

Jonathan Langner*

Anna Zajicek**

SOCIAL CONSTRUCTION OF DRUG POLICIES AND TARGET POPULATIONS: U.S. POLICY AND MEDIA DISCOURSE

Summary. In this review, we discuss the historical changes in U.S. drug policy discourse, institutional racism, and the social construction of target populations in media discourse. We do not intend to show a cause-effect relationship; instead, we use a social constructionist approach that focuses on meaning production and “truth-claims” to explore the relationship between news media and drug policy. We begin by discussing mass incarceration, war on drugs, and institutional racism. Next, we review a sample of the current research from the fields of sociology and criminology on drug policy, race, and media discourse. We then focus on the most recent articulation of drug-related policy and media discourse – the discourse surrounding marijuana use, including most recent trends in marijuana discourse. We conclude by noting the possible direction for drug policies and discussing the need for research addressing gaps in current understanding of drug-related discourse and the social construction of target populations.

Keywords: USA, drug policy, war on drugs, marihuana, media discourse.

1. Social construction of drug policies and target populations: U.S. policy and media discourse

Currently, the United States, which contains 5% of the world’s population, holds 25% of the world’s imprisoned population, and though African-Americans comprise around 13% of the population, they represent 38% of those imprisoned, or 800,000 out of the over 2 million currently imprisoned. For whites, they constitute 62% of the general population and 35% of the incarcerated population. While data describing ethnic composition of incarcerated population are not as reliable as race-related data, the rate of incarceration for Hispanics is 21%

* Public Policy Ph.D. Program, Graduate School, University of Arkansas, e-mail: jlangner@uark.edu

** Department of Sociology and Criminal Justice, University of Arkansas, e-mail: azajicek@uark.edu

(17% of the general population) (Carson 2015; U.S. Census 2015). According to Blumstein, those convicted of drug crimes comprise 20% of state prison populations and 50% of federal populations, representing “the single largest crime type” (Blumstein 2015: 187).

Rates of incarceration, which were steady throughout the first 70 years of the 20th century, began increasing by 6–8% per year from the late 1970’s through 2000, where they have remained at roughly 700% of the pre-1970’s rate (Blumstein 2015), with about 6.1 million Americans unable to vote as a result of felony disenfranchisement laws. This massive incarceration,¹ comprised heavily of minorities, followed increased criminal penalties towards “street drugs” (mainly heroin and marijuana) that began in the 1970s in the context of the “War on Drugs.” This occurs despite evidence which suggest that African-Americans, for instance, use less drugs than whites (Johnson et al. 2004, from: Massey 2007: 70) and that “the surge in drug arrests do(es) not reflect changes in drug taking so much as the policy choice made by politicians and the police to fill the prisons with drug offenders” (Tonry, cited in: Beckett, Sasson 2003: 173). In fact, a 2007 report (Mauer, King 2007) based on 25 years of federal data concludes that “the War on Drugs” and the criminal justice system have, over the years, increasingly targeted low-level offenders. Although the “lock ‘em up” approach to drug offences has softened in the 1990s when alternatives to imprisonment were developed, the national drug policy has had the most profound effect on the U.S. criminal justice system (Mauer, King 2007).

2. War on Drugs and institutionalized racism

The War on Drugs dates back to the 1970s, when President Nixon signed the Controlled Substances Act (CSA) into law in 1970 and then publically declared a “War on Drugs” in 1971. The enforcement of the legislation followed in 1973 when Nixon increased federal funding for agencies focused on drug addiction treatment and drug control and created the Drug Enforcement Administration (DEA). Importantly, the Nixon administration allocated most of federal spending for prevention and treatment of drug addiction and only one third for enforcement (Amundson et al. 2014). Under Reagan administration new policies were passed, including the Anti-Drug Abuse Act of 1986 that established mandatory minimum prison sentences for some drug offences. At the same time, the focus of the drug

¹ The term “mass incarceration” was coined to describe a phenomenon of imprisonment that has two characteristics: (1) the comparatively and historically unprecedented rates of imprisonment for a society of a specific type; and (2) systematic of imprisonment of specific groups in the larger population, in the U.S. case, mostly young, African American men living in neighborhoods of concentrated disadvantage (Garland 2016).

war also shifted, with the most federal funds allocated to enforcement and one third to prevention and treatment (Califano 2010).

Regardless of a specific fund allocation between prevention/treatment and interdiction/enforcement, studies show that a broader political strategy, the so called “Southern Strategy,” was aimed at convincing poor white Southerners with racial fears to vote against their class interests. This constitutes a common thread linking the policies of the two administrations, wherein both used racially coded political appeals on issues of crime and welfare to attract poor and working class white voters who were resentful of, and threatened by, desegregation, busing, and affirmative action. In the words of H.R. Haldeman, President Richard Nixon’s White House chief of staff: “[T]he whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to” (Alexander 2011: 16)

In this context, the War on Drugs and the record rates of imprisonment of the U.S. population, especially African-Americans and more recently Hispanics, have been linked to the long history of institutional racism, which is broadly defined as racism perpetrated through legal channels (Lopez 2000: 1811). According to Glaser (1999) and also Duber, “In a very real way, criminal possession of a controlled substance came to replace “vagrancy”² as the statutory mechanism used most commonly by state authorities to regulate and control the behavior of poor African-Americans” (Duber 2001, cited in: Massey 2007: 97–98). In fact, robust scholarship links the history of drug-related prohibitive legislation to the politics of racial fears, on the one hand, and a way to control minority populations, on the other. Musto (1999: 294) notes that “[t]he most passionate support for legal prohibition of narcotics has been associated with fear of a given drug’s effect on a specific minority. Certain Drugs were dreaded because they seemed to undermine essential social restrictions which kept these groups under control.”

