

**Civilian Research Project
Army War College Fellow**

Legalized Marijuana and Divergent Enlistment Policies

by

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United States Army War College
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Abstract

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Legalized Marijuana and Divergent Enlistment Policies

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PREFACE

Eighteen states are projected to have legalized recreational marijuana by the year 2020. Concurrently, the Army continues to shape itself for the future through the strategic plan known as the Army 2020 vision. The implications of legalized marijuana on recruiting have not been addressed. Enlistment policy changes must be considered and incorporated in order to facilitate the ability to rapidly increase the number of soldiers. This paper studies the recruiting challenges stemming from legalized marijuana and the increased usage by youth. The study recommends policy changes allowing the use of marijuana prior to enlistment in order to meet the Army's future strength mission requirements.

The thesis of this paper is that the enlistment policies for pre-enlistment use of marijuana will need to be changed in order to support the next rapid increase in the size of the Army. The study is applicable throughout the Department of Defense as well as federal agencies with accession policies dealing with marijuana. The size of the military has varied throughout our nation's history with wartime growth and peacetime reductions. Although the Army is downsizing, one can anticipate that a rapid expansion will be required for the next conventional conflict. Studies link legalized marijuana with an increase in youth usage. Meanwhile more states will likely legalize both recreational and medical marijuana. As a result, there will be a smaller portion of the population eligible to enlist under current standards. Therefore policies must be considered prior to the next conventional conflict. The purpose of this paper is not to advocate for legalized marijuana; however, it does recognize the consequences of the divergent federal and state laws on the potential to recruit soldiers.

I. PROBLEM IDENTIFICATION

INTRODUCTION

The Army maintains a policy of zero tolerance of marijuana use despite changes in state laws and public perception. The Army is downsizing from the height of the wars in Afghanistan and Iraq. It is currently able to meet recruiting mission requirements without a change in policy. This is due to the need to recruit fewer soldiers and economic factors. However, the number of potential recruits that are eligible to enlist will be reduced as states continue to legalize marijuana. Roughly only one in five of our nation's youth are ineligible to enlist due to drug use.¹ The number is projected to increase as eighteen states are predicted to legalize recreational marijuana by 2020.² This research concludes that enlistment policy dealing with pre-enlistment marijuana use will need to change in the future. The revision is necessary to maintain a population that is eligible to enlist in order to support growth of the Army for the next conventional conflict.

Current case studies of federal agencies, the growth of the Army for the Global War on Terror, and recent policy changes will be analyzed for lessons learned. Policy recommendations are provided dealing with legalized marijuana with the intent to better posture the Army to meet future force structure requirements.

ASSUMPTIONS

The assertion that policy will need to be changed is based on several assumptions. The primary assumptions are that individual states will continue to legalize recreational marijuana and that the federal government will continue to not interfere with

marijuana laws in individual states. Additionally, it is assumed the United States desires to maintain an all-volunteer force. Finally, the ability to significantly increase marketing costs to attract recruits in a competitive environment may not be practicable.

Research

There are no scholarly articles found that directly correlate state marijuana laws with the ability of the military to recruit in the future. Furthermore, there are no articles that associate increased youth marijuana use with a decreased in the percentage of the population eligible for military service.

However, advocacy groups continue to expand efforts to legalize medical and recreational marijuana. Recruiting statistics for the military indicate that a high percentage of youth are currently not qualified for military service under existing recruiting policies. Additionally, our country is experiencing a negligible population growth.³ Studies document that in states that have legalized marijuana that there is an increase in underage usage. Scholarly articles and case studies allow for correlation with relaxed marijuana laws and Army's growth capacity.

II. Recruiting Base

Population that is Eligible to Enlist

The majority of the people of enlistment age in the United States are not fit for military service. A report from the Pentagon stated that only about 25% of youth today are able to serve in the military.⁴ The percentage of people that qualify for military service has decreased over time. Nearly one in five are ineligible due to drugs and alcohol abuse.⁵ Other surveys found that 60% of people ages 19-30 have used drugs.⁶ Another one in five do not graduate from high school.⁷ Additionally, the remaining 40%

of young people are disqualified due to medical conditions, obesity, and criminal records.⁸ There are no indications that the trend of rising ineligibility will improve.

Potential recruits undergo a screening that includes questions about drug use and a urinalysis. Their responses and the results of the drug test determine if they are eligible to serve in the Army. The current enlistment policy permits applicants to enlist only if any previous marijuana use was extremely limited and determined to be experimental.⁹ A medical professional determines if previous use exceeds the threshold.

The ability to qualify for a security clearance is paramount to military service. The United States Code governing security clearances is found in Section 3002 of 50 U.S.C. 435b. It imposes restrictions on drug use. The code does not preclude experimental drug use provided the candidate is willing and capable of refraining from future use. However, previous drug use raises concerns of reliability, trustworthiness, and ability to comply with laws.¹⁰ The determinations are based upon “which drugs, frequency of use, how recent the use, circumstances of use, and any effects of use such as employment, finances, arrests.”¹¹ Previous drug use can be mitigated if there is evidence that the candidate is not currently involved with drugs.¹²

This study focuses only on the portion of the population that is disqualified from military service due to drug abuse. It is important to understand that other categories of disqualifying conditions are also problematic. The most significant is obesity. Childhood and adolescent obesity has quadrupled since the 1980s.¹³ The Centers for Disease Control reported that “the percentage of children aged 6–11 years in the United States who were obese increased from 7% in 1980 to nearly 18% in 2012 while the percentage

of adolescents aged 12–19 years who were obese increased from 5% to nearly 21% over the same period.”¹⁴ One who was overweight as a child can still join the military and be granted a security clearance. The fundamental difference is that one who is deemed to be anything more than an experimental user cannot enlist.

