set the tone for several years to come. The bulk of marijuana arrests occurred in the late summer and autumn each year, when crops would have been reaching maturity.<sup>35</sup> Newspapers identified many violators of the marijuana prohibition as Mexican,<sup>36</sup> and they often identified the drug itself as Mexican.<sup>37</sup> Latino surnames were prevalent in this coverage. These developments portended a war on marijuana that would be characterized by racial bias, disinformation about

29. *Marahuana Raids*, L.A. TIMES, Sept. 5, 1915, at 11.

30. *Confiscate Hemp*, L.A. TIMES, Sept. 3, 1914, at 20.

31. See *History*, VISIT OXNARD, <https://visitoxnard.com/about/history/> [https://perma.cc/72BU-3X8N] (last visited Feb. 16, 2022) (“The [sugar beet] factory attracted many Chinese, Japanese, and Mexican workers to Oxnard and the sugar beet industry brought diversification to agriculture.”).

32. *Confiscate Hemp*, *supra* note 30.

33. See *Drugs to Rise Like Incense*, L.A. TIMES, Oct. 16, 1914, at 11.

34. *In Fanciful Forms Contraband Goes Up*, L.A. TIMES, Oct. 17, 1914, at 17.

35. See, e.g., *‘Hashish’ Worth \$30,000 Is Seized by State Agents*, L.A. EVENING EXPRESS, July 28, 1926, at 11 (describing law enforcement efforts “to literally weed out the tenacious marihuana drug industry, which springs up with the new crops in the Southland each year”).

36. See, e.g., *Mexican Charged with Growing Marihuana Released*, SAN PEDRO DAILY PILOT, Sept. 5, 1916, at 1; *Mexican Fined \$100 for Raising Marihuana*, L.A. EVENING EXPRESS, June 28, 1919, at 3; *Mexican Held on Charge of Peddling Drug*, L.A. TIMES, Dec. 29, 1925, at 13; *Mexican Marahuana Salesman Is Being Detained by Police*, SAN PEDRO DAILY PILOT, Feb. 16, 1927, at 2.

37. See, e.g., *Mexican Snow Is Found in Yard of Padrasa*, SAN BERNARDINO DAILY SUN, Aug. 29, 1919, at 1; *Find Big Cache of Mexican Drug, Marahuana, in Laverne*, BULL., July 30, 1926, at 5.

cannabis effects, and close relationships among the local press and officers of the law.

## II. MARIJUANA WAS A WHOLE DIFFERENT THING BACK THEN

Why was marijuana considered dangerous enough to merit prohibition and criminal penalties? At the turn of the century, marijuana use was a little-known phenomenon in the United States, of interest mostly to residents of the Southwest. In early U.S. news reports, marijuana was a dangerous plant, smoked or swallowed by low-class elements such as Indians, prisoners, and soldiers who had defected from the Mexican army. Marijuana use resulted in irrationally brave, violent behavior, with occasional overtones of witchcraft.<sup>38</sup> Much information in accounts that reached the United States was propaganda published by the postcolonial Porfirio Diaz regime in Mexico City, an attempt to cultivate allies in the United States in the increasingly likely event of a revolution. As U.S. readers would first encounter it, the word marijuana slandered revolutionists as dangerous and insane.<sup>39</sup> It was propaganda designed by an illiberal ruling class to create fear of those soldiers and prisoners who were desperately fighting against landless poverty and servitude. The oligarchy commanded by Porfirio Diaz had not much reformed the greedy and oppressive juggernaut that was the Catholic Church in Mexico; rather, it had further exacerbated rural and working-class poverty by granting U.S. businesses obscene license to extract natural wealth from what territory remained Mexico's in the late 1800s.<sup>40</sup> U.S. "investors" who stood to lose from instability in Mexico were quite willing to amplify stories about primitive and violent behavior among marijuana users.

In California, for example, a Spanish Catholic priest and self-styled journalist named Juan Caballeria stoked fears about marijuana as early as 1902.<sup>41</sup> He described its effects as "slightly narcotic, soothing and dreamy," followed by "irritation, bordering on delirium . . . [T]he smoker becomes quarrelsome, aggressive, and the most trifling opposition will rouse in him a demoniac fury. The great majority of so-called Mexican cutting affairs is due to this herb." Its users were "no longer human beings, but incarnate demons" under the influence of marijuana, the priest

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38. See, e.g., *Marihuana Weed Deadly*, DAILY TELEGRAM, June 14, 1907, at 7 (a wire service story datelined Mexico City).

39. See generally ISAAC CAMPOS, *HOME GROWN: MARIJUANA AND THE ORIGINS OF MEXICO'S WAR ON DRUGS* (2012).

40. See, e.g., JOHN MASON HART, *EMPIRE AND REVOLUTION: THE AMERICANS IN MEXICO SINCE THE CIVIL WAR* (2006).

41. See Rev. Father Juan Caballeria, *The Cholo and the Mariguana*, L.A. HERALD ILLUSTRATED MAG., Jan. 12, 1902, at 3.

concluded.<sup>42</sup> Three years later, Caballeria was interviewed for a newspaper story that warned the plant was “being raised in large quantities at Chino and sold to Mexican laborers in Los Angeles and suburban towns” and caused much violence.<sup>43</sup> In the interview, Caballeria said: “Two cigarettes and you are a beast; you will fight and kill even your best friends or parents.” Caballeria favored a state law prohibiting cultivation.<sup>44</sup>

Police officers and newspapers frequently attributed violent incidents among Mexican immigrants to their use of marijuana. A news report in 1910 described how “Antonio Barragaz, a Mexican laborer living on Olivera street, near the Plaza, took a few whiffs of Mexican hemp, yesterday afternoon, and straightway started out to run amuck, flourishing a huge butcher knife with an eighteen-inch blade” and badly wounding an unfortunate bystander. The report continued: “The Mexican hemp, or loco weed, as it is sometimes called, is smoked by the cholos who mix it with their tobacco. The weed crazes them in a few minutes and they are often blood-thirsty maniacs under its influence.”<sup>45</sup>

Marijuana is a historical term with strong connotations of transgression; properly it is an idea, not a substance. Today marijuana is synonymous with the cannabis plant genus, but before the twentieth century, it likely referred instead to far more powerfully psychoactive drug plants, chiefly *datura*. This hallucinogenic genus of low-growing plants with dark green leaves, ephemeral, trumpet-shaped flowers, and pronounced seed pods, commonly called jimsonweed or thorn-apple, was native to and grew weedlike across modern-day Mexico and the U.S. Southwest. *Datura* was used medicinally and spiritually for centuries by numerous and disparate groups of indigenous Americans,<sup>46</sup> and it had taken up a place in the colonial folk medicine cabinet before settling into the pharmacopoeia in the early 1800s. Cannabis, on the other hand, was a cultivated fiber plant that favored a particular kind of soil exemplified by the lime-rich Kentucky

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42. *Id.*

43. *Chino Plant Turns Men into Beasts*, RIVERSIDE ENTER., Apr. 12, 1905.

44. *See id.*

45. *Tries to Kill*, L.A. TIMES, July 4, 1910, at 5.

46. *See, e.g.,* William E. Safford, *Daturas of the Old World and New: An Account of Their Narcotic Properties and Their Use in Oracular and Initiatory Ceremonies*, in ANNUAL REPORT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION SHOWING THE OPERATIONS, EXPENDITURES, AND CONDITIONS OF THE INSTITUTION FOR THE YEAR ENDING JUNE 30 1920 537, 550–51 (1920); Patrizia Granziera, *Concept of the Garden in Pre-Hispanic Mexico*, 29 GARDEN HIST. 185, 187–88 (2001) (“Almost all the flowers used in the pre-Hispanic world had properties that provoked a state of ecstasy . . . . *Datura*, a plant called by Mexicans *toloache* . . . [was] employed not only to induce visual hallucinations, but also for a great variety of medicinal uses.”).

Bluegrass Plain.<sup>47</sup> Early Spanish and British colonists had launched failed attempts to raise it as hemp in North America, for which efforts they required large amounts of imported hemp seed.<sup>48</sup> The medicinal uses of cannabis were known to North Americans almost exclusively in the form of extracts imported from Europe.

The psychoactive effects of datura are also quite different from those of cannabis. In a datura plant, the concentration of toxic alkaloids can vary significantly according to when it is harvested and how it is ingested, and overdose can be fatal.<sup>49</sup> Medically useful in controlled doses, taking too much can result in terrifying hallucinations, dissociative behavior, memory loss, catalepsy, and coma, as well as “loss of sensation, which is aggravated by the exposure to other uncontrollable risks such as performance of activities dangerous to physical integrity.”<sup>50</sup>

A robust literature on the use of hallucinogenic plants has established widespread and multifaceted use of datura by indigenous groups from Chile to the U.S. Southwest dating back some 5,000 years. The Spanish Catholic invaders, however, considered the shamanic use of plants equivalent to a pact with the devil, and one of the aims of the Spanish Inquisition was to eradicate this practice in its colonial territories.<sup>51</sup> At the northern extent of the area where datura was used were the Chumash Indians of Southern California, whose territories included the modern-day greater Los Angeles area. The Chumash revered the datura and used it in religious ceremonies to obtain a “supernatural helper,” to steel their courage during childbirth or other difficult quests, and as medicine.<sup>52</sup> The Spanish colonized Chumash territory and forced them to convert to Catholicism, but some traditional religious practices continued in defiance

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47. See JAMES F. HOPKINS, *A HISTORY OF THE HEMP INDUSTRY IN KENTUCKY* 14–16 (2014).