Historically, until the late 1800’s, drugs such as opium and marijuana were legally sold as a main ingredient in many over-the-counter pharmaceuticals. In fact, in the 1890s, households receiving Sears & Roebuck catalogs could purchase syringe and a small amount of cocaine for \$1.50. Subsequently, in the post-civil war era, opium and cocaine use was linked to poor communities, typically black, Chinese, and Hispanic GIs returning from the Philippines. As Bender (2013: 361) describes it “it was hysteria over the predominantly male Chinese immigrant workers in Western U.S. Chinatowns smoking opium that led to drug’s prohibition.” Officially defining the new approach to drugs and directly linking it to African-Americans, in 1900, the “Journal of the American Medical Association” published an editorial stating: “Negroes in the South are reported as being addicted to a new form of vice – that of ‘cocaine sniffing’ or the ‘coke habit’”, and, in 1914,

² Vagrancy laws were passed after the Civil War (1861–1865) when the newly freed slaves began leaving their domiciles in search of work and displaced family members. Essentially these laws criminalized freed African-Americans.

cocaine was reported in the “Medical Record” to give African-Americans “Dutch courage” (Provine 2008: 77). In this context, the Harrison Act of 1914 restricted opium and cocaine use to medical purposes only, and regulated taxation of their production and distribution. Other instances of using drugs in conjunction with race to politically justify violence and/or disenfranchisement of certain groups include linking Mexican laborers living in the Southwest to marijuana use and targeting the indigenous Indian American populations as the users of psychedelics.

The exceptions were the white producers of certain medicines, who were initially excluded from prohibition. LSD, known mainly among the counterculture was made illegal in the 1960’s as a result of it producing “pacifist syndrome.” At the time, LSD and MDMA were successfully used to treat PTSD and alcoholism until the US government decided that only laboratory animals could be used for these types of tests. Marijuana gained attention after a number of states had decriminalized it following the 1960’s. The Carter administration discussed decriminalization and refocusing drug policy on prescription drugs. This stopped immediately following his chief health advisor’s reported use of cocaine at a Christmas party.

More recently, with regard to African-Americans, although they tend to abuse drugs at lower rates than Caucasians (Johnson et al. 2004, cited in: Massey 2007: 70), they receive discriminatory treatment throughout the entirety of the judicial process (Nunn 2002). Specific laws such as those involving crack versus powdered cocaine are an example of how associating a particular form of the same illegal drug with African-Americans and criminality/violence has allowed public acceptance of a 100 to 1 differences in sentencing guidelines (Hartman, Golub 1999). “Three strikes” laws are another example of policy that disproportionately affects African-Americans. These laws make incarceration mandatory for any person convicted in a third crime. This affects African-Americans more often because they are disproportionately policed, arrested, and convicted, particularly in association with illegal drugs (ACLU 2013). “Simultaneous possession” laws (of drugs and firearms) increase criminal penalties, and again, disproportionately affect African-Americans who may have justifiable reservations to call police officers for help in settling disputes (or any “black market” transaction). Mandatory sentencing laws effectively take judicial decision out of the hands of judge or jury, and often disproportionately affect African-Americans (particularly in combination with “three strikes” laws) for the aforementioned reasons.

3. Criminality, drug policy, and discourse

Scholars have linked discriminatory treatment of racial minorities, mass incarceration and policies related to the War on Drugs, to controlling images of racial minorities and racial fears, wherein the discourse of fear is used by

decision-makers in order to achieve political goals (Reinarman, Levine 1995; Altheide 2006). As Reinarman and Levine (1995: 147–148) suggest, “the antidrug crusades”, which they call “drug scares”, typically link a scapegoated drug to a troubling subordinate group – working-class immigrants, racial or ethnic minority, “rebelious youth”, at the same time justifying “enduring and ever growing urban poverty” (idem 1995: 151). This is supported by Bender’s (2013) research, which provides a rich historical record of how racial fears were the basis for the prohibition of opiates and cocaine, and that these fears were promoted by elite lawmakers in order to legally justify the disenfranchisement of darker-skinned ethnic groups.