Attitudes of Youth

The legalization of both medical and recreational marijuana is documented to show an increase in use by new users. This is particularly true with young people. One study looked at only teens and found that legalization increases usage. The National Council on Alcoholism and Drug Dependence reported that “nearly two-thirds (65%) of teens who reported using marijuana at least once in their lifetime said that legalizing the drug would make them more likely to use it” and “more than three-fourths (78%) of heavy marijuana users reported that legalizing the drug would make them more likely to use it.”¹⁵ The same report found that “sixteen percent of teens who reported that they had never used marijuana agreed that they would be more likely to use marijuana if it were legal.”¹⁶ A study published in *Americas Quarterly* did a comparison to legal substances and increased use by teens. They found that “our long experience with two legal substances, alcohol and tobacco, demonstrates that legalization increases society’s acceptance, availability, use, and associated costs.”¹⁷ Various studies indicate that the prevailing reason is the perception the marijuana is not considered as being harmful in states that have legalized compared to those where it remains illegal.

Additional studies have found significant increases in teenage usage with legalized marijuana. A study by the *International Journal of Drug Policy* surveyed high school students and found that 10% of those “who would otherwise be low risk for

smoking pot - non-smokers, those with strong religious beliefs, and those with friends that don't smoke pot - say they would use pot if it were legal."¹⁸ A study of high school seniors also found that 46.5% admitted to using marijuana.¹⁹ The same study determined that an legalization would result in an actual increase of 5.6% to 51.2% when considering the low-risk population that had used marijuana.²⁰ The majority of the evidence supports the relationship between relaxed state laws and the number of users.

Legalized marijuana also increases the use of marijuana by current users. A study found that 18% of lifetime users would use more if it were legal.²¹ A 2012 study by the *International Journal of Drug Policy* found that frequent marijuana use was increasing in teens. The survey found that 10% of study participants admitted to using marijuana at least 20 times per month.²² CBS News reported in 2014 that based on the increasing teen usage rate that by age 26, "Sixty four percent of young adults are expected to use marijuana in their lifetime regardless of legalization."²³ The Substance Abuse and Mental Health Services Administration also reported that usage was increasing. They stated that 7.3% of all Americans had used marijuana in the previous twelve months.²⁴ The increased number of people using drugs that are or are approaching enlistment age is significant.

In Colorado and Washington marijuana use has increased. Colorado now ranks second in the percentage of regular marijuana users.²⁵ Prior to legalization, a survey of Colorado residents age 12 or older found that 10.4% admitted to using marijuana within the previous 30 days.²⁶ The year following legalization, that number increased by 22% to 12.7% of the population.²⁷ Washington state had similar results with a 20% increase to 12.3% of the population.²⁸ In states with legalized medical marijuana use, the

percentages of users increased from 1.5% to 2.67%.²⁹ The logical assumption is that similar results will be realized in other states following the legalization of marijuana.

There is also documented correlation between medical marijuana and increase usage by those without prescriptions. States that have legalized medical marijuana have a 3% increase in marijuana use than in states where marijuana remains illegal.³⁰ As with states with recreational marijuana, the perception is that medical marijuana is not as harmful when compared to states where it is illegal.

Other research also supports the correlation between relaxed laws in increased use. Research published in the *New England Journal of Medicine* looked at the same relationship with prescription drug abuse. They found that there is an increase in nonprescription drug abuse when the drug became legalized. A significant contributing factor was the perception that the drugs was less harmful.³¹

The research on decriminalized possession is not as well defined. Two published studies examine the effect of legalized marijuana possession and usage. They indicated that the results of legalized possession and usage range from there being no influence on new and current users to a modest increase in new users of no more than 2%.³² The significance is that decriminalized marijuana is considered by advocates to be a progressive step to legalizing recreational marijuana.

Other reports have refuted the findings that associate legalization with increased teen usage. These articles typically have a pro-marijuana bias and almost exclusively cite advocacy groups such as weedblog.com and drugpolicy.org. These reports typically focus on the percentage of the population that is first time users nationwide rather than in states with legalized marijuana. Conclusions are largely based on the claim that the

rate of new users is not growing as fast as before. The same studies generally agree that usage increases with those who have already tried marijuana. No study refutes the fact that experimental users are more likely become regular users in states with relaxed marijuana laws.

US Demographics

It is incumbent to understand the actual effects of trends measured in percentages. The United States' population growth is a fundamental consideration for this study. The capacity of the nation's recruiting age population to support an expansion of the Army is critical.

The population demographics in the United States show a very slight overall population growth. However, the population below the age of 20 is declining slightly. The figure below shows the population by age in 2012. As shown in figure one, the population of military age Americans peaked with the 20-24 age range and has steadily declined for every age range since.³³ Figure one also shows the actual number as recorded by the Census Bureau.³⁴ The implication is that there is a reduced capacity to absorb the anticipated increase in the number of youth ineligible for military service. Assuming states continue to legalize marijuana, there will be a reduced percentage of a smaller population base to recruit from in the future due to drug use. The consequence of the population demographics is that trends with an increased percentage will not be mitigated by a larger population. Furthermore, the effects of trends shown in percentages are magnified due to a decreasing population.