48. See, e.g., *id.* at 6–10; Sanford A. Mosk, *Subsidized Hemp Production in Spanish California*, 13 *AGRIC. HIST.* 171, 171–72 (1939).

49. See, e.g., Guillermo Benítez et al., *The Genus Datura L. (Solanaceae) in Mexico and Spain — Ethnobotanical Perspective at the Interface of Medical and Illicit Uses*, 219 *J. ETHNOPHARMACOLOGY* 133, 138 (2018).

50. See, e.g., *id.* The authors write that the effects of a strong dose of datura can be difficult to distinguish from other psychedelic drugs that cause hallucinations; “[t]he difference is that *Datura* consumers do not have the feeling of being under the influence of a toxic substance, but instead perceive they are in a real scenario.” See *id.*

51. See, e.g., José Domingo Schievenini, *A Small Distinction with a Big Difference: Prohibiting “Drugs” but Not Alcohol, from the Conquest to Constitutional Law*, 34 *SOC. HIST. ALCOHOL & DRUGS* 15, 19–22 (2020).

52. See Richard B. Applegate, *The Datura Cult Among the Chumash*, 2 *J. CAL. ANTHROPOLOGY* 7, 7–10 (1975); see also Jan Timbrook, *Ethnobotany of Chumash Indians, California, Based on Collections by John P. Harrington*, 44 *ECON. BOTANY* 236, 244 (1990).

of the missions, and Chumash revolts against imperial rule in 1801 and 1824 were “permeated with religious undertones.”<sup>53</sup> Thus, when drug warriors began to enforce a marijuana prohibition in early-1900s Los Angeles, many of the “Mexicans” arrested were likely not immigrants but rather native inhabitants whose ancestors had been forced to discard their entheogenic use of plants and to adopt Spanish names.

Thus, late-nineteenth-century reports of erratic, violent behavior caused by consuming marijuana were neither faithful reproductions of cannabis effects nor complete fabrications. Rather, they started as descriptions of the self-drugging and occasional self-poisoning with datura, of dispossessed indigenous people in Mexico during an era of upheaval. For example, in 1896, Thomas T. Crittenden, a former governor of Missouri serving as consul-general to Mexico, identified this naming error in a long article about the popular alcoholic beverage pulque.<sup>54</sup> He observed that the drink was often adulterated with marijuana.<sup>55</sup> But it wasn’t cannabis: “This marihuana is an extraction of what is known in the United States as ‘jimson’ weed and the *Datura stramonium* of our home drug stores,” Crittenden wrote.<sup>56</sup> “The effect upon the nerves is singular, and it almost forces men into physical struggles of which they are unconscious at the time . . . . The number of deaths from fights in pulquerias is incredible.”<sup>57</sup> Crittenden concluded that madness or stupefaction were the two possible outcomes of marijuana ingestion.<sup>58</sup>

Born as racialized descriptions of datura-like effects, the idea of marijuana eventually was grafted onto the cannabis plant in Southern California. Environmental historian Nick Johnson writes that, beginning around 1900, Mexican and Mexican American farm laborers in the West, including in the beet fields around Los Angeles, cultivated cannabis to mitigate physical hardship by its use and economic hardship by its sale.<sup>59</sup> Early arrests for breaking the state marijuana law frequently were related to cultivating small crops to sell, and the scattered record of this enforcement indicates that growing and processing cannabis to smoke as marijuana was a cottage industry built out of necessity by nonwhite laborers.<sup>60</sup> In Los

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53. Terisa M. Green, *Archaeological Evidence for Post-Contact Native Religion: The Chumash Land of the Dead*, 23 J. CAL. & GREAT BASIN ANTHROPOLOGY 319, 319 (2001).

54. See H.R. Rep. No. 54-377, at 403 (1896).

55. See *id.*

56. See *id.*

57. See *id.*

58. See *id.*

59. See Nick Johnson, *Workers’ Weed: Cannabis, Sugar Beets, and Landscapes of Labor in the American West, 1900–1946*, 91 AGRIC. HIST. 320, 320 (2017).

60. See, e.g., *supra* notes 18, 26, 29, 35; *infra* notes 179, 182–86, 192, 195.

Angeles and other Southwest locales, the underground market in cannabis apparently developed alongside the occasional use of datura; but cannabis was probably far more enticing than datura as a consumer recreational drug because of the latter's toxic and debilitating effects, including the possibility of death. And unlike wild-growing jimsonweed, cannabis needed cultivation to develop strong psychoactive properties.

The lingering idea that marijuana caused violence was part of the rationale for keeping the Latino population in Southern California under surveillance. Marijuana also provided a convenient explanation for why violence might happen, in the midst of labor strikes, race riots, anarchist political movements, and wartime paranoia of foreign enemies. Thus, enforcers and the press continued to attribute violence to marijuana use. For example, Police Detective George Contreras stated in September 1916 that hundreds of law-abiding Mexicans around Hermosillo had been "demoralized" by marijuana use, causing them to commit "[s]cores of offenses, ranging from the beating of women and children to shooting and stabbings," according to the *Los Angeles Evening Express*.<sup>61</sup> A 1917 article in the *Los Angeles Times* titled "Crazed Mexican Shoots Assistant Fire Chief" (subtitled "Marahuana?") described how Joaquin Tapia shot the city's assistant fire chief in the leg with a revolver and fled the scene, only to be tackled by a bystander and detained.<sup>62</sup> In 1918, a Mexican in San Bernardino was taken to the police station after he reportedly threatened "vociferously" to drown his wife in the river; as the local newspaper reported: "It was said by neighbors that the Mexican had taken a 'marihuana jag' but City Marshal A. U'Ren is of the opinion that he simply had an overdose of beer."<sup>63</sup> The rhetoric linking Mexicans, marijuana, and violence amounted to a recurring urban legend. In Long Beach in 1924, police searched in vain for the body of an unidentified boy that two other boys said had been "cut to pieces by a mad Mexican in the willows northwest of the city," according to the *Los Angeles Times*.<sup>64</sup> No evidence of the boys' grisly story was found, the paper reported: "But Rosendo Nuevez, 27-year-old Mexican, arrested [on the street] yesterday, after he had slashed his throat and thrust a knife into his abdomen, is still being held for investigation. Police were of the opinion today that the Mexican had become crazed through the use of marijuana."<sup>65</sup> However, in 1924, Officer William Roth used violence when he arrested Clovas Gonzales, who was

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61. *Drug Is Blamed for Mexican Crime Wave*, L.A. EVENING EXPRESS, Sept. 14, 1916, at 6.

62. *See Crazed Mexican Shoots Assistant Fire Chief*, L.A. TIMES, Feb. 19, 1917, at 1.

63. *Mexican Would Drown Wife*, SAN BERNARDINO CNTY. SUN, Sept. 3, 1918, at 6.

64. *Police Abandon Search for Body of 'Slain' Child*, L.A. TIMES, Apr. 8, 1924, at 12.

65. *Id.*

suspected of using marijuana, when he knocked Gonzales unconscious with a tire lock after Gonzales resisted getting in Roth's car, leaving a long gash in his scalp.<sup>66</sup>

Marijuana's bad reputation contributed to the continuing lack of any legal distinction among the vice drugs, in turn leading to narratives that placed marijuana on equally threatening terms with opiates and cocaine.<sup>67</sup> Officials and journalists never tired of describing how these drugs were so different yet so alike. In 1919, for example, the *Los Angeles Times* reported that "[s]udden death, savage murders, brutal attacks upon helpless victims, bold burglaries and violence of every kind . . . are the running mates of the hypodermic needle, the yellow, sickly-looking morphine tablet, the pale but deadly heroin pill, the snow-like flaky cocaine, and the vicious Mexican marahuana."<sup>68</sup> A 1923 editorial also grouped all the drugs together for dramatic and nativist effect: "You read of a ghastly and apparently unprovoked murder — that was marihuana. You hear of a secret suicide never accounted for — that was morphine. You recall a frightful and fiendish assault on a girl of tender years — that was cocaine."<sup>69</sup> In a 1926 feature, the *Los Angeles Times* described differences among the drugs favored by "habitual" users, reporting: "Heroin and [mor]phine are the most expensive and would be called the rich man's drug, while marahuana is the cheapest, and is used by Mexicans, negroes and other addicts when they have not the means of procuring their regular drug."<sup>70</sup> Many crimes committed by Mexicans could be traced to marijuana use, according to the report.<sup>71</sup> In Oxnard, in 1928, after state narcotic agents arrested Jose Hernandez on Christmas Eve and his mother, Antonia, the following morning for possession of marijuana, a Los Angeles police officer told the local press that the confiscated drug "contained enough dope to kill 100 men, and that he expected the marihuana would test better than 40 grams of morphine to the ounce."<sup>72</sup> Bail for each defendant was set at \$2,000.<sup>73</sup>

Datura would continue to be called marijuana for a long time, but legally it could not maintain its uncertain identity forever. In 1926, for example, a

66. *See Man Is Subdued by Tap on Head with Auto Lock*, POMONA PROGRESS, Apr. 2, 1924, at 3.

67. *See, e.g., infra* notes 68–72.

68. Albert F. Nathan, *Drug Fiends Make "Crime Wave,"* L.A. TIMES, Nov. 30, 1919, at 17.

69. Editorial, *War on Narcotics*, L.A. TIMES, Jan. 9, 1923, at 20.

70. *Stamping Out the Drug Habit in Los Angeles*, L.A. TIMES, Nov. 21, 1926, at 37.

71. *See id.*

72. *High Bail Set for Dope Defendants*, OXNARD DAILY COURIER, Jan. 5, 1929, at 1.