Over the years, social science research noted a coalescing of racial discourse, drug discourse, and criminality. In 1994, Beckett conducted agenda setting research using a constructionist explanation for the rise in political concern about drug use and “street crime” in the 1960’s. She examined state claims making, media initiative, statistical and criminal data, and public opinion. She did not focus on news producers or the types of drug narratives, though she does focus on the conjunction of drugs and “street crime” as a social control mechanism and presents this in conjunction with evidence relating it to the advancement of civil rights for African-Americans. Chermak (1997) conducted a content analysis of drugs and crime in the news media. He found that official sources such as lawmakers and law enforcers were the primary sources of information about drugs in the news media. The “reliance on criminal justice sources” as drug policy authorities leads people to classify it as a criminal issue. He concluded that the news media acts as a social control mechanism in its reporting of drugs and crime. Hartman and Golub (1999) examined the narrative and volume of stories about crack cocaine in the media from 1985–1995 and found that it was disproportionately represented as an “urban” problem. Hawdon (2001) empirically explored the role of presidential rhetoric concerning drugs during the administrations of Reagan and Bush and found that different types of statements by the presidents directly affected the rise or decline in moral panic. His conclusions support the constructionist view of the drug epidemic and the types of policies that result from particular definitions.

The criminalization of drug addiction has also been found by Beckett, Nyrop, Pflingst, and Bowen (2005) who studied crime trends and public concern over crime. They found that while violent crime had decreased over the last decades, public concern over crime has risen along with political rhetoric. They also found that misperceptions and longstanding racially-biased fears that dark-skinned drug users are more threatening and therefore the highest priority have provided justifications for criminal responses to the use of drugs. Recently, Amundson, Zajicek and Hunt (2014) analyzed federal-level legislative discourse from War on Drugs and Welfare Reform debates to assess whether and to what extent welfare and criminal justice discourses are connected, including whether social pathology themes associated with the War on Drugs were present

and used in Welfare Reform debates to justify drug testing welfare recipients. They found common themes of the social pathology, crime, drug addiction, and welfare dependency in the two policy areas, and concluded that social pathology discourse: “contributes to the social construction of target populations of both policies” (Amundson et al. 2014: 23).

“These studies suggest a need to re-educate the public (including authorities) in order to embrace a more humane drug policy. This is especially important since those who have little contact with illicit drugs and illicit drug users, tend to shape their perception of risk and their behavior around prominent portrayals in the media” (Gelders et al. 2009: 399).

4. Drug policy and race discourse: The case of marijuana

Marijuana has been used medicinally and recreationally by most known cultures, including the US, until the 1870s. While the 1914 Harrison Act created the first prohibitions on the production and distribution of opioids and cocaine, it took until 1937 before federal law prohibited marijuana use. The first marijuana laws were small city-state laws, beginning in El Paso, banning the use of opium and marijuana. Twenty-nine states had prohibited it by 1931, and by 1937, all 48 states had restricted the manufacture and sale of marijuana.

Similar to other drugs, racial narratives associating marijuana use with “dangerous minorities” was a primary tactic of lawmakers, and the news media faithfully printed their statements. For instance, in 1927, the Butte Montana Standard ran a story about the state’s decision and quoted a state legislator as saying “(w)hen some beet field peon takes a few traces of this stuff... he thinks he has just been elected president of Mexico, so he starts out to execute all his political enemies” (Hawes 2015). A Texas senator on the senate floor, was quoted as saying “(a)ll Mexicans are crazy, and this stuff (marijuana) is what makes them crazy” (Bender 2013: 361–362). In the East, marijuana was associated with African-American Jazz artists, or “boogiemens” and other “subversives” (Himmelstein 1983). In 1934, a widely circulated editorial reported: “Marihuana influences Negroes to look at white people in the eye, step on white men’s shadows and look at a white woman twice” (Hawes 2015).

Prevalent news narratives linked minorities, marijuana use, and violence. In 1931, the “New Orleans Medical and Surgical Journal” published a report by Dr. A. E. Fossier in which he said: “(u)nder the influence of hashish those fanatics would madly rush at their enemies, and ruthlessly massacre every one within their grasp” (Fossier 1931: 247). The Boggs Act of 1951 enacted similar penalties for marijuana and heroin and used the first “stepping stone” argument, later reframed as the “gateway drug” narrative. After many states enacted “little-Boggs Acts”, Congress passed the Narcotic Control Act in 1956. These two

acts expanded the federal control of marijuana use, production, and trafficking, authorized federal agents to carry weapons, and provided for mandatory/harsher sentences, warrantless arrests, and deportation. The media continued the narrative that marijuana smokers were “others,” “deviant,” and “dangerous.”

In the 1960s, a different marijuana narrative moved to the center stage. First, the Kennedy administration reconsidered drug use and abuse as a health issue. The passage of the Narcotic Addict Rehabilitation Act in 1966 (NARA) allowed “self-commitment for users seeking to avoid prison time” (Whitford, Yates 2009: 39). Academics began to question the taken-for-granted nature of marijuana users as “deviant” (Becker 1963), but during this time, the public seemed to support the suppression and control of drugs through federal involvement. During the 1960’s, a mainstreaming of the new marijuana narrative and the first attempts at state-sponsored decriminalization efforts occurred. Marijuana became associated with “hippies” and anti-war efforts, due to, or resulting in, wide use by white suburban youth.

The passage of the 1970 Controlled Substance Act signified the most critical development in the recent marijuana prohibition. Specifically, the Act classified marijuana as a Schedule I substance, the highest drug classification, reserved for drugs that: 1) have high potential for abuse, 2) have no currently accepted medical use in treatment in the United States, and 3) there is a lack of accepted safety for use of the drug under medical supervision. The classification of marijuana as a Schedule I substance has been one of the main factors behind failed efforts to decriminalize it.