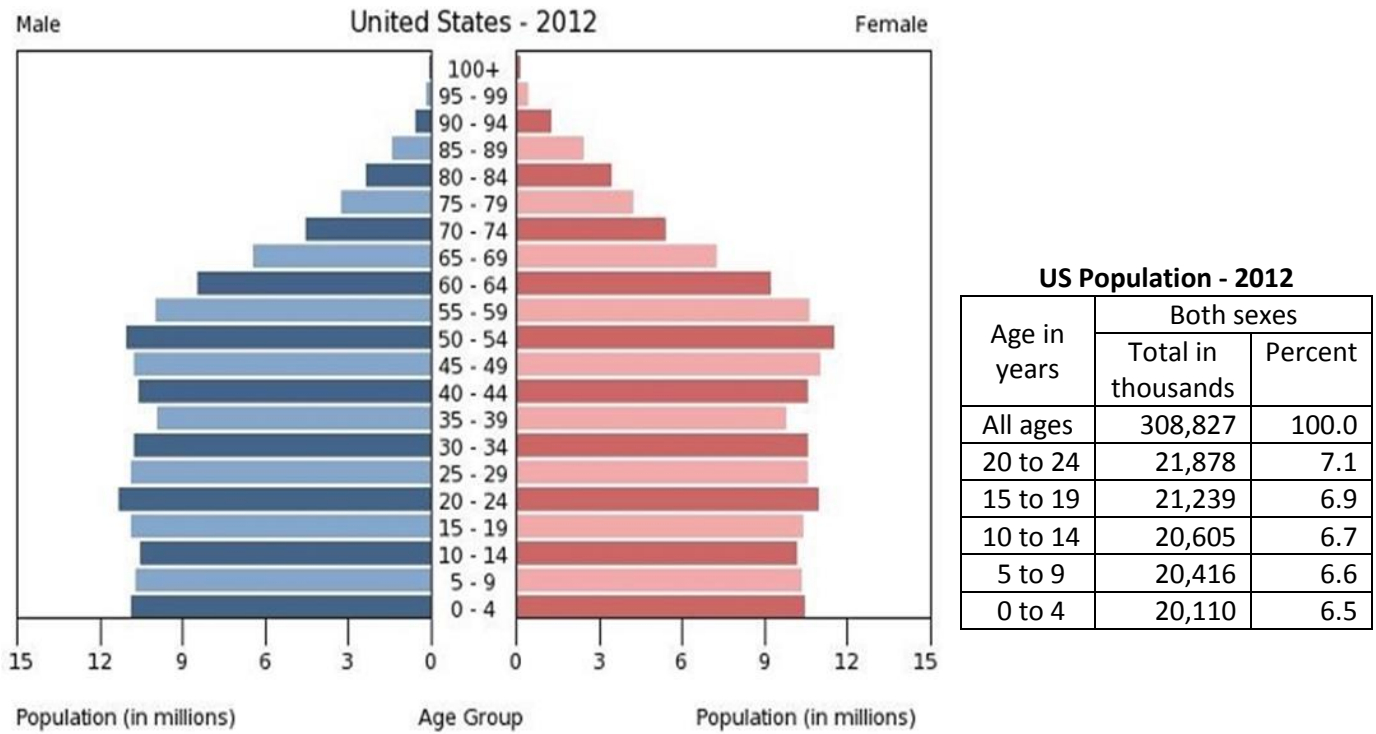


Figure 1. US Population by age in millions.³⁵ Total in thousand on right.³⁶

Army Historical Strength Trends

The number of soldiers in the Army's ranks has historically fluctuated to meet our national mission of deterrence or conflict. The pattern of wartime growth and peacetime reductions has occurred since the colonial militias. Figure two shows the active duty strength since WWII.³⁷

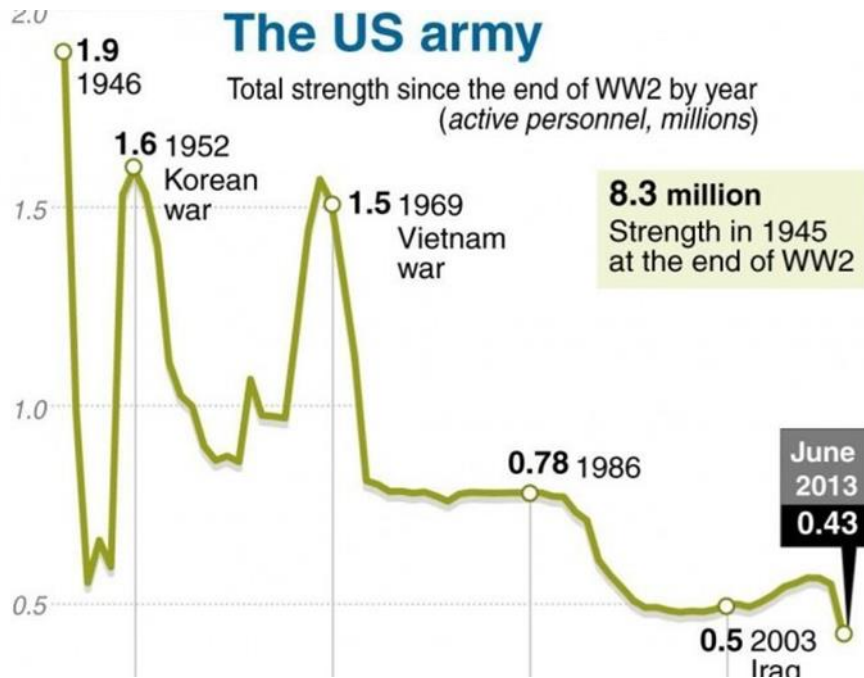


Figure 2. US Strength since WW2.³⁸

The significance of the chart is the relatively small growth for the Global War on Terror compared to the more dramatic surges for wars in the last century. The perspective adds context to the challenges that we would face for a similar rapid strength increase.

Today the Army is benefiting from the increased demand to enlist compared to a decreased number of available positions. The former Secretary of Defense, Chuck Hagel, announced that the active component would be reduced from 522,000 soldiers to 490,000 by the fall of 2015.³⁹ He added that the strength would drop roughly another 50,000 to somewhere between 440,000 and 450,000 by 2017.⁴⁰ Subsequently, the Army's accession goals dropped from 69,000 in FY13 to 57,000 in FY14.⁴¹ This is the lowest number since WWII. Part of the competition to serve in the military is due to the unemployment rate. The December 2014 unemployment rate of 18-24 year olds is

11.9% which is twice the national unemployment rate of 5.6%.⁴² As a result, Army recruiters are now more selective and turn away roughly 80% of applicants.⁴³

The quality of recruits has increased with competition for the fewer slots available. The quality of soldiers in terms of recruiting includes education, physical health, no legal problems, aptitude test scores, or any other circumstance that would require a waiver. The Army lowered standards during the wars in Iraq and Afghanistan in order to facilitate growing its ranks. Now the standards have become more stringent. At the peak, only 86% of those enlisting had high school diplomas.⁴⁴ Last year the number of recruits with a high school diploma rose to 99.6%.⁴⁵ Applicants with GEDs are not considered unless they have at least 15 hours of college credit. Seven years ago only two-thirds of recruits scored in the 50th percentile of the Armed Forces Qualification test.⁴⁶ Waivers were commonly granted for health issues and legal misconduct including some felonies. Today very few waivers are granted and typically only for minor health exceptions.