73. *See id.*

news item noted in its entirety: “‘Flowery tips of Indian hemp turn out to be jimson weed.’ Judge Ballard advises Bigger and Doss, Newton street police officers, to ‘wise up’ on what marihuana cigarets [sic] look like.”<sup>74</sup> Misidentification persisted, however. In 1931, a newspaper reported the arrest of three Mexicans for a “marihuana patch” in Los Alamitos: “From a distance, the plot of lush green vegetation might have been just another patch of spinach, but actually, police discovered, it was marihuana worth between \$50,000 and \$100,000.”<sup>75</sup> *Datura*, with its low growth and broad, dark leaves, would fit the description of spinach from a distance; but tall, narrow-leaved cannabis decidedly would not. A 1936 notice of the start of Narcotic Education Week advised: “If you have a strange looking weed in your backyard with a jimson look about it, tomorrow would be as good a day as any to pluck it out. It could be marijuana, a narcotic, possession of which lays one liable to a heavy fine and jail sentence.”<sup>76</sup> In 1939, a wire service reported that in Palm Springs, archaeologist Paul Wilhelm had “brewed a pot of tea from a desert plant with big green leaves and white flowers, according to an old Indian recipe.”<sup>77</sup> It was surely *datura*, judging from this description and given that Wilhelm and three others who drank it experienced “queer sensations and nightmarish dreams” but according to the report, “the Indian tea plant is a species of the drug weed marijuana.”<sup>78</sup>

### III. FROM BAD TO WORSE: RACIALIZED ENFORCEMENT AND NEW POLICING STRATEGIES

In what might be California’s first effort to compile a statewide statistical report on drug law enforcement, the State Narcotic Committee in 1926 found that marijuana law enforcement was both concentrated in Los Angeles and racialized.<sup>79</sup> The report noted that morphine was the drug that appeared most frequently in the crime statistics they had gathered, but with a strong regional variation: “In the northern part of the state fully 85 per cent [sic] of our arrests involve morphine, but in and around Los Angeles marihuana is so generally used by the Mexican addicts that only about 50 per cent [sic] of the arrests there involve morphine.”<sup>80</sup> While 4% of San

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74. *Yes, It Wasn't Marihuana*, L.A. REC., July 23, 1926, at 1.

75. *Spinach Patch Turns Out to Be Marihuana*, PASADENA POST, July 18, 1931, at 9.

76. *Beware! Odd Weed in Garden May Be Marijuana*, HOLLYWOOD CITIZEN-NEWS, Feb. 21, 1936, at 5.

77. United Press Leased Wire, *Pot of Tea Made from Marijuana Has Kick for Paleface*, WHITTIER NEWS, June 27, 1939, at 1.

78. *Id.*

79. See STATE NARCOTIC COMM., REPORT ON DRUG ADDICTION IN CALIFORNIA 14 (1926).

80. See *id.* at 13–14.

Francisco drug arrests were for marijuana, that figure was 25% in Los Angeles.<sup>81</sup> Under the heading Nationalities, the report read: “It is significant that only 21.5 per cent [sic] of the prisoners sent to San Quentin for violations of our Poison Law, between July 1, 1925, and April, 1926, have Anglo-Saxon names.”<sup>82</sup> Moreover, in Los Angeles, “out of a total of 534 narcotic law violators only 129 or 24 percent were American whites.”<sup>83</sup> From the same set of statistics reflecting a year’s worth of Los Angeles narcotics arrests, 222 were recorded as “Mexican” and 81 as “American (colored).”<sup>84</sup> Other drug law enforcement data gathered by the committee indicated that, compared to San Francisco, Los Angeles arrested about twice as many and sent six times more drug violators to state prison and imposed average city and county jail sentences of almost 300 days versus San Francisco’s 80 days.<sup>85</sup>

At the onset of federal Prohibition in 1929, California revised its marijuana laws in ways that would lead to significant changes in enforcement. The drug’s reputation for violence and the resulting false equivalence between other narcotics and marijuana played out in two significant ways. First, as addicted users of injectable opiates became more visible, California’s Narcotic Act of 1929 provided that a habitual user of narcotics could be charged with vagrancy, punishable by a fine or short stint in jail.<sup>86</sup> In practice, because marijuana was legally considered a narcotic along with opiates and cocaine, this change meant that anyone police suspected of the mere use of opiates *or* marijuana could be arrested, even absent any evidence that drugs were possessed or sold.<sup>87</sup> Ten years later, narcotics addiction was codified as a distinct crime with a mandatory three-month jail sentence.<sup>88</sup> Some proportion of people charged under the addiction law were marijuana smokers who had not even been caught holding. For example, in 1936, Ollie Gray was arrested on the street near his home on Central Avenue when officers suspected him of smoking a marihuana cigarette, but the evidence they procured merely was “a cigaret [sic] holder used for marihuana cigarets [sic].”<sup>89</sup> In 1948, Arnold Rosenberg was arrested “on dope charges” at his home in Hollywood after

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81. *Id.* at 14.

82. *Id.*

83. *Id.*

84. *Id.*

85. *See id.* at 22.

86. *See* ch. 216, sec. 7, 1929 Cal. Stat. 380, 385.

87. *See, e.g., Poison Fags Seized, Police Arrest Pair*, SAN PEDRO NEWS-PILOT, Apr. 12, 1930, at 3.

88. *See generally* Act of July 25, 1939, ch. 1079, 1939 Cal. Stat. 3003.

89. *Police Arrest User of Marihuanas*, CAL. EAGLE, Nov. 13, 1936, at 1.

police found rolling papers but no marijuana.<sup>90</sup> In 1955, 19-year-old Donna Howland, on probation after pleading guilty to marijuana possession, was arrested and jailed for addiction after police found unspecified drug paraphernalia but no drugs in her bedroom.<sup>91</sup>

Second, a state law dating from 1881 that banned opium dens was amended in 1929 to include marijuana.<sup>92</sup> Although this original version of the law had made it a misdemeanor to visit a place for the purpose of smoking a drug,<sup>93</sup> in 1935, another amendment criminalized merely being in any room or place where “narcotics . . . are being or have recently been smoked.”<sup>94</sup> In practice, this meant that police could conduct raids and make mass arrests at any business or private residence where they suspected marijuana had recently been used.<sup>95</sup> Scores of people would be arrested and held “on suspicion” of using marijuana by Los Angeles police and state drug agents over the coming decades. Courts also allowed plea bargaining to this lesser violation when the evidence of possession was scarce.<sup>96</sup>

The fact that marijuana was a smokable drug legally equivalent to all other narcotics enabled lawmakers to revive the opium den statute, rendering homes and businesses the objects of enforcement. Places proved to be more capacious targets than individuals. Beginning in 1930, police conducted “raids” on nightclubs and searched people’s homes for drugs far more often than they previously had.<sup>97</sup> In contrast to the peripheral garden-patch raids that had characterized marijuana enforcement up to this time, this police activity focused on the city center. In 1930, cigar makers Henry Vasquez and Nick Acosta, cook Ellisor Goldesworthy, and seaman Everett Nutter were all arrested downtown when police found a jar of marijuana in their car.<sup>98</sup> In September 1933, state narcotic inspectors arrested seven people at 5120 S. Central Ave., reporting they had found morphine and

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90. See *Police Nab List of Hollywood Drug Smokers*, POMONA PROGRESS BULL., Nov. 4, 1948, at 2.

91. See *Brother Reports Girl, 19, as Probation Violator*, LONG BEACH PRESS-TELEGRAM, Feb. 3, 1955, at 28.

92. See Act of May 4, 1929, ch. 216, § 3, 1929 Cal. Stat. 380, 384.

93. See *id.*

94. Act of July 20, 1935, ch. 813, sec. 5, § 3, 1935 Cal. Stat. 2203, 2207.

95. See, e.g., *Narcotics Officers Nab 12 in Marihuana Inquiry*, L.A. TIMES, July 11, 1943. Nine of the 12 were arrested as they approached the address of the raid. See *id.* At least two were identified as musicians. See *id.*

96. See Lawrence C. Wright, Note, *No Place for “Being in a Place”: The Vanishing of Health and Safety Code Section 11,556*, 23 STAN. L. REV. 1009, 1024 (1971).

97. See, e.g., *infra* sources cited in notes 98–102.

98. See *Suspects Taken in Police Raids*, L.A. TIMES, Feb. 4, 1930, at 22.

cocaine at that address.<sup>99</sup> Two others arrested the same day at 4025 S. Central, Emmett Brassfield and Alonzo Pickard, were charged with possessing and smoking marijuana.<sup>100</sup> Months later, the *California Eagle* reported that 19 people were confined to jail after undercover officers bought two marihuana cigarettes from “peddlers” during a raid at a downtown address.<sup>101</sup> In 1935, state agents and local police raided a Hollywood Boulevard apartment and arrested five men ages 20 to 28, all unemployed and “busily engaged at seeking forgetfulness” by smoking marijuana, according to a news report.<sup>102</sup> State narcotics agents raided a house in East Los Angeles they claimed was a “marijuana factory” where “[r]eefers were being turned out on an assembly line basis.”<sup>103</sup> They seized 88 cigarettes and booked five men ranging in age from 23 to 25: Joe Diaz, Jose Sepulveda, Robert Nunez, Benjamin Moore, and Frank Amador.<sup>104</sup> In 1954, Pasadena police officers arrested and jailed eight residents between the ages of 18 and 24, all with Latino surnames, at a house party after responding to a neighbor’s complaint about cars parked on the street.<sup>105</sup> According to the newspaper report, the arrests were made after some of the guests “came out of the house to take puffs on marijuana cigarettes in the back yard.”<sup>106</sup> The report further noted, “[a]rresting officers fired one shot in attempting to halt the flight of a ‘guest’ who fled when policemen made their presence known.”<sup>107</sup> In 1959, 24 men and one woman were arrested and jailed after deputy sheriffs “infiltrated” a party in Compton and found 15 marijuana cigarettes.<sup>108</sup> That year, state drug agents arrested and jailed 182 residents of Los Angeles in a weekend “roundup” that resulted in confiscating 385 pounds of marijuana.<sup>109</sup>

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99. See *State Dope Inspectors Arrest Nine*, L.A. TIMES, Sept. 23, 1933, at 24. The names of those arrested were John Baber, Ruth Brown, Charles Conley, Louis Hall, Horace Hubbard, Norman Watson, and Lewis Bell. See *id.*

100. See *d.*

101. See 19 “Weed” Smokers Taken in Marihuana Raid, CAL. EAGLE, Dec. 8, 1933, at 1.

102. *Five Men Arrested in Marihuana Raid*, HOLLYWOOD CITIZEN-NEWS, March 5, 1935, at 9.