Goode first elucidated the political nature of the marijuana argument in 1969, noting the competing claims to scientific legitimacy among other things. He said the “(s)cientific truth or falsity seem to have little or no impact on the positions taken-although both sides will invoke scientific findings and in fact will actually believe them” (Goode 1969: 83). In the same vein, Koski and Eckberg (1983) focused on marijuana specifically during a period of policy change from 1977–1980. They performed a content analysis of the discourse used to legitimate policy reversal, specifically the mixture of “fact” and “value” statements presented in the DEA’s public relations magazine, and how they changed over this period to eventually becoming quite disjointed and contradictory.

For instance, in 1988 Judge Francis Young (DEA administrative law judge) reviewed all evidence from a lawsuit against federal marijuana prohibition, and found the following:

The evidence in this record clearly shows that marijuana has been accepted as capable of relieving the distress of great numbers of very ill people, and doing so with safety under medical supervision. It would be unreasonable, arbitrary and capricious for the Drug Enforcement Administration to continue to stand between those sufferers and the benefits of this substance in light of the evidence. Marijuana, in its natural form, is one of the safest therapeutically active substances known. In strict medical terms, marijuana is safer than many foods we commonly consume.

Yet, in response to the growth of state-level policy changes, the Drug Enforcement Agency recently opposed a petition to reschedule marijuana from Schedule 1, which contains the list of “most harmful” substances. A spokesperson for the DEA said: “This decision is based on whether marijuana, as determined by the FDA, is a safe and effective medicine. And it’s not” (DEA acting Administrator Chuck Rosenberg). At the same time, the U.S. Health and Human Services obtained patent #6630507 in 2001 which “lists the use of certain cannabinoids found within the cannabis sativa plant as useful in certain neurodegenerative diseases such as Alzheimer’s, Parkinson’s, and HIV dementia.” These contradicting viewpoints seem irreconcilable if taken at face value. However, theories of the social construction of reality may shed light on how contradictory statements may appear equally true, and be independent of any measurable reality. Elite theories of agenda setting as well as critical discourse theory may shed light on why and how the “appearance of truth” influences political reality. Obviously, while empirical proof may require measurable quantities, public interpretation or reporting of research does not. Beliefs about facts may be manipulated through discursive practices. Concepts like “drug abuse” expose an ideology. For instance, having a “high potential for abuse” might alternatively lead people to believe it is either a) dangerous (if they accept the criminal narrative), or b) highly beneficial (if they accept medical narrative), or highly enjoyable (if they accept recreational narrative). Drug use may be alternately defined as a cause of violence, or an effect of social inequality, and thus the alternatives between criminalization and redistribution are dependent on the accepted (or dominant) narrative. Koski and Eckberg recommend that any researcher attempting to understand the discourse of legitimation, should pay attention to the “fact/value intermix” (1983: 255). This intermix can be discern in the more recent discursive trends, current policy development, and future policy directions.

5. Current developments in marijuana discourse and policy

With the legalization of marijuana for medical and recreational uses that expanded under Obama Presidency, the criminalization discourse has lost some ground. As discuss it later in this section, this recent weakening of the criminalization discourse appears to be rather short term.

In general, the struggle for discursive domination, hence public attention, continues to occur among three types of marijuana narratives—criminal, medical, and recreational—which correspond to the three broad categories of laws regulating marijuana: absolute prohibition, heavy regulation, and light regulation. In what follows, we first define the main characteristics of these three models and relate these to recent state-level policy developments.

The criminal model is still embedded in the federal law, which portrays marijuana users (and the drug’s effects) as quite dangerous, requiring complete

prohibition and criminal punishment. Discursive strategies included under this model are used by the anti-marijuana lobbying groups, such as Citizens Against Legalizing Marijuana (CALM). These groups use strategies in the form of attack posture, or symbolic placation. In the attack posture the anti-marijuana groups link the pro-advocacy groups to negative stereotypes, dispute the “pro-marijuana medical facts,” stating that there is enough evidence that marijuana causes harm, and in general, seek to raise public fear of an alternative policy, which is said to likely cause major harm to children and public safety (American Society for Addiction Medicine). While these strategies have been used against marijuana policy reform since the 1980’s, the recent bouts of marijuana legalization in several states has reinvigorated and reenergized well-funded anti-legalization organizations. Typical examples of stories commonly disseminated (though factually questionable) by these organizations include the “gateway drug” theory (World Federation Against Drugs), or the media campaigns relating “your brain on drugs” to a frying egg (Partnership for Drug-Free Kids).