The pendulum has clearly swung in favor of quality over quantity in the last few years. Today soldiers enter the Army better educated and predominately without waivers. However, history documents that the balance will someday return to a time when the number of soldiers being recruited outweighs the importance of the quality of soldiers enlisting. World War One began over a century ago and was the “war to end all wars.” Since then we have had four unexpected conflicts that required the military to grow rapidly.

III. RECENT HISTORY OF LEGALIZED MARIJUANA

Current Legal Status

The 2014 mid-term elections resulted in the legalization of recreational marijuana in Alaska, Oregon and Washington DC. However, Congress nullified the vote through prohibiting the use of “federal or state funds to implement the initiative.”⁴⁷ Alaska and Oregon joined Colorado and Washington which previously passed referendums to legalize recreational marijuana in 2012. In those four states it is permissible to sell, purchase and use the drug. The states that have legalized the use of recreational marijuana are the most visible but they are only a fraction of the states with relaxed marijuana laws.

Other states have relaxed their laws on possession. Fourteen states and the District of Columbia have decriminalized marijuana.⁴⁸ Figure three depicts the most recent state laws allowing possession. It is legal to possess a certain amount of marijuana in these states; however, it remains illegal to sell it. According to the FBI, 0.5% of the United States population was arrested for drug charges in 2013 and of those 46.2% were for marijuana.⁴⁹ These states have decided to focus on the bigger criminals and forgo the war on drugs at the user level. Individual states laws vary but it is important to note the changing attitudes within the states.

Policy Project (MPP). These groups are dedicated to changing public perception and laws through organizing and funding efforts at the state level. They are well funded with large annual budgets. For example, the ACLU received a \$50 million grant.⁵⁵ Most others have an annual budget in the \$1 million to \$10million range.⁵⁶ It is important to understand their strategic plans in order to comprehend the consequences of their actions pertaining to the trends of eligibility for military service.

The MPP is a nationwide advocacy group that raised 84% of the funds used to lobby for legalized marijuana in Alaska and was instrumental to the measure in Colorado.⁵⁷ The MPP anticipates the recreational marijuana to be on at least five state ballots in 2016.⁵⁸ They have organized state level committees and expect the measure to be on the ballots in Arizona, California, Maine, Massachusetts, and Nevada.⁵⁹ They have additional efforts underway in Rhode Island, Vermont, New Hampshire, Delaware, Hawaii, and Maryland.⁶⁰ MPP will make a determination on political landscape before the 2016 elections. Figure five from the Washington Post shows MPP's efforts to legalize recreational marijuana. The significance is that legalization efforts are gaining momentum as well as the fact that the number of states being targeted each year is increasing.

RECREATIONAL MARIJUANA

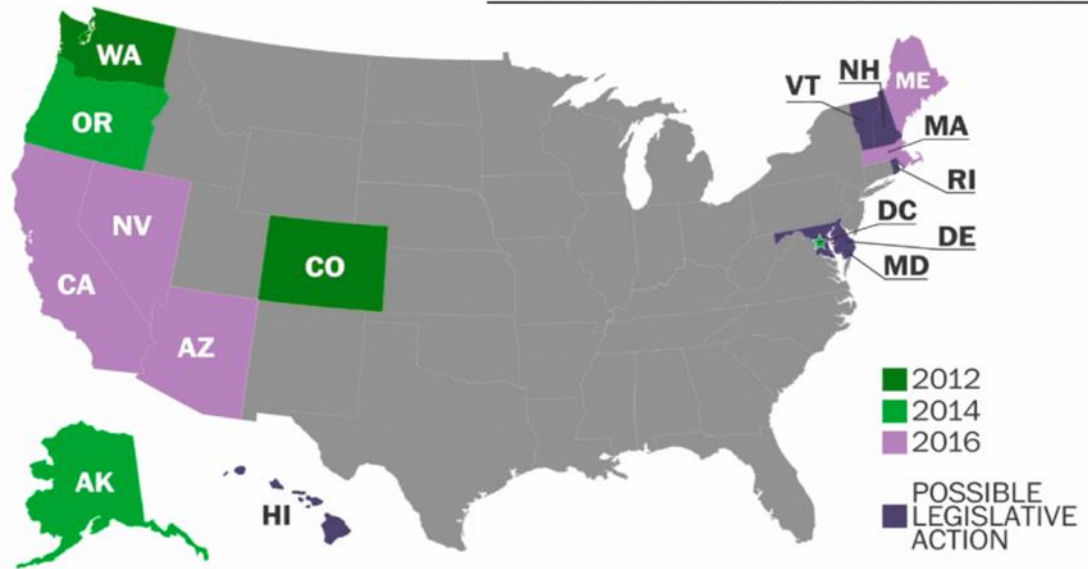


Figure 5. Marijuana Policy Project's efforts through 2016⁶¹

ArcView Market Research is a marketing firm that matches investors with the marijuana industry. Their research division studies the political climate and the efforts of activist groups. They recently released a report predicting a total of eighteen states would have legalized recreational marijuana by 2020.⁶² Figure six from ArcView Market Research shows the states and years that legislation is projected to pass. They also have efforts in other states and claim that Florida and Texas may also be possible. The repercussion of will be significant changes to the number of youth using marijuana.