103. *5 Jailed, Marijuana Seized in Raid at East L.A. Home*, L.A. DAILY NEWS, May 13, 1950, at 2.

104. See *id.*

105. See *Seven Men, Pretty Housewife Jailed in Raid on Pasadena Marijuana Party*, L.A. MIRROR, June 4, 1954, at 4.

106. *Id.*

107. *Id.*

108. See *Narcotics Charge Jails Twenty-Five*, L.A. MIRROR, Apr. 25, 1959, at 4.

109. See *182 Jailed in L.A. Dope Raids*, L.A. CITIZEN-NEWS, Dec. 21, 1959, at 2.

#### IV. CULTURAL CONQUEST: TARGETING THE HIP AND FAMOUS

The Central Avenue entertainment district was subjected to ever more enforcement as it became a nexus of Black struggle and freedom in interwar Los Angeles. During the 1940s, the strip of nightclubs became a jazz music scene to rival Harlem and New Orleans.<sup>110</sup> The Black community in Los Angeles took pride and pleasure in the brilliant headliners on Central, a vibrant place for Black residents to see and be seen at a time when uncodified but very real segregation was enforced by police surveillance, rendering most of the metropolis off-limits to Black citizens.<sup>111</sup> As historian Gary Marmorstein writes, Jim Crow practices in Los Angeles were subtler and therefore “potentially more hateful” than in other regions.<sup>112</sup> Marmorstein writes: “If a [B]lack male was suspected of holding narcotics, spotted driving a car with out-of-state plates, or found consorting with a white woman, he was harassed, if not booked, by the police.”<sup>113</sup> To keep the city’s new suburbs white and crime-free, the city’s vices — gambling, prostitution, narcotics, lewd theater and burlesque, and, during Prohibition, alcohol — were concentrated in the segregated Black section.<sup>114</sup> “Police chiefs, mayors, and beat cops all lined their pockets with protection money paid by madams, pimps, saloon owners, lottery purveyors, alcohol makers, and drug distributors in Los Angeles,” historian Kelly Lytle Hernandez writes.<sup>115</sup> “Central Avenue, the center of vice, was the center of the [Los Angeles Police Department’s (LAPD)] protection racket.”<sup>116</sup> The Black sections of Central Los Angeles endured corrupt and racist policing even as its clubs and musicians drew widespread critical acclaim and patrons from across the metropolis.

In November 1930, before the Great Depression froze the entertainment district for a long decade, jazz superstar Louis Armstrong and drummer Vic Berton were arrested, reportedly in possession of “several” marijuana cigarettes outside the Cotton Club in Culver City.<sup>117</sup> As the *California Eagle* reported, at the time of Armstrong’s arrest, he was wrapping up a wildly successful run of live performances but declined to sign a contract

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110. See Gary Marmorstein, *Central Avenue Jazz: Los Angeles Black Music of the Forties*, 70 S. CAL. Q. 415, 415 (1988).

111. See *id.* at 419.

112. See *id.*

113. *Id.* at 418–19.

114. See KELLY LYTLE HERNÁNDEZ, *CITY OF INMATES: CONQUEST, REBELLION, AND THE RISE OF HUMAN CAGING IN LOS ANGELES, 1771–1965*, at 167 (2017).

115. *Id.* at 168.

116. *Id.* at 168.

117. See *Two Arrested with Marihuana*, L.A. REC., Nov. 14, 1930, at 2.

extension with the club's owner.<sup>118</sup> He was convicted and, on March 10, 1931, was sentenced to 30 days in the county jail.<sup>119</sup> Reportedly, he was released on parole after nine days.<sup>120</sup> A single arrest of an influential person such as Armstrong, who became an international advocate for racial equality, could launch a lifetime of scrutiny. In 1953, Armstrong's wife, Lucille, was arrested and charged with smuggling after U.S. Customs agents reportedly found less than a gram of marijuana in her luggage as the couple flew into Hawaii from Tokyo, where Armstrong's band had been playing a month-long tour, including shows for U.S. and United Nations troops.<sup>121</sup> Though she denied using or possessing the drug, she pleaded guilty in exchange for a \$200 fine, which a federal judge reduced to \$100 in light of Louis's charity performance for the March of Dimes two days earlier.<sup>122</sup> Still, the judge grilled Lucille about her ability to pay the fine, forcing her to confess she would pay it out of the allowance given by her husband.<sup>123</sup>

Back in Los Angeles, the local press stood ready to assist in the anti-reefer campaign. "There probably is more marihuana smoking among Negroes than in any other racial group," mused Robert C. Brownell for the *Los Angeles Daily News* in one article of a multi-part series on marijuana in 1938.<sup>124</sup> Brownell wrote: "Negro marihuana smokers generally have little trouble spotting a 'reefer man' on Central Avenue. The peddlers pound the pavement almost continuously."<sup>125</sup> Another installment published two days later was devoted to explaining how the popularity of jazz music among young people was a dangerous inducement to marijuana use among children — with its "false glamour," Brownell wrote, exemplified by the drug's "many picturesque and fanciful names, the aura of recklessness so easily associated with it, the fact that jazz musicians are heavy users of it."<sup>126</sup> However, law enforcement and "the tanks of Los Angeles jails" told a different story, Brownell concluded of "shame, crime, and spilled blood"

118. See "King of Trumpet" Gets 30 Days in Jail, CAL. EAGLE, Mar. 13, 1931, at 1.

119. See *id.*

120. See *Louis Armstrong Trumpet King Wins Parole*, CAL. EAGLE, Mar. 27, 1931, at 1.

121. See *Musician Armstrong's Wife Held on Marihuana Charge*, HONOLULU STAR-BULL., Dec. 31, 1953, at 1.

122. See *Lucille Armstrong Is Fined \$200 on Marihuana Charges*, HONOLULU STAR-BULL., Jan. 6, 1954, at 3.

123. See *id.*

124. Robert C. Brownell, *Marihuana Users, Peddler Face Felony Accusation*, L.A. DAILY NEWS, June 8, 1938, at 6.

125. *Id.*

126. Robert C. Brownell, *Swing Band Marihuana Use Attracts Youth to Habit*, L.A. DAILY NEWS, June 10, 1938, at 10.

as “the facts behind the fiction.”<sup>127</sup> After U.S. Commissioner of Narcotics Harry Anslinger was quoted as saying, “[w]e have been running into a lot of (marijuana) traffic among these jazz musicians, and I am not speaking about the good musicians, but the jazz type,” *Los Angeles Mirror* columnist Bill Driggs lamented: “It is a shame that a whole industry has to be branded as marijuana smokers just because a prominent musician is caught in the act on occasion.”<sup>128</sup>

In 1945, the immensely popular jazz pianist Eddie Heywood and another orchestra member were arrested outside a café off Sunset Boulevard for allegedly smoking marijuana.<sup>129</sup> Cuban-born band leader Nilo Menendez was arrested at a nightclub in Hollywood for possession in 1944.<sup>130</sup> By the 1940s, police were waging a proxy war on the Los Angeles music scene by way of Hollywood, where a number of arrests of musicians and other entertainers all seemed to involve house searches by police. In 1944, two musicians were arrested and jailed after a search of their Hollywood apartment turned up marijuana.<sup>131</sup> In 1947, three musicians, one of them a member of Benny Goodman’s orchestra, were arrested during a Hollywood raid in which police said they found \$500 worth of marijuana.<sup>132</sup> When 23-year-old saxophone player named Raymond Ashe was arrested in Culver City on Christmas Eve 1947, police said that Ashe was apprehended nude and that nudity was a common characteristic of marijuana users.<sup>133</sup> Guitar player Joe Lewis was arrested during a raid that year on a Central Avenue club when police claimed to find marijuana in his instrument case, but he was acquitted after his attorney argued the drug could have plausibly belonged to someone else.<sup>134</sup>

Jazz vocalist Anita O’Day was 27 years old when she and her husband were arrested at their North Hollywood home after police searched it and found a sack of marijuana in 1947.<sup>135</sup> Both were convicted and sentenced

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127. *Id.*

128. Bill Driggs, *Biggest-“Square”-Of-The-Week*, L.A. MIRROR, Mar. 2, 1949, at 18.

129. *See Marihuana Case Complaint Issued*, HOLLYWOOD CITIZEN-NEWS, June 15, 1945, at 1.

130. *See Menendez to Answer Marihuana Charges*, EVENING STAR-NEWS, Nov. 25, 1944, at 1.

131. *See 2 Hollywood Musicians Held on Dope Charge*, HOLLYWOOD CITIZEN-NEWS, Feb. 29, 1944, at 3.