The medical model is by far the most diverse (Malizia 2013: 82), but in general, it emphasizes the positive effects of marijuana on the user. During the 1990’s, while the “war on drugs” still held its grip on public discourse, changes in state laws began occur. In 1996, California’s Proposition 48 challenged federal law. Since then the medical discourse has been gaining ground as more states began to legalize medical marijuana, with Montana becoming the 10th state to do that in 2004. This number has expanded to 29 states by April 2017. Importantly, Southern states have been less successful in reforming marijuana laws. Until 2016, no state in the South had abandoned absolute prohibition for marijuana (with criminal penalties)³. In 2016, Arkansas was the first southern state to pass a medical marijuana law, though it is a very conservative version, with criminal penalties attached to unauthorized use. It appears that southern states will for some time remain the battle ground wherein the local struggles between discourse of criminalization and medical use will continue in near future. It possible that the developments in these states may provide a fertile ground for future research on policy changes and potential use of contradictory discursive arguments.

For the time being, under the medical model, policy suggestions such as rescheduling marijuana as a Schedule 2 drug, or the use of drug courts, have been made. Medical studies report that the therapeutic ratio of marijuana is 10 times safer than Tylenol (Baker et al. 2003), meaning re-classifying marijuana as Schedule 2 is still scientifically inaccurate, and would continue to limit research and both suggestions would keep marijuana users in the court system. Resulting laws may treat marijuana as a harmful drug, or a beneficial medicine, but treatment, not punishment, is the recommended policy. Although the medical marijuana discourse has been gaining some traction, at the national level this it

³ Mississippi is an exceptional case.

has been stalled. Between 2003 and 2013, the Supreme Court officially refused a writ of certiorari that was intended to hear an appeal to the DEA to reschedule marijuana based on the opinions of doctors, rather than bureaucrats. If we measure the success of discursive arguments by the number of major policy changes, then the fact the 29 states voted to allow medical marijuana use, certainly suggests that, at the policy level, these agreements have gained more ground while the criminalization discourse has been losing some of its grip at the state level.

Between 2012 and 2016, nine states passed measures to legalize recreational marijuana use by adults. Also, several states have also decriminalized the possession of small amounts of marijuana. The discursive strategies supporting the recreational model portrays marijuana users and the effects of its use as relatively harmless and recommends regulation similar to caffeine, tobacco, or alcohol. At the gist of this argument is the notion that the states that had allowed medical and recreational use a while back (e.g., Colorado), there is no evidence of the negative effects on local communities and the states a whole. The argument also emphasizes that if marijuana becomes addictive it is easier to deal with this addition than alcohol, tobacco, and sugar addiction, or prescription drug addiction which has now acquired a status of a major crisis of national proportions.

Interestingly, as alternative narratives have solidified in recent years, the criminal image of the African-American-marijuana-smoker-as-violent still persists and is likely to continue in the near future, especially in the Southern states. Medical and recreational narratives appear to be reserved for Caucasian, middle-class users (the lazy stoner, or the middle-class guy who can afford a doctor's prescription to get his "weed"). Since marijuana laws have been enforced disproportionately, specifically targeting African-Americans, it may be that social constructions of this group in the news, reinforces this belief.

In this context and given the struggle among the proponents of the three narratives, the issue is which of these three discourses are most likely assume domination in the years to come. This question, of course, cannot be answered outside of considering the election of Donald Trump as the 40th President of the United States and his administration's stance on marijuana. While the issue is complicated by the unpredictability of the current political environment, including the changes in cabinet appointees, it appears that the criminalization narrative has recently been regaining some ground or has even become more entrenched. This entrenchment has occurred in the context of the appointment of Jeff Session as Attorney General and his campaign to target medical marijuana use, which for the time being was stopped by the U.S. Senate. This entrenchment has also occurred in the context of a consensus of the medical community, and the widespread reporting of both medical advancements and social science analyses.

Recently, one important change in the anti-medical marijuana strategy, is that instead of just arguing how dangerous marijuana is, proponents of the criminal narrative appear to use a denial strategy, denying the existence of new medical

evidence rather than just ignoring it. An example of this can be found in a recent article from the “New York Times” (Chilcote 2017). This story contains the criminal and medical narratives, describing how Jeff Session asked senate leaders to override the state rights and allow the enforcement of a federal ban on medical marijuana. The article also features one of the main opponents of recreational marijuana, chairman for Citizens Against Legalizing Marijuana (CALM). Specifically, the story presents the arguments of Attorney General Jeff Sessions and his task force, which seek to link marijuana use to violent crime. The story also indicates that the notion of “recreational” use is a misnomer because recreation is defined as “a bike ride, a swim, going to the beach” (CALM Chairman). This argument is not addressed in the NYT article, and as such, seems to stand on its own, unchallenged. The fact being that, of course, riding bikes and going to the beach are healthy recreational activities, and the value being that changing one’s body chemistry for pleasure is bad, and not to be included in the category of recreation. The obvious counterpoint being the prolific use of many different mind-altering substances (alcohol, caffeine, and nicotine are one of dozens of socially acceptable substances, none of which have a purported medical value) which are recognized, regulated, and widely used in the context of recreation. Using Koski and Eckberg’s (1983) typology, this anti-recreation marijuana use is enabled by the narrative blending/intermix of selectively chosen facts and values.

The trend that we see as continuing into the future is the likely strengthening of the medical/health related discursive category, which is becoming more available and is like to be used to suggest policy alternatives. The medical narrative is more likely to become more widely reported because the availability of marijuana for research has increased. New discoveries of the anti-carcinogenic and/or pain-relieving properties, for instance, have led to news stories which, by their very nature, explain how marijuana works in the human body. These may be used to justify various levels of regulation, and strengthen the arguments putting particular emphasis on marijuana as a medicine.