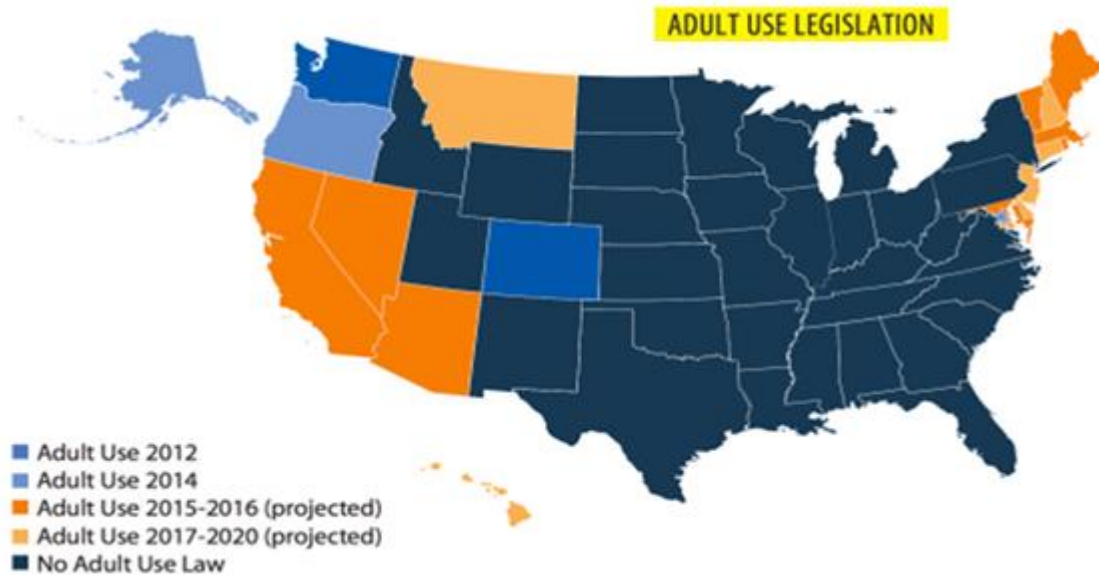


Figure 4. ArcView’s projection of the states with recreational marijuana by 2020⁶³

Current Policies

The current policies dealing with marijuana focus on the fact that it is prohibited by federal law. Drug use by soldiers is a crime even in states that have decriminalized marijuana. Soldiers in states where marijuana has been legalized are in the same position as servicemen stationed in European countries where drug laws are more relaxed. The possession, use, or distribution is punishable under the Uniform Code of Military Justice Article 112a, 10 U.S.C. 912a.

The policy for soldiers is found in Army Regulation 600-85, The Army Substance Abuse Program. It states “Abuse of alcohol or the use of illicit drugs by both military and civilian personnel is inconsistent with Army Values, the Warrior Ethos, and the standards of performance, discipline, and readiness necessary to accomplish the Army’s mission.”⁶⁴ Additionally, Executive Order 122564, dated 15 September 1986, prescribed a drug free workplace for the federal government.⁶⁵ It applies to all federal

employees both on and off duty and is a condition of employment.⁶⁶ The Army policy for dependents, employees, contractors and visitors is that while on an installation it is illegal to use or possess drugs. “It is Army policy that its workplace be free from illegal use, possession, or distribution of controlled substances by its civilian workforce (to include appropriated and non-appropriated personnel) and that its workplace be safe, healthful, productive and secure.”⁶⁷ Federal laws always supersede state laws.

The Army’s enlistment policy for prior drug use has gotten more stringent since rescinding waivers. In most cases, previous use of any illegal drugs disqualifies applicants. Applicants who admit to trying marijuana and further screened to determine if the use was experimental or habitual.⁶⁸ The determinations are based upon the frequency of use, how recently marijuana was used, and the circumstances.⁶⁹ Applicants are disqualified if the previous use exceeds experimental. Additionally, any dependency as well as legal issues of any type are bars to enlistment.⁷⁰

Legalized marijuana will likely precipitate policy decisions by senior leaders. The trends of the recruiting age population shrinking and the increasing number of people ineligible to serve will mandate change. Leaders should consider recent policies and current events to plan for the future.

IV Policy Influences

Introduction

The purpose of the Army is to deploy land forces to achieve our national security objectives. The inability of the Army to adequately recruit is a threat to national security. The Army has a history of lowering standards to meet recruiting requirements during periods of growth. This is amplified during periods of conflict.

The most recent example of a period of growth was building to the height of the War on Terror. This section examines policies the Army used in order to grow despite a youth population that largely lacks the ability or desire to enlist.⁷¹ The policy implications provide lessons for potential marijuana related policy changes.

This researcher anticipated the National Guard in Colorado and Washington would be a microcosm of the future challenges the Army will face with legalized marijuana. This is due to the organizations being more closely tied to state boundaries. However, there is no literature that has studied the negative consequences specifically with the National Guard. Officials in Colorado have indicated that there has not been enough time since the law changed to start seeing the effects on enlistment.

War on Terror

The most recent period of expansion supported the wars in Iraq and Afghanistan. During the period between 2001 and 2011 the Army peaked at roughly 17% above the number of soldiers on 9/11.⁷² Figure 5 below shows each of the US Armed Forces strength since 9/11.⁷³