132. *See Three Band Musicians Seized in Dope Raid*, L.A. TIMES, Jan. 28, 1947, at 2.

133. *See Marihuana Addict Arrested Here*, EVENING VANGUARD, Dec. 25, 1947, at 1.

134. *See Musician Freed on Dope Charge*, CAL. EAGLE, June 12, 1947, at 4.

135. *See Marihuana Causes Arrest of Woman Singer and Mate*, L.A. TIMES, Mar. 23, 1947, at 14.

to 90 days in jail, but O'Day was swiftly released.<sup>136</sup> In 1952, O'Day was again arrested and jailed as she drove away from a Central Avenue venue where she had just performed, a patrolman claiming she had thrown a marijuana cigarette from the window of her car.<sup>137</sup> Police searched her car and questioned and searched her two companions, a pianist and a trumpet player, but found nothing.<sup>138</sup>

Howard McGhee, a popular and innovative jazz band leader, was arrested at home along with his wife, Dorothy, and singer W.L. Jones in May 1947.<sup>139</sup> The charges against the couple were dismissed after attorney Walter L. Gordon, Jr. argued the arresting officers, having first apprehended the couple at a theater together the night before the search and arrests, were persecuting them on account of their interracial marriage.<sup>140</sup> However, Jones was convicted after the court determined he had allowed others to smoke marijuana at the McGhee home.<sup>141</sup> Claiming to have received a call from a neighbor about a domestic disturbance, police arrived at the home of Leslie Jenkins, a trombonist playing the Palladium, and his younger wife, June.<sup>142</sup> Both were arrested for the possession of marijuana seeds.<sup>143</sup>

The press vigorously covered the arrest, trial, and incarceration of film star Robert Mitchum and actress Lila Leeds in autumn 1948.<sup>144</sup> Police detectives reportedly “crashed into” Leeds’ home shortly after midnight to find the 20-year-old with a marijuana cigarette in her mouth.<sup>145</sup> Police said the Federal Bureau of Narcotics had been working with them for eight months on an “investigation of filmland personalities.”<sup>146</sup> Mitchum and Leeds were convicted of conspiracy to possess narcotics and sentenced to 60 days in jail, with the judge’s reproach that Mitchum had “over-looked the responsibility that goes along with his prominence.”<sup>147</sup>

136. See *Anita O'Day Freed to Await Appeal*, HOLLYWOOD CITIZEN-NEWS, Aug. 14, 1947, at 21.

137. See *Singer Jailed on Marijuana Count*, L.A. TIMES, Oct. 16, 1952, at 5.

138. See *id.*

139. See *Narcotic Raid Jails Three*, L.A. TIMES, May 15, 1947, at 12.

140. See *McGhee Freed of Dope Charge Assails Racists*, CAL. EAGLE, July 10, 1947, at 3.

141. See *Pair Acquitted on Dope Charge*, SW. WAVE, July 6, 1947, at 1.

142. See *Musician and Wife Held for Marihuana Inquiry*, L.A. TIMES, Aug. 20, 1947, at 2.

143. See *id.*

144. See, e.g., *infra* notes 145–47.

145. See *Film Star Set Free on Writ in Dope Case*, HOLLYWOOD CITIZEN-NEWS, Sept. 1, 1948, at 3.

146. *Id.*

147. *Mitchum, Lila Leeds Go to Jail for Sixty Days*, HOLLYWOOD CITIZEN-NEWS, Feb. 9, 1949, at 1.

Actors Lorna Gray and Duke Taylor were arrested in 1945.<sup>148</sup> A police detective reportedly appeared at Taylor's Beverly Hills house and convinced Gray he was a casting director so that she would unlock the door, at which point the officers pushed in, conducted a search, and collected as evidence small jars of marijuana and cigarette butts bearing lipstick.<sup>149</sup> Radio and film actor Huntz Hall was arrested in 1948 after detectives peered into his back yard and reportedly saw him stash marijuana under a tree.<sup>150</sup>

In 1954, state narcotic inspectors made a high-profile arrest of jazz pianist George A. Hormel II, heir to a meat-packing fortune, who happened to be dating Puerto Rican-born, Brooklyn-raised actress Rita Moreno at the time.<sup>151</sup> According to news reports, the agents stopped Hormel's car in front of his house in Laurel Canyon and searched it, finding 13 marijuana cigarettes under the visor.<sup>152</sup> Hormel then allowed the officers into his house, where Moreno was sleeping on a couch; when they woke her up and asked to search her bag, she refused, reportedly slapping and kicking one of them and demanding a search warrant.<sup>153</sup> They searched her bag anyway and, finding nothing, took Hormel to jail. The following day the agents, Matthew O'Connor and John O'Grady, said they would seek to charge Moreno with impeding a felony investigation and assaulting an officer. Appearing at a press conference hastily arranged by her studio, the actress apologized and said the officers were not in uniform and did not show their badges. When they said they were O'Grady and O'Connor, "I thought it was a gag," she said.<sup>154</sup> The city attorney declined to file the charges sought against Moreno,<sup>155</sup> but Hormel was facing up to 10 years in prison for marijuana possession,<sup>156</sup> not to mention forfeiture of the "snazzy" car he had been driving that night, registered to Hormel, Inc.<sup>157</sup> At trial, he

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148. See *Lorna Gray and Duke Taylor Arrested in Marihuana Raid*, L.A. DAILY NEWS, Mar. 5, 1945, at 2.

149. See *id.*

150. See *'Dead End Kid' Held in Narcotics Raid*, L.A. TIMES, Oct. 29, 1948, at 2.

151. See *Heir Hormel Held on Dope Charge*, L.A. TIMES, Sept. 20, 1954, at 1.

152. See *id.*

153. See *Actress Rough, Say Police in Hormel Arrest*, HOLLYWOOD CITIZEN-NEWS, Sept. 20, 1954, at 1.

154. *Id.* at 3.

155. See *Rita Moreno Wins Second Round and Bout from Police*, L.A. DAILY NEWS, Oct. 1, 1954, at 2.

156. See Act to Amend the Health and Safety Code, ch. 1770, sec. 6, 1953 Cal. Stat. 3525, 3526 (providing a state prison term of up to 10 years upon conviction for possession of any narcotic).

157. See *Hormel Auto Seizure Sought in Dope Case*, L.A. TIMES, Oct. 20, 1954, at 20; see also *Hormel II Seized on Reefer Rap*, L.A. DAILY NEWS, Sept. 20, 1954, at 1, 42 (referring to the car as "snazzy").

testified that the narcotic agents had framed him by coercing the bassist in his three-piece jazz band, who was facing a different drug charge, to set up circumstances in which Hormel appeared to buy the joints; after Hormel's arrest, the agents told him they would keep his case out of the public eye if he recited a confession that implicated a different man as the drug seller.<sup>158</sup> Hormel was acquitted by a jury, but a few days later, someone shot a bullet hole in his living room window as he spoke on the phone.<sup>159</sup>

The attempt to purge Central Avenue and Hollywood of marijuana use extended to lesser-known workers in the entertainment industry, which in Los Angeles was a thriving culture-machine that included not only music venues and the film industry but also vaudeville and theater houses on Main Street, off Broadway. A performer's lack of fame was no guarantee of privacy from the LAPD vice squad and narcotics agents, state and federal. This type of enforcement began at the high noon of Prohibition, the mid-1920s, when Christian moral reformers with wind at their backs sought censorship of not only vice and sex but also representations of them on stage and screen. In 1926, as reported in the *Los Angeles Evening Express*, the police vice squad battered down the doors of a "luxuriously furnished" apartment and arrested two men and three women, one of whom was "a former Follies girl,"<sup>160</sup> a dancer or chorus girl in risqué stage shows. The three women and one of the men were charged with "various counts ranging from possession of liquor to possession of narcotics," while "Henry Rodriguez, alias Sequando Henriquez, alias Chilean," was charged with the sale of narcotics and vagrancy, according to the writer.<sup>161</sup>

In 1936, police claimed they had interrupted the primary source of Hollywood's marijuana<sup>162</sup> by arresting a young burlesque dancer and her husband, an emcee, though the officers had seized only two marijuana cigarettes during a search of the couple's home.<sup>163</sup> Bert Lane and Carol Saunders, two 21-year-old entertainers, were arrested and jailed after a raid on their apartment, after which the officers launched a search for Lane's husband, reported to be the "head of a nationwide marijuana ring,"<sup>164</sup> although the evidence consisted of 10 cigarettes and a "small can of the

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158. *See Hormel Asserts Officers Coached His 'Confession,'* L.A. TIMES, Jan. 8, 1955, at 6.

159. *See Police Probe Bullet Fired at Hormel,* HOLLYWOOD CITIZEN-NEWS, Jan. 19, 1955, at 1.

160. *Ex-Follies Girl Nabbed in Raid by Vice Squad,* L.A. EVENING EXPRESS, Oct. 23, 1926, at 4.

161. *Id.*

162. *See Marihuana Supply Stopped by Raid,* W. L.A. INDEP., Apr. 10, 1936, at 6.

163. *See Dancer Battles Dope Charges,* L.A. DAILY NEWS, Apr. 8, 1936, at 7.