The recreational category, like the medical category has evolved in response to either medical advancements, social science discoveries (such as the disproportional arrest rates of minorities), or more open dialogue comparing marijuana to other medicines, or other recreational drugs. According to a recent study by McGinty (et al. 2016), stories that may be categorized as using the criminal discursive strategy are still very prolific particularly from a national perspective; stories containing either medical or recreational perspectives tend to be concentrated in states that have already adopted progressive marijuana policy. This research raises some interesting issues regarding the disjunction between national level discourse and policy and local discourse and policy. This is in addition to the possible differences in marijuana narratives that exist at the local level between the Southern States and the other parts of the U.S. state system.

6. Conclusion

The media may function to set the public agenda in a variety of ways outlined by Lancaster, Hughes, Spicer, Matthew-Simmons, and Dillon such as “setting the agenda and defining public interest; framing issues through selection and salience; indirectly shaping individual and community attitudes towards risk; and feeding into political debate and decision making” (2011: 398). In relation to drug policy, the media may supply environmental cues, deliver *status quo* opinion, limit discussion, provide schema and images of “drug users,” and offer “official” opinion, threats, etc. To many observers, the media appears to function as a fourth arm of government. If even absurd stories become more believable with repetition and the news media is the venue of the mass media which is most widely believed to represent “truth,” proportionally inaccurate associations of criminality, drugs, and violence with African-Americans in the news may act as an inequality mechanism. They may likely provide an explanation for the support of (or apathy towards) failed and racially biased drug policy. Specifically, if one were to put aside the obvious problem of the racially disproportional mass incarceration and consequences of a criminal record on personal and intergenerational opportunities, the most obvious inequality mechanism may be the news media narrative promoting specific discursive statements constructing the reality and/or reinforcing the belief that minorities are more violent, certain drugs are illegal because they cause violence, and minorities and poor use these drugs more. Historically, progressive changes have be stalled when political entrepreneurs successfully pair urban violence with images of minority criminality (Western 2006). Marijuana discourse itself, has received some little attention recently (McGinty et al. 2016). and though this research focused solely on the general categories, it did confirm that stories that could fall under the recreational narrative occurred in the states with recreational marijuana policy. Additionally, at the time of this writing, the most recent period discussed (2000–2017) was monumental in the advancement for progressive marijuana policy, but by no means a clear signal of an evolution.

In addition to providing a hisotrical background how the history of drug laws and racial fears have shaped the drug policies in the United States, we also attempted to show that they continue to reach into and operate in the present. The final issue to address is whether the same three types of marijuana discourse will persist in the near future and which is likely to gain more ground. On the one hand, we must consider the potential for a reversal of this trend that has come with the last election cycle. As of 2017, a majority of states came to recognize medical marijuana, and 9 states had recreational marijuana policy. The first southern state (Arkansas) recognized marijuana as a medicine, and a majority of americans support recreational policy. At the same time, a “conservative” president was elected, (which has historically been accompanied by “tough on crime” policy

stance supporting criminal penalties for marijuana users), and his newly appointed Attorney General, Jeff Sessions, has promised to return to the old drug war tactics. However, since at this point in U.S. history, it seems “all bets are off,” in the sense that uncertainties constitute the most certain pattern, what can be predicted about a situation in which a majority of people, a majority of states, and the media are openly opposed to the federal government? We believe that the predictions are very tricky to make given the clear differences between state and federal policy, and the unpredictability in the national policy. Equally difficult to imagine is which discourse the mainstream media that are being defamed by the executive branch will embark upon and how.

On the other hand, we believe that the criminalization discourse will retain its dominance at the national level through the federal policy as long as Jeff Sessions remains the Attorney General. However, the implementation of this policy is not likely to occur. At this point, Jeff Sessions future is uncertain. If he leaves, the key question is who will assume this position. Although President Trump remained silent on marijuana policy, earlier this year he stated that “Department of Justice may not use any (government) funds to prevent implementation of marijuana laws by various States and territories.” This could be a sign that, unless his position changes, regardless of who occupies the position of the U.S. Attorney General, the state rights approach will prevail through the rest of current presidency.

The primary purpose of this paper was to present the argument that although the nature of marijuana discourse has been studied in the past, the current research of marijuana discourse research is lacking. Yet, this period of history has a great potential to shed light on the tensions and contradictions between different levels of discourse and media’s role in creating, justifying, and supporting (or opposing) a policy. There are multiple levels upon which research could be conducted, from the most general quantitative numerical analyses of terms, to the most specific analyses of specific use of language in a given story. Areas of future research may also include comparisons and/or analyses of international, national and/or state-level discursive strategies used in the news media concerning marijuana. Any of the aforementioned levels of research may seek connections between, as well as if stories contain connections between various drugs, racial stereotypes, fear, violence, and/or criminality. Finally, researchers may seek to understand how newer types of media, such as social media, factor into public perception and/or policy.