Armed Forces Strength since September 2001

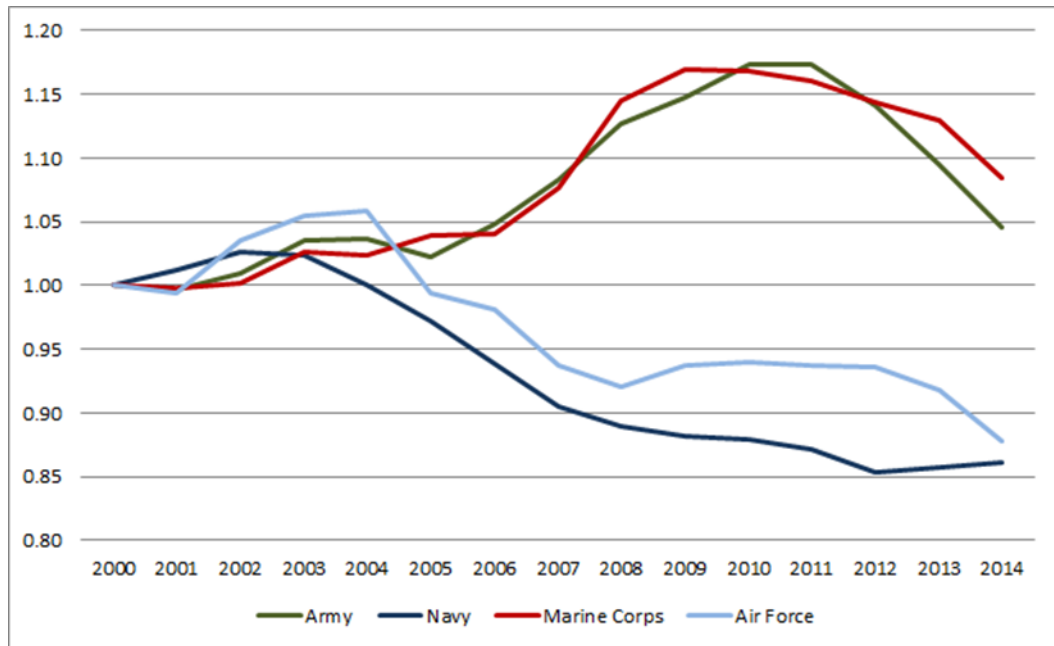


Figure 5. Armed Forces strength since 9/11⁷⁴

The quality soldiers, as previously defined, suffered as the Army grew in order to meet the strength requirements despite efforts to maintain a balance between quality and quantity. The balance favoring quality shifted to quantity between 2005 and 2006. In 2005 the Army enlisted 7,000 soldiers below its goal.⁷⁵ Subsequently, more waivers for previously ineligible recruits were accepted. In 2006 approximately twenty percent of recruits required a waiver to enter the Army.⁷⁶ The following year approximately thirty percent of recruits required a waiver to enlistment.⁷⁷ The use of waivers enabled the Army to meet its accession mission every year since 2005.

Body Fat Policy

In 2005 the Army relaxed its policy on the acceptable percentage of body fat and began accepting those applicants who exceeded the maximum standard. This coincided

with the Army struggling to meet its recruiting goals and was an effort increase the number of youth that are fit to serve. The Army allowed waivers for those recruits who could pass the Assessment of Recruit Motivation and Strength (ARMS) test which measured physical endurance, strength, and motivation.⁷⁸ The recruits who passed the ARMS test and were no more than two percent body fat over the standard (24 for males and 30 for females aged 17-24) were allowed to enlist.⁷⁹ Those soldiers were expected to attain a body fat to 20 percent within six months of completing basic training. The 2005 policy extended the time to a year. The policy was controversial but did help in increasing accessions.

Soldiers who enlisted with a body fat waiver were more likely not perform as well as other soldiers and were also more likely to be discharged early. One study found that 80% of those who enlisted with waivers for exceeding body fat standards left the military before completing their first enlistment term.⁸⁰ Additionally, the study found that “height weight and body fat have been linked to worse job performance in military occupations.”⁸¹ Finally, the Army found that soldiers that enlisted with body fat waivers “were overrepresented in being flagged for overweight six and twelve months after training.”⁸²

The Marine Corps had a similar policy that ended with similar results. A report in the *Marine Corps Gazette* reported that “the administrative and personal burdens associated with weight waivers in the USMC make the benefits of issuing them dubious at best.”⁸³ The criticism continued through the duration of the policy.

Soldiers sharply criticized the policy was and it was ultimately discontinued. The Army rescinded the changes in May 2012 and the standards returned to the pre-2005

levels. There were three predominate criticisms despite being successful in increasing the number of people eligible to serve. First, the policy lowered the quality of soldiers entering the Army. Another was that that Army did not benefit on the investment in soldiers that enlisted with body fat waivers. The cost of training each soldier is tens of thousands of dollars and when soldiers don't fail to complete their enlistment contracts then the costs associated with training additional soldiers increase. Finally, the policy was criticized for a lack of effectiveness in relation to the number of those that were discharged early.⁸⁴

The body fat policy illuminates potential considerations for an adapted marijuana policy. Such a policy must combat the decreasing percentage of the population that meets the minimum enlistment criteria. It should minimize the second order effects of reduced performance. Additionally, it should not significantly increase the number of soldiers that don't complete their enlistment contracts. The body fat policy should influence future drug policy despite ultimately being rescinded.

Tattoo Policy

The Army recently changed its policy on tattoos. A new policy was announced in March 2014.⁸⁵ The former Sergeant Major of the Army Raymond Chandler stated "the Army is a profession and one way our leaders and the American public measure our professionalism is by our appearance."⁸⁶

The new tattoo policy is narrower than what was previously permitted. The previous policy forbid tattoos that were considered racist, extremist, sexist or otherwise indecent. It also limited the placement of tattoos to essentially areas not visible in the dress uniform.⁸⁷ The new policy is much more stringent on the placement. Now tattoos

cannot be visible in the physical training uniform.⁸⁸ Additionally, the limit on the number of tattoos was reduced to four.⁸⁹

There are inherent problems with the new policy especially in regard to soldiers with tattoos that were not grandfathered in under the old policy. Soldiers with tattoos that violated the more stringent rules were told to either remove them or be discharged. The Army revised the controversial policy and now enlisted soldiers with tattoos cannot become commissioned officers. Additionally, soldiers are inspected annually to check for new tattoos visible in the physical training uniform. The Army implemented the policy prior to ascertaining the full impact.

Other Policies

The Army has instituted several enlistment policies that are relevant to pre-enlistment marijuana use since the height of the wars in Afghanistan and Iraq. The policies standardized enlistment eligibility and improved the process of screening soldiers for security clearances. The policies made enlistment more strenuous and is consistent with the steady reduction in the size of the Army.

The Army no longer accepts waivers for previous drug use. In 2012 the Army published a new policy that greatly restricts the consideration of enlistment waivers.⁹⁰ The policy prohibits waivers for major misconduct, drug and alcohol test failure, and misconduct for previous drug use. It pertains to both adult and juvenile possession and use of drugs and drug paraphernalia and includes marijuana.⁹¹ The Army tightened the enlistment policy in order to facilitate the reduction of personnel. However, it also had the effect of standardizing the waivers approved by limiting the number and consolidating the approval authority at a higher level.