164. *Alleged Narcotics Ring Chief Held for Trial in L.A.,* L.A. DAILY NEWS, May 6, 1938, at 17.

weed.”<sup>165</sup> In 1944, a waiter, a dancer, a soldier, and a woman named Vivian Wright were arrested and jailed in a “roundup” in which evidence consisted only of marked money given to Wright by a tap dancer.<sup>166</sup> A few months later, Santa Monica police said they had investigated for two months before arresting seven people — an aircraft worker, a busboy, a waiter, a bartender, a waitress, a carhop, and a nightclub singer, ranging from 21 to 31 years old. Confiscating “several jars of dried marihuana, some cigarettes, some seed and a small marihuana plant,” they arrested all seven for possession.<sup>167</sup> In 1945, detectives kicked in the door of a Sunset Boulevard apartment and arrested two singers, Robert Paul Hughes and Ila E. Tims; later that night, they arrested a railroad employee and his wife in the same building.<sup>168</sup> In 1947, 180 police officers, accompanied by newspaper photographers, staged a mass raid targeting five popular nightclubs in the Central Avenue area: Casa Blanca, Club Joy, Café Society, Café Zombie, and Lovejoy’s.<sup>169</sup> Some 200 people were detained and searched at one location, and 42 people were arrested and jailed, including five arrests related to marijuana.<sup>170</sup>

Naomi Hunter, a 22-year-old nightclub photographer, was arrested with eight others in a raid on a house party, which police said was executed after they eavesdropped on attendees discussing the Mitchum/Leeds case.<sup>171</sup> Hunter was charged with possession of marijuana after police said her lipstick matched marks found on two marijuana cigarette butts they found at the party.<sup>172</sup> All others were released except for Kary Washington, a 31-year-old Black waiter who was hosting the party; Washington was still awaiting sentence when Hunter received a 90-day term in the county jail.<sup>173</sup> In 1948, two police detectives reported that Carol Dunbar, “a 20-year-old model clad in a blue bathrobe,” admitted them to her apartment, where they found 40 marijuana cigarettes and a “little black book” containing the names of “numerous Hollywood celebrities.”<sup>174</sup> She was arrested along with her boyfriend, a salesman, and a 31-year-old singer.<sup>175</sup> In 1955,

165. *Marijuana Raid Nets Two Girls*, L.A. TIMES, Apr. 24, 1938, at 18.

166. *See Four Jailed as Suspects in Narcotics Case*, HOLLYWOOD CITIZEN-NEWS, Feb. 12, 1944, at 2.

167. *Seven Taken in Raid and Marihuana Seized*, L.A. TIMES, June 10, 1944, at 12.

168. *See Two Couples Booked on Marihuana Charges*, L.A. TIMES, Mar. 20, 1945, at 2.

169. *See Police Jail 42 in Raids on Crowded Night Spots*, L.A. TIMES, Mar. 30, 1947, at 4.

170. *See id.*

171. *See Nine Arrested in Marijuana Party Raid*, L.A. DAILY NEWS, Sept. 8, 1948, at 3.

172. *See Lipstick Clue Jails Woman*, 22, L.A. DAILY NEWS, Mar. 2, 1949, at 41.

173. *See Camera Girl Given Term for Marijuana Party*, L.A. TIMES, Mar. 3, 1949, at 12.

174. *Marihuana Raid Traps Woman and Two Men*, L.A. TIMES, Nov. 5, 1948, at 5.

175. *See id.*

popular cabaret performer and occasional film actress Frances Faye was arrested after police broke down the door to her home in the Hollywood Hills and found marijuana cigarettes in her coat pocket and marijuana in a plastic container.<sup>176</sup> Three men also were arrested at the residence, including singer Jerome Raff, and all four were booked on felony possession charges.<sup>177</sup> Sandra Maazel, a model who had been a child actress and violin prodigy, was arrested in Beverly Hills in 1957 when state drug agents crashed into a party and located one joint; she and four others were taken to jail, but only her photo appeared in the newspaper, snapped while she was questioned by a suit-wearing agent as she sat in the squad car.<sup>178</sup>

Meanwhile, the campaign against Latino residents for growing, using, and selling marijuana continued. The *Los Angeles Record* described the arrest of Martin Torres, Vasquez Leon, and Trinidad Roa in 1931: “Swooping down upon a farm in the Los Alamitos district, east of Long Beach, detectives of the Los Angeles police narcotic detail confiscated two tons of flourishing green marihuana, valued at approximately \$75,000.”<sup>179</sup> In 1931, officials in Santa Monica sought to have A. Covian, a shoemaker, deported after his arrest for selling marijuana cigarettes to schoolboys.<sup>180</sup> Police claimed Covian was suspicious because there had been a fire at his store months earlier; otherwise the only evidence in the case seemed to be the accusation of a 14-year-old that Covian had given a cigarette to the boy’s younger brother.<sup>181</sup> In spring 1933, police arrested Frank Miranda, a laborer, after finding nine marijuana plants growing in his cornfield.<sup>182</sup> A 1935 news report described marijuana seized at the Montebello home of Alvarado Martinez as the pride of the 74-year-old man’s garden, “where he watered and tended it carefully.”<sup>183</sup> In 1936, the seizure of 200 pounds of marijuana growing between rows of corn in resulted in the booking of four suspects — Carlos Ortega, Gilriaca Morales, and Tony and Ramona Guevara — into the Van Nuys Jail, although “[a]nother man, believed to be the owner of the ranch, escaped.”<sup>184</sup> The following month, police arrested Salvador Reyes at an East Los Angeles address and confiscated 500 pounds

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176. See *Frances Faye, 3 Men Seized in Dope Case*, L.A. TIMES, Jan. 20, 1955, at 12.

177. See *id.*

178. See *Five Seized in Hollywood Marijuana Party Raid*, L.A. TIMES, May 6, 1957, at 22.

179. *Raid Dope Farm*, L.A. REC., July 18, 1931, at 3.

180. See *Suspect May Be Deported*, L.A. TIMES, Apr. 15, 1931, at 10.

181. See *id.*

182. See *Find Marahuana*, SAN PEDRO DAILY PILOT, May 13, 1933, at 2.

183. *Suspect Nabbed in Huge Haul of Marihuana*, L.A. DAILY NEWS, Sept. 13, 1935, at 11.

184. *Raid Nets Marihuana*, L.A. TIMES, July 30, 1936, at 8.

of marijuana growing between corn stalks.<sup>185</sup> In 1938, San Bernardino residents Manuel and Marie Villegas and Antonio Cruiz were each sentenced to eight months in jail after police found a patch of marijuana growing in a flower garden behind the Villegas home.<sup>186</sup> Also that year, police arrested a family of four — 58-year-old Elizabeth Castro and her children Autora, Manuel, and Onesimo, ages 18, 25, and 27, respectively — for selling marijuana cigarettes.<sup>187</sup> The district attorney asserted that the Castro family sold as many as 1,000 each day for 25 cents each.<sup>188</sup> In San Bernardino in 1943, George Adalid, 43, and Mercedes Gonzales, 70, were accused of raising a crop of marijuana in a “camouflaged Victory garden” in San Bernardino.<sup>189</sup> According to a news report: “Borders of the lot were planted with several rows of corn while the center rectangle contained marihuana.”<sup>190</sup> Pomona’s chief of police said in 1950 that 21-year-old Joe Mario Lopez had confessed to tending a marijuana patch on a steep hillside in Ganesha Park.<sup>191</sup> The weed was surrounded by poison ivy, which provided cover for the illegal plant, the chief said.<sup>192</sup> Lopez and two friends had been arrested after police found marijuana cigarettes in the backseat of a car; imprisoned on a Sunday and unable to pay \$1,000 each in bail, they remained in the county jail on Thursday awaiting a preliminary hearing the following Tuesday.<sup>193</sup>

The apparently anti-Mexican posture of marijuana law enforcement in Los Angeles reflected a broader civil rights struggle. Developing a political identity in the 1940s, the city’s Mexican Americans struggled to gain access to education and the polls, but they also protested a barrage of police brutality incidents, recorded in Spanish-language newspapers.<sup>194</sup> To ward off accusations of official racial violence, the old tropes about marijuana effects could easily be invigorated. During the “Zoot suit riots” of 1943, white servicemen attacked and beat Mexican Americans, while police were reported to allow the beatings and even sometimes participate.

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185. See *Marihuana Raid Nets Dope Worth \$2500*, L.A. DAILY NEWS, Aug. 5, 1936, at 3.

186. See *3 Sentenced for Cultivation of Marihuana Plants*, L.A. DAILY NEWS, Aug. 9, 1938, at 6.

187. See *Four Arrests Made in Marijuana Raid*, L.A. TIMES, July 30, 1938, at 7.

188. See *id.*

189. See *Marihuana Raid Made*, L.A. TIMES, Oct. 7, 1943, at 15.

190. *Id.*

191. See *Trio Arrested; Police Find Source of Marijuana Here*, POMONA PROGRESS BULL., Aug. 24, 1950, at II-1.

192. See *id.*

193. See *id.*

194. See EDWARD J. ESCOBAR, RACE, POLICE, AND THE MAKING OF A POLITICAL IDENTITY: MEXICAN AMERICANS AND THE LOS ANGELES POLICE DEPARTMENT, 1900–1945 137–38 (1999).

These race riots began with white servicemen seeking out *pachucos*, young Mexican Americans who wore an exaggerated form of business attire adopted to protest the housing and employment discrimination that kept them marginalized and confined to blighted sections of the city.<sup>195</sup> In the days following this pogrom, narcotics police used marijuana mythology to support claims that the zoot suiters, not the servicemen instigated the riots.<sup>196</sup> State narcotics officer R.A. Sanford and the captain of the LAPD narcotics squad said that the Mexican Americans had been “hopped up with marihuana cigarets [sic],” according to the *Los Angeles Daily News*, and that the leaders of the “hoodlum gangs” all had records of arrest for possession or sale of marijuana.<sup>197</sup> Sanford reportedly said: “The wanton savagery of their attacks, and the sadistic torturing of their victims, indicated the widespread use of these marihuana reefers.”<sup>198</sup> This reference to marijuana violence deflected the fact that its ostensible users were not the aggressors and ignored mounting evidence that servicemen were ever more frequently caught smoking “reefers” themselves.