References

- Alexander M. (2011), *The New Jim Crow*, “Ohio State Journal of Criminal Law”, no. 9(1), pp. 7–26
- Altheide D. L. (2006), *Terrorism and the Politics of Fear*, “Cultural Studies – Critical Methodologies”, no. 6(4), pp. 415–439

- Amundson K., Zajicek A. M., Hunt V. H. (2014), *Pathologies of the poor: What do the war on drugs and welfare reform have in common*, "Journal of Sociology & Social Welfare", no. 41(1), pp. 5–28
- Baker D., Pryce G., Giovannoni G., Thompson A. J. (2003), *The therapeutic potential of cannabis*, "The Lancet Neurology", no. 2(5), pp. 291–298
- Becker H. S. (1963), *Outsiders: Studies in the sociology of deviance*, The Free Press, New York
- Beckett K. (1994), *Setting the public agenda: "Street crime" and drug use in American politics*, "Social Problems", no. 41(3), pp. 425–447
- Beckett K., Nyrop K., Pfingst L., Bowen M. (2005), *Drug use, drug possession arrests, and the question of race: Lessons from Seattle*, "Social Problems", no. 52(3), pp. 419–441
- Beckett K., Sasson T. (2003), *The Politics of Injustice: Crime and punishment in America*, Sage Publications, Thousand Oaks
- Bender S. W. (2013), *Joint Reform: The Interplay of State, Federal, and Hemispheric Regulation of Recreational Marijuana and the Failed War on Drugs*, "Albany Government Law Review", no. 6(1), pp. 359–396
- Best J. (2002), *Review Essay: Constructing the Sociology of Social Problems: Spector and Kitsuse Twenty-Five Years Later*, "Sociological Forum", vol. 17, no. 4 (December), Springer, Netherlands, pp. 699–706
- Blumstein A. (2015), *Racial Disproportionality in Prison*, [in:] R. Bangs, L. Davis (eds.), *Race and Social Problems*, Springer, New York, pp. 187–193
- Califano J. (2010), June 18, *Tackling America's drug addiction*, NPR – All Things Considered, retrieved from: <http://www.npr.org/templates/story/story.php?storyId=127937271> [31st December 2017]
- Carson E. A. (2015), *Prisoners in 2014*, DC: Bureau of Justice Statistics, Washington
- Chermak S. (1997), *The Presentation of Drugs in the News Media: The news sources involved in the construction of social problems*, "Justice Quarterly", no. 14(4), pp. 687–718
- Chilcote A. (2017), *States Keep Saying Yes to Marijuana Use. Now Comes the Federal*, "The New York Times", July 15, retrieved from: <https://www.nytimes.com/2017/07/15/us/politics/marijuana-laws-state-federal.html> [31st December 2017]
- Fischer F. (2003), *Reframing public policy: Discursive politics and deliberative practices*, Oxford University Press
- Fossier A. E. (1931), *The Marihuana Menace*, "New Orleans Medical and Surgical Journal", no. 84 (July), p. 247
- Garland D. (2001), *The culture of control: Crime and social order in contemporary society*, University of Chicago Press, Chicago, IL
- Garland D. (2016), *Introduction: The meaning of mass imprisonment*, "Punishment & Society", no. 3(1), pp. 5–7
- Gelders D., Patesson R., Vandoninck S., Steinberg P., Van Malderen S., Nicaise P., Vander Laenen F. (2009), *The influence of warning messages on the public's perception of substance use: A theoretical framework*, "Government Information Quarterly", no. 26(2), pp. 349–357
- Gibbons J., Lukowski A., Walker W. (2005), *Exposure increases the believability of unbelievable news headlines via elaborate cognitive processing*, "Media Psychology", no. 7(3), pp. 273–300
- Glasser I. (1999), *American Drug Laws: The New Jim Crow*, "Albany Law Review", no. 63, p. 703
- Goode E. (1969), *Marijuana and the politics of reality*, "Journal of Health and Social Behavior", no. 10(2), pp. 83–94
- Grusky D., Szelényi S. (eds.) (2011), *The inequality reader: Contemporary and foundational readings in race, class, and gender*, Westview Press
- Haney López I. (2000), *Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination*, "Yale Law Review", no. 109, pp. 1717–1884