One recent policy change is in the area of security clearances. Previously, recruits could enlist but potentially not be promoted later due to failure to be granted a security clearance for prior drug use. Some career fields do not require a security clearance until reaching the grade of a non-commissioned officer. As a result, those individual's careers were limited to only several years despite their performance and potential. The new policy requires recruits to complete an Electronic Personnel Security Questionnaire (EPSQ) as part of their enlistment processing. The prescreening of the security clearance is used for enlistment eligibility. This procedure changed recently and nullifies the inability for soldiers to enlist that are unable to later be promoted.

Federal Agencies

Other federal agencies have begun to address the growing number of marijuana users. The FBI current situation foreshadows the Army's future. The FBI is similar to the military in that both require security clearances and are trusted by the public to perform their duties. The FBI is experiencing a period of growth similar to that of the military in a time of conflict.

The FBI is increasing the number of personnel largely to expand its cyber capability. It plans to add approximately 2,000 agents to its roles between 2014 and 2015.⁹² Those with computer expertise are a part of society that has higher marijuana use.⁹³ The policy considerations that the FBI is undertaking is similar to what the Army will face the next time it needs to expand.

FBI Director James B. Comey stated that "I have to hire a great work force to compete with those cyber criminals and some of those kids want to smoke weed on the way to the interview."⁹⁴ He went on to say that the agency is "grappling with the issue

right now."⁹⁵ The FBI's policy changed from a no previous use in 2007 to now one must abstain from marijuana use for three years prior to joining the FBI.⁹⁶ However, the agency is encouraging those with more recent marijuana use to apply anyway.⁹⁷ Mark Zaid is a lawyer that represents people rejected by the FBI for drug use. He stated "Recreational marijuana use is a fact of life nowadays, it doesn't stop Supreme Court justices from getting on the bench and doesn't stop presidents from getting elected, so why should it stop someone from getting hired by the FBI?"⁹⁸

The FBI is also facing integrity questions with its applicants. Applicants are aware of the three year policy and have an incentive to be dishonest.⁹⁹ The FBI director understands that recruiting talent, especially in the cyber field, will require a more liberal policy if they expect applicants to be honest when answering marijuana related questions.¹⁰⁰

The FBI is not alone in recognizing increased marijuana use. The Drug Enforcement Administration (DEA) is another example of a federal agency that is considering policy change. It has traditionally had a zero tolerance for previous drug use. However, they now permit applicants who admit to "limited youthful and experimental use of marijuana."¹⁰¹ These and other federal agencies are coming to terms with marijuana use as our nation deals with the changing state laws and social attitudes.

Recruiter and Applicant Integrity

The current policy on pre-enlistment marijuana use has created ethical challenges for both recruits and for recruiters. The pressure to produce can put recruiters in a position for their integrity to be tested. Likewise the desire of people to

serve can also create the same dilemma. People with a history of drug use are forced to decide to be honest and be able to enlist or not be truthful and not be eligible. Certainly the vast majority of recruiters and enlistees are honorable; however, the potential for a lack of integrity causes concern.

Recently, videos taken with hidden cameras show footage of recruiters violating the regulations to help applicants enlist. There are numerous videos posted on Youtube.com that document the problems. Recruiters are shown to give urinalysis tests to applicants prior to scheduling them for MEPS.¹⁰² This is in violation of United States Army Recruiting Command Regulation 601-56. The issue is that it constitutes the first urinalysis given by the government.¹⁰³ Applicants who fail a drug screening are ineligible for enlistment.¹⁰⁴ The videos also show examples of applicants violating the intent of the screenings. While this typifies only a small number of recruiters, the overall professional integrity is diminished by the actions of a few individuals.

Additional integrity challenges lie within the applicants themselves. The previous use screening policy is readily available to potential recruits.¹⁰⁵ Additionally, there are numerous forums and message boards online that coach applicants on how to answer questions so that they will be allowed to enlist. For example, one source tells people to lie and never change their story.¹⁰⁶ Furthermore, there is also hidden camera footage posted online of recruiters coaching applicants on how to respond to questions. These examples indicate an individual's level of integrity and also demonstrate the shortcomings of the pre-enlistment drug screening. Any person considering enlisting has all the information needed to pass the enlistment questionnaire. The pre-enlistment drug screening process does not prevent ineligible applicants from enlisting. The intent

of the drug policy is easily bypassed throughout the process as long as there is no record of drug offenses or treatment. The current policy is ineffective due to ease in which it can be circumvented.

Social Pressures

The Army has an institutional reluctance to change. It traditionally lags behind public opinion in effecting change. There have been times when public opinion has affected policy. The most recent notable example is the repeal of Don't Ask Don't Tell (DADT).

The military was the last institution that legally forbid homosexuals from entering. Prior to the repeal of DADT, a survey found that 70% of soldiers believed that it would not have a negative effect on unit cohesiveness.¹⁰⁷ The parallel with this social issue and acceptance of marijuana is public opinion changed before the military policy changed. The public favored full acceptance of homosexuality while the military had widespread reservations about changing the DADT policy.

A recent poll found that for the first time more than half of the nation favored legalizing marijuana. The gallop survey reported that now 51% of Americans support legalized recreational marijuana.¹⁰⁸ This issue is different than the social justice example. However, public opinion is becoming more accepting which could result in states becoming more likely to approve ballot measures legalizing marijuana.

The social attitudes have changed within the highest levels of government. Richard Clarke, the former White House adviser on counterterrorism stated "What people did when they were 18 or 21, I think that is pretty irrelevant."¹⁰⁹ He went on to say "we have to recognize there are a couple of generations now who regarded

marijuana use, while it's technically illegal, as nothing more serious than jaywalking."¹¹⁰ Even President Obama has downplayed the danger of marijuana.¹¹¹ He stated that "I smoked pot as a kid, and I view it as a bad habit and a vice, not very different from the cigarettes that I smoked...I don't think it is more dangerous than alcohol."¹¹² In the same interview he also said that he believes these new laws to be "important."¹¹³

V. RECOMMENDATIONS

Synthesis

Any changes to the current enlistment policies should first and foremost provide an adequate recruiting pool. The policy must combat the decreasing population that is eligible to enlist.