#### V. ESCALATION OF UNCONSTITUTIONAL ENFORCEMENT

The Los Angeles County District Attorney’s office reported that in 1950 it prosecuted 1,029 narcotics cases, 615 of which were marijuana cases and 414 of which were “heroin, opiates, cocaine and others, excluding marijuana cases.”<sup>199</sup> Marijuana defendants’ average age was 26, and defendants were classified in racialized terms as: Caucasian, 209; Caucasian Mexican Descent, 217; Negro, 186; Oriental, 3.<sup>200</sup> According to the U.S. Census, the county’s residents were 5% Black in 1950;<sup>201</sup> and the 1930 Census, the only one to include “Mexican” as a category, had recorded that the county’s residents were 7.5% Mexican.<sup>202</sup> Notwithstanding the numerous knowledge gaps with regard to historical demographics and crime statistics, such snapshots of lopsided enforcement would become more frequent through the 1950s, as L.A. Police Chief William H. Parker sought to employ racialized enforcement data as evidence that minority citizens were prone to crime. Marijuana enforcement during Parker’s tenure from 1950 to 1965 was a whole new

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195. *See id.* at 156, 199–201

196. *See 6-Day Zoot War Hospitalizes 112*, L.A. DAILY NEWS, June 10, 1943, at 10.

197. *Id.*

198. *Id.*

199. EVALUATION OF NARCOTIC PROSECUTIONS, *supra* note 6, at 2.

200. *See id.*

201. *See Historical Census Racial/Ethnic Numbers in Los Angeles County 1850 to 1980*, *supra* note 7.

202. *See id.*

ball of wax that included steep increases in state drug sentences championed by voters in the white L.A. suburbs. Already racialized by 1950, drug law enforcement would sharply escalate in both the severity of punishment and in the violence of day-to-day enactment.

The targeting of marijuana law enforcement at particular groups in Los Angeles is striking enough, but the increasingly invasive and brutal tactics employed by police in pursuit of nonviolent suspects also begs notice. Forcible use of a stomach pump is an apt, if nauseating, example. Given that marijuana convictions carried the same penalties as those for heroin or cocaine, people often swallowed it to avoid letting drug evidence fall into the hands of police. In 1944, James Taylor, 20, reportedly swallowed five marijuana cigarettes during his arrest with two others, Ignacius Marquez and Ray Obregon.<sup>203</sup> Police obtained the evidence after Taylor's stomach was pumped at a nearby hospital.<sup>204</sup> In Los Angeles, the use of a stomach pump by police to remove drugs from a person's body dates back to the turn of the century, but it originally was an emergency medical procedure in cases of accidental poisoning and suicide.<sup>205</sup> Enforcers first used stomach pumping not to save a life but to collect evidence in alcohol prohibition cases.<sup>206</sup> Los Angeles police embraced this new use of old medical technology, employing it to gather other forms of evidence from suspects' stomachs as well.<sup>207</sup> In 1925, a man swallowed a \$2 bill he had received in exchange for illicit morphine he had sold to an undercover officer, once he realized who the buyer was.<sup>208</sup> The bill was marked; the officer had the man's stomach pumped, and the vomited bill, still readable, was accepted as evidence by the superior court.<sup>209</sup> In 1929, a stolen diamond was pumped from a burglar's stomach.<sup>210</sup> In 1931, detectives at a Pasadena department store detained a woman for passing two bad checks; after she swallowed the checks in the patrol car, police had her stomach pumped and retrieved them as evidence.<sup>211</sup> That year, after selling a gallon

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203. See *Three Marijuana Suspects Held*, CITIZEN-NEWS, Oct. 21, 1944, at 2.

204. See *id.*

205. See, e.g., *Big Dose of Morphine: A Young Man Takes Eighty Five Tablets*, L.A. TIMES, Jan. 25, 1895, at 12; *Tired of Life: Because of Alleged Cruelty a Woman Takes a Large Dose of Morphine — Saved by Stomach Pump*, L.A. TIMES, Dec. 27, 1900, at 9.

206. See, e.g., *Stomach Pump Reveals Liquor Sale Evidence*, L.A. TIMES, Sept. 8, 1931, II-2.

207. See *Pump Brings Up Two Checks from Tummy*, L.A. TIMES, Dec. 20, 1931, at 14; see also *Pump Proves Stomach to Be Diamond Mine*, L.A. TIMES, Feb. 5, 1929, at 5.

208. See *Bill Eaten but Hoodoo on It Stays: Stomach Pump Rescues Money and Prisoner Faces Drug Charge Trial*, L.A. TIMES, Nov. 20, 1925, at 7.

209. See *id.*

210. See *Pump Proves Stomach to Be Diamond Mine*, *supra* note 207.

211. See *Pump Brings Up Two Checks from Tummy*, *supra* note 207.

of moonshine for \$5 to an undercover policeman, a man swallowed the marked bill and later had it forcibly removed.<sup>212</sup>

As the police used the stomach pump more frequently to procure drug evidence, this harshly invasive technique drew unwelcome attention. In 1944, state narcotic agents induced San Francisco resident Frank Williams to submit to a stomach pump, and a chemical analysis showed the presence of marijuana.<sup>213</sup> In a forfeiture proceeding against Williams' car, a superior court refused to accept the jar of stomach contents as evidence, accepting Williams' argument that the procedure had compelled him to be a witness against himself.<sup>214</sup> When a California appeals court reversed in 1946 and granted the state drug agency ownership of the car, it explicitly declined to decide whether the Constitution permitted stomach pumping as a law enforcement technique, ruling instead that even if the evidence had been obtained illegally, it remained admissible in California courts anyway.<sup>215</sup> Afterward, California Attorney General Robert Kenny reported that stomach pump evidence had been ruled admissible, not that it might be unconstitutional.<sup>216</sup>

Perhaps Kenny's statement served as a green light to Los Angeles drug warriors. In 1947, the LAPD narcotics division ordered a stomach pump and retrieved a marijuana cigarette as evidence after arresting a 34-year-old mechanic.<sup>217</sup> In 1948, Los Angeles police said they used a stomach pump on 24-year-old Lawrence Haley in order to retrieve two marijuana cigarettes he swallowed after police found them in the man's glove compartment.<sup>218</sup> In 1949, state and local narcotics police had 19-year-old Marcus Perez Duran's stomach pumped based on an officer's claim that he saw the suspect swallow something. The contents were turned over to a lab to determine whether they contained marijuana.<sup>219</sup>

In 1951, the "dope squad" of the LAPD arrested 22-year-old William Ingram for possession of a marijuana cigarette. They claimed to have surprised the man with his hand cupped over a cigarette, but failing to retrieve the item in spite of grabbing him by the throat, they had his stomach forcibly pumped. When this also did not produce the sought

212. See *Stomach Pump Reveals Liquor Sale Evidence*, *supra* note 206.

213. See *People v. One 1941 Mercury Sedan*, 168 P.2d 443, 444–45 (Cal. 1946).

214. See *id.* for a recitation of the facts of the Williams case.

215. See *id.* at 452.

216. See *Capitol Chuckles*, SANTA CRUZ SENTINEL, June 2, 1946, at 9 (noting briefly Kenny's report and describing the Williams case as an amusing curiosity).

217. See *Stomach Pump Saves Evidence*, L.A. TIMES, June 13, 1947, at 2.

218. See *Stomach Pump Retrieves Swallowed Marijuana*, VENTURA CTY. STAR-FREE PRESS, Feb. 7, 1948, at 1.

219. See *Stomach Pump Is Used on Accused Marijuana Gulper*, FRESNO BEE, Dec. 2, 1949, at 25.

evidence, another officer claimed to have retrieved a wet cigarette from the scene, which he introduced as evidence.<sup>220</sup> Dismissing the case against Ingram, Superior Judge William B. Neely said that two officers had recently told him:

[T]hey were going to get around the ‘torture’ claim in these narcotics cases by testifying that in instances where they forced a subject to submit to . . . stomach pumping, they would testify they had done so for fear he might be poisoned and that they were acting to save his life.<sup>221</sup>

Judge Neely said that he replied he would not believe any such claim from any officer and concluded: “Today we have that situation. I find the defendant not guilty.”<sup>222</sup> During the arrest that led to the U.S. Supreme Court ruling in *Rochin v. California*, Los Angeles County sheriff’s deputies choked and punched a man they saw swallow two capsules of morphine, then transported him to a hospital and forced him to vomit.<sup>223</sup> The recovered pills secured Rochin’s conviction, much to the evident disgust of the superior court judge who issued the ruling, but noted that he hoped Rochin’s conviction would be reversed on appeal.<sup>224</sup> The appellate judge affirmed the conviction but shared the superior court judge’s disgust with the case and recommended that Rochin file a civil action for damages against law enforcement.<sup>225</sup> The district court opinion characterized the deputies’ actions as assault and battery, torture, and false imprisonment.<sup>226</sup>

Lawyers began to develop arguments to protect their clients from other methods used to get marijuana evidence. In a 1956 handbook titled *Defense Investigation*, Edward N. Bliss, Jr., chief investigator for the Los Angeles County Public Defender, devoted the section on narcotics exclusively to case studies involving police seizure of marijuana cigarettes.<sup>227</sup> The cases studies included in the book indicate that marijuana charges often relied on warrantless searches and officers’ testimony that they had seen a suspect smoking.<sup>228</sup> Frank Gonzales and two acquaintances were arrested in a backyard at night by officers who claimed to recover a dropped cigarette at the scene, but the other two men

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220. *Judge Attacks Police Methods in Dope Case*, L.A. TIMES, Jan. 27, 1951, at 7.