- Harris R., Sanborn F. (2013), *A cognitive psychology of mass communication*, Routledge, New York
- Hartman D. M., Golub A. (1999), *The social construction of the crack epidemic in the print media*, "Journal of Psychoactive Drugs", no. 31(4), pp. 423–433
- Hawdon J. E. (2001), *The role of presidential rhetoric in the creation of a moral panic: Reagan, Bush, and the war on drugs*, "Deviant Behavior", no. 22(5), pp. 419–445
- Hawes T. (2015), *The relationship between the passing and repeal of the prohibition of alcohol and the passing of prohibition of marijuana and the movement to legalize marijuana*, Humboldt State University
- Himmelstein J. L. (1983), *The strange career of marihuana: politics and ideology of drug control in America*, Greenwood Press, Westport, Conn.
- Kitsuse J., Spector M. (1975), *Social problems and deviance: Some parallel issues*, "Social Problems", no. 22(5), pp. 584–594
- Koski P. R., Eckberg D. L. (1983), *Bureaucratic legitimation: Marihuana and the Drug Enforcement Administration*, "Sociological Focus", no. 16(4), pp. 255–273
- Lancaster K., Hughes C., Spicer B., Matthew-Simmons F., Dillon P. (2011), *Illicit drugs and the media: Models of media effects for use in drug policy research*, "Drug and Alcohol Review", no. 30(4), pp. 397–402
- Lee M. A. (2012), *Smoke signals: A social history of Marijuana-Medical, Recreational and Scientific*, Simon and Schuster
- Malizia S. (2013), *Sinners, Saints and Sophists: Marijuana Discourse and Policy in the United States, 1970–2010*, University of California, Irvine
- Massey D. (2007), *Categorically unequal: The American stratification system*, Russell Sage Foundation
- Mauer M., King R. S. (2007), *A 25-year quagmire: The war on drugs and its impact on American society*, Sentencing Project
- McGinty E. E., Samples H., Bandara S. N., Saloner B., Bachhuber M. A., Barry C. L. (2016), *The emerging public discourse on state legalization of marijuana for recreational use in the US: Analysis of news media coverage, 2010–2014*, "Preventive Medicine", no. 90, pp. 114–120
- Mills C. (1958), *The structure of power in American society*, "The British Journal of Sociology", no. 9(1), pp. 29–41
- Mills C. (1963), *Power, politics, and people: The collected essays of C. Wright Mills*, Oxford University Press, USA
- Musto D. F. (1999), *The American disease: Origins of narcotic control*, Oxford University Press
- Nunn K. (2002). *Race, Crime and the Pool of Surplus Criminality: Or Why the War on Drugs Was a War on Blacks*, "Journal of Gender Race & Justice", no. 6, p. 381
- Provine D. M. (2008), *Unequal under law: Race in the war on drugs*, University of Chicago Press
- Reinarman C., Levine H. (1995), *The crack attack: America's latest drug scare, 1986–1992*, [in:] J. Best (eds.), *Images of Issues: Typifying Contemporary Social Problems*, Adline Transaction, New Brunswick, U.S., pp. 147–190
- Rocheffort D., Cobb R. (1994), *The politics of problem definition: Shaping the policy agenda*, University of Kansas, Kansas
- Schattschneider E. (1975), *The Semi-Sovereign People: A Realist's View of Democracy in America*
- Spector M., Kitsuse J. (1973), *Social problems: A re-formulation*, "Social Problems", no. 21(2), pp. 145–159
- Swift A. (2016), *Support for Legal Marijuana Use Up to 60% in U.S.*, Gallup: social issues, October 19, retrieved from: <http://www.gallup.com/poll/196550/support-legal-marijuana> [31st December 2017]

- U.S. Census (2015), *Quick facts: United States*, retrieved from: <https://www.census.gov/quickfacts/table/PST045215/00> [31st December 2017]
- Western B. (2006), *Punishment and Inequality in America*, Russell Sage Foundation
- Whitford A. B., Yates J. (2009), *Presidential Rhetoric and the Public Agenda: Constructing the war on drugs*, JHU Press
- Willard M. O. (2003), *The Law & Order Presidency*
- Young F. (1988), *In the Matter of Marijuana Rescheduling Petition*, [Docket #86-22], (September 6), US Department of Justice, Drug Enforcement Administration

Jonathan Langner, Anna Zajicek

SPOŁECZNE KONSTRUOWANIE POLITYK ANTYNARKOTYKOWYCH ORAZ ICH DOCELOWYCH POPULACJI: AMERYKAŃSKA POLITYKA I Dyskurs medialny

Abstrakt. W artykule omawiamy historyczne zmiany w dyskursie dotyczącym amerykańskiej polityki antynarkotykowej, instytucjonalnego rasizmu oraz to, jak konstruowane są społecznie w dyskursie medialnym docelowe populacje. Naszą intencją nie jest ukazanie związku przyczynowo-skutkowego; wykorzystujemy perspektywę społecznego konstruktywizmu w zakresie produkcji znaczeń i „formułowania prawd” w celu zbadania związków między przekazem mediów informacyjnych a polityką antynarkotykową. Na początku omówione zostały problemy: masowego więziennictwa, wojny narkotykowej (*war on drugs*) i instytucjonalnego rasizmu. W dalszej części prezentujemy fragment aktualnych badań z obszaru socjologii i kryminologii dotyczących polityki antynarkotykowej, kwestii rasowych i dyskursu medialnego. Następnie skupiamy się na najbardziej aktualnych i widocznych formach polityki antynarkotykowej i dyskursu medialnego – dyskursu wokół używania marihuany, z uwzględnieniem najbardziej aktualnych trendów w jego obrębie. W konkluzji wskazujemy na możliwe kierunki badań dotyczących polityki antynarkotykowej i dyskursu medialnego, które mogłyby wypełnić istniejącą w tym obszarze lukę oraz pomóc w zrozumieniu dyskursu odnoszącego się do problematyki narkotykowej oraz sposobu społecznej konstrukcji adresatów wspomnianych polityk.

Słowa kluczowe: USA, polityka antynarkotykowa, wojna narkotykowa, marihuana, dyskurs medialny.