221. *Id.*

222. *Id.*

223. 342 U.S. 165, 166, 172 (1952) (ruling that the forcible pumping of Rochin’s stomach “shock[ed] the conscience” and therefore violated his right to due process).

224. *See Court Upholds Officers Who ‘Invaded’ Stomach*, L.A. TIMES, Oct. 29, 1949, at 15.

225. *See People v. Rochin*, 225 P.2d 1, 3 (Cal. Dist. Ct. App. 1950).

226. *See Use of Force to Obtain Evidence Hit by Court*, L.A. TIMES, Dec. 13, 1950, at 11.

227. EDWARD N. BLISS, JR., *DEFENSE INVESTIGATION* 274–80 (1956).

228. *See id.*

were released while Gonzales was booked into jail — he was the only one with a prior record,<sup>229</sup> which the courts considered probable cause for the arrest. George Smith, on probation, was arrested when police searched his home without warning in the early morning and found a marijuana cigarette between his mattress and box springs.<sup>230</sup> Smith’s wife later admitted to planting the evidence and tipping off the police.<sup>231</sup> Joe Martinez denied he ever smoked anything at all and was only walking through the Plaza in downtown Los Angeles when police arrested him for smoking marijuana, again producing a discarded cigarette as evidence.<sup>232</sup> Bliss contacted Martinez’s employers who swore “the defendant was a well-behaved boy, worked steadily and didn’t smoke at all.”<sup>233</sup> Manuel Hernandez was charged with possession of a marijuana cigarette; despite inadequate lighting in the neighborhood at the time of arrest and a co-defendant verifying that he, not Hernandez, possessed marijuana, Hernandez was found guilty and sentenced to ninety days in the county jail.<sup>234</sup>

For the most part, judges and juries seemed uncritically to accept the testimony of police officers in drug cases, judging by the frequency with which suspects confessed damning information to the police. In 1951, Alego R. Felix was sentenced to prison after he had confessed to smuggling marijuana across the Mexican border to sell in Los Angeles,<sup>235</sup> and Charles Silva confessed to selling cannabis in five Los Angeles high schools for four years.<sup>236</sup> Besides breaking down the doors of Hollywood celebrities and Eastside laborers and tricking people into opening their doors to officers, enforcers used other types of subterfuge and force. In 1954, two city detectives convinced Harold Eugene Hill’s landlord to let them into an upstairs apartment to search for marijuana; finding none, they waited for his return.<sup>237</sup> When Hill opened the door, saw the men, and turned to flee, one of the detectives shot him in the back with a shotgun and killed him.<sup>238</sup>

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229. *See id.* at 274–75.

230. *See id.* at 275–76.

231. *See id.*

232. *See id.* at 277.

233. *Id.*

234. *See id.* at 278–79.

235. *See Sentence Meted Dope Peddler*, SAN PEDRO NEWS-PILOT, Dec. 5, 1951, at 5.

236. *See 3 Cousins Arrested as High School Dope Peddlers*, WILMINGTON DAILY PRESS J., June 27, 1951, at 1.

237. *See Burglar Suspect Shot as He Flees*, CAL. EAGLE, Nov. 18, 1954, at 3.

238. *See id.*

**CONCLUSION: CONFRONTING THE LEGACY OF  
MARIJUANA LAW ENFORCEMENT**

Considering marijuana apart from other drugs raises important questions about how drug laws are employed. One example is the surprising openings for intensified enforcement that arose from the elision of major differences between marijuana and injectable opiates, in terms of psychoactive effects and the threat they each posed to public health. Retrofitting the languishing opium den law with a popular new smokable drug opened new routes to enforce the drug laws against groups of people gathered in a place. Similarly, using the addiction law against users of non-addictive cannabis enabled police to press cases against marijuana users without the drug evidence required in prosecutions for possession or sale. Indeed, calling all drugs “dope” served to increase the surveillance capacity of police as well as their discretion to intimidate and arrest.

Despite these troublesome outcomes, a remedy for the overreaction to cannabis smoking was not forthcoming. When the California Legislature finally separated marijuana from other drugs in 1961, it also raised penalties across all drug charges — first-offense possession of marijuana was one to ten years,<sup>239</sup> but of all other narcotics was two to ten.<sup>240</sup> In addition, the revision introduced quantity-based sentencing by creating a “possession for sale” charge, which brought two to ten years for marijuana<sup>241</sup> and five to 15 for the others.<sup>242</sup>

California’s Democratic Governor Edmund G. Brown, Sr. signed this 1961 law, one that would condemn thousands of marijuana smokers to long terms of incarceration and further imperil Mexican American and Black residents by bolstering police leverage and discretion. In 1953, as the California Attorney General, Brown had launched a renewed war on marijuana, intoning: “The marijuana evil is but a stepping stone to the heavier addictions to heroin and morphine . . . . The undergraduates of the marijuana school represent a large future menace to our society.”<sup>243</sup> Brown had posed the following year for newspaper cameramen, solemnly placing \$2 million worth of marijuana and heroin into the furnace of the State Building in Sacramento to burn.<sup>244</sup> Even so, at the end of his tenure as

239. Act of May 4, 1961, ch. 274, sec. 7, § 11530, 1961 Cal. Stat. 1301, 1305.

240. *Id.* ch. 274, sec. 1, § 11500, 1961 Cal. Stat. at 1301.

241. *Id.* ch. 274, sec. 7, § 11530.5, 1961 Cal. Stat. at 1305.

242. *Id.* ch. 274, sec. 2, § 11500.5, 1961 Cal. Stat. at 1302.

243. *Marijuana War Shows Results, Says Brown*, L.A. TIMES, Aug. 27, 1953, at 16.

244. *See State Destroys Dope Valued at \$2,000,000*, L.A. TIMES, Apr. 10, 1954, at 8. For context, \$2 million in 1954 is valued today at \$20 million. *See Calculate the Value of \$2,000,000 in 1954*, DOLLAR TIMES,

governor, Brown had very little to say about marijuana enforcement, seeming to remember a mere snippet of racist and sexualized misinformation about the drug. As he told an interviewer in 1975, marijuana was then “thought to be almost an aphrodisiac. And more than that, it was not only a love potion; part of the mystique of marijuana was that men would go out and go berserk and rape women and all that sort of thing,” he said.<sup>245</sup> “Marijuana was put in the same category as heroin. There wasn’t any difference.”<sup>246</sup> Brown recalled a San Francisco judge who, as a district attorney, had “made a career out of sending people in possession of marijuana to the penitentiary. It was really pretty rough. [Incarceration] didn’t stop [marijuana use], of course. But marijuana was regarded as very bad.”<sup>247</sup> Except that it was not. Only ten years after the Watts Rebellion of 1965, officials remained blasé about the destruction marijuana prohibition had wrought on the city and its people. “Marijuana was a great thing to improve statistics,” Robert Kenny, who had served as California Attorney General in the early 1940s, said in 1975.<sup>248</sup> “All law enforcement agencies have to make more pinches than they did the year before, so those pot arrests, those pinches for pot, were very handy in improving our statistical position,” he said. “We looked very busy.”<sup>249</sup>

This busywork might never be fully undone. The damage of marijuana prohibition to our personal liberty and to our ability to self-govern is acute, and it is structural. The discretion, weaponry, and financial incentives given to police to carry out the drug wars have resulted in grievous casualties, most of them already forgotten. Moreover, the harm of prohibition is not limited to arrested and incarcerated individuals and their families but extends to whole communities and to the working class more broadly.<sup>250</sup> This century-long, extraordinarily consequential experiment

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<https://www.dollartimes.com/inflation/inflation.php?amount=2000000&year=1954>  
[<https://perma.cc/S3MG-LAQS>] (last visited Feb. 16, 2022).

245. Interview by Amelia Frye with Edmund G. Brown, Sr., Cal. Governor., in Berkeley, Cal. (Mar. 20, 1975), <https://oac.cdlib.org/view?docId=kt6k4004w0;NAAN=13030&doc.view=frames&chunk.id=d0e2987&toc.depth=1&toc.id=d0e2987&brand=oac4&query=love%20potion> [<https://perma.cc/M2DU-U4D6>].

246. *Id.*

247. *Id.*

248. Interview by Amelia Frye with Robert W. Kenny, Att’y Gen., in L.A., Cal. (Feb. 24, 1975), <https://oac.cdlib.org/view?docId=kt6k4004w0;NAAN=13030&doc.view=frames&chunk.id=d0e6602&toc.depth=1&toc.id=d0e6602&brand=oac4> [<https://perma.cc/B9HU-VZUP>]. It is possible Kenny was speaking wryly.

249. *Id.*

250. *Cf.* Heather Ann Thompson, *Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History*, 97 J. AM. HIST. 703, 705 (2010) (arguing that after 1970, mass incarceration caused deep economic stress in “inner cities” while undermining organized labor, exacerbating poverty and inequality).

must be understood not merely in the abstract but as it was actually carried out.

In California, the historical record clearly shows that enforcement of marijuana prohibition targeted minority communities and immigrants from the start. As cannabis legalization proceeds today, policy makers should take social equity advocates' claims of targeted marijuana law enforcement very seriously. There is simply no other way to interpret the wider historical record of enforcement than to concede that drug laws targeted specific people. But with marijuana, in particular, it is also important to understand the false premises of what is "known" about the drug's effects. As public support for drug prohibition and its racist enforcement falters and fades, some lawmakers and law enforcers will certainly continue to try to keep marijuana's reputation for violence and danger alive. Historical knowledge can serve as an important antidote for this kind of misinformation.