The number of states that are moving to legalize marijuana is escalating. The evidence shows a direct relationship to legalized marijuana in states and an increase in usage by youth. Although some reports state that legalization has no impact, they tend to focus on a national decline in adolescent marijuana use and are limited to a recent decline in new users. The result is that there will be a reduced percentage of youth eligible to enlist under the current policies. This is significant considering the fact that the population below the age of 20 continues to decline.

The capacity of the United States' population to support a surge in the size of the Army is restricted by the reduced number of people that are able to serve. The case studies provide input to future policy. The examples of tattoos and body fat show that future policy should not lower standards nor increase personnel attrition. Other lowering of standards such as education and test scores to increase eligibility have been temporary and had negative effects. Policies should be enduring and applied uniformly.

Revised policies must be sustainable and minimize negative second order effects. It is strongly preferred to not lower the quality of recruits. It is less than desirable to increase attrition prior to the end of the enlistment period. Additionally, we want to avoid creating situations that allow soldier to enlist with behavioral issues that increase the prevalence of adverse actions. Barriers should not be in place that precludes an otherwise qualified soldier from progressing in his or her career.

The integrity concern is critical to resolve. The case studies with recruiters and applicants highlight a serious concern. The predominant issue is that the acceptable answers to screening questions are readily available online. As shown, applicants can easily find out how to answer the questions if they have any concerns about being accepted. The result is the Army enlists some dishonest applicants who know how to respond to questions while excluding applicants who respond truthfully. Integrity is a core value of the Army but the process encourages some applicants to be dishonest. The current process also has opportunity for recruiters to violate the intent of the screening process. Certainly the vast majority of recruiters are above reproach; however, the current policies don't not prevent coaching, the use of commercial drug test kits, and scheduling after marijuana no longer detectable. Future policy should also avoid situations where the integrity of recruiters and enlistees are challenged.

A new policy must also be fiscally sound. It should be cost effective to implement and maintain. It should not produce in increase in operational or systemic costs. For example, it should not increase screening and testing time or costs or require an inordinate amount of time to process applicants. Policies that reduce the size of the

eligible population increase marketing costs due to competition with other services and agencies for qualified incumbents.

In summary, new enlistment policy should maintain a balance of eligible population with quality of recruits entering the service. Since the Vietnam War era, military planners have anticipated that we could not fight another protracted war without a draft. The Army has been able to meet its recruiting mission by periodically adjusting the entrance requirements based on supply and demand. In the future the Army will not be able to compensate for the increased adolescent marijuana use without revising its policy on pre-enlistment use.

Recommended Changes

The projected increase in states legalizing marijuana is anticipated to result in a reduction in the number of youth eligible to enlist. Senior leaders can develop meaningful policy that minimizes negative second order effects. The policy changes recommended are limited to pre-enlistment marijuana use and are exclusive of other controlled substances. The goal is to maintain a suitable balance of the quality and quantity soldiers in uniform with the changing political and social landscape.

This author recommends that recreational marijuana use prior to enlistment no longer preclude service in the Army under certain circumstances. The proposed policy would accept applicants that have not used marijuana within the previous six months. Furthermore, applicants must not have a dependency as defined by the current drug screening criteria. The revised policy should accept only those people who are willing and capable of abstaining from future drug use. This recommended change is also conditional on the applicant not having any legal issues associated with marijuana such

as prior arrests. The legal portion of the screening should still include a disqualification for the illegal sale or distribution of controlled substances. Other policies associated with illegal drugs are recommended to remain in place.

The drug screening questions would be amended to reflect the new policy. The recommended updates to the screening are listed below.

- Have you used marijuana within the last six months?
- Have you ever been arrested for a drug offense?
- Have you ever illegally trafficked or sold marijuana or any other drug?
- Have you ever been terminated from a job for any drug related reason?
- Have you ever sought treatment or been referred for treatment for drug or alcohol dependency?
- Are you capable of abstaining from marijuana use while a member of the military?

The indicators of dependency as well as criminal history would be discovered during the National Agency Check and financial screening. The recommend policy and screening is consistent with other federal agencies. The award of security clearances is outside the scope of this study but it is recommended that it remain consistent throughout the federal government.

Policies Recommended to Keep

The vast majority of current policies should remain consistent. These policies are designed to maintain a drug free force. The Army should maintain a zero tolerance of marijuana use for soldiers after enlistment. Furthermore, a drug free workplace should be maintained consistent with federal law. Army Regulation 600-85, The Army

Substance Abuse Program, should remain intact. This tool maintains soldier readiness and preserves the fitness of families and the civilian workforce. There should be no waivers approved for other drugs other than marijuana. The use of marijuana by those serving should not be accepted even in states and countries where it may be legal.

The screening for dependency indicators should remain. The current questions screen for dependency indicators and include a history of debt, unemployment, mental health, and arrests. The purpose is to exclude those with poor judgment and/or those who fail to conform to laws. The procedure should continue to exclude those who are chronic or long term marijuana users.

The policy requiring applicants to complete the EPSQ should be sustained. The EPSQ is the mechanism used to report information required to obtain a security clearance. The Army should continue to accept only applicants that are capable of being granted a security clearance. Soldiers that are incapable of progressing in their career do not have the same incentives to achieve and ultimately decrease competition. Concession should be limited to periods of conflict and when recruiting objectives are not being met. Furthermore, it should be considered only after other incentives have been exhausted. Enlistment policies should provide opportunity for those in whom the military makes an investment.

Additional Options

There are other options outside the scope of this study that can partially offset the anticipated increase in those being unfit for military service. First is an education program. This would address the consequences of marijuana use as it relates to the ability to enlist and be granted a security clearance. This type of program would not only

benefit the DoD but also any other government agency that requires security clearances. This type of education program is larger than the Army and should be funded and accomplished by the federal government. A practical means to accomplish this is for the legislative branch to mandate that states with legalized marijuana dedicate a percentage of marijuana tax revenue for education.

Another strategy to have a larger available force while minimizing cost is to maintain a larger reserve. The first is an increase in the size of the Individual Ready Reserve (IRR). The IRR is a low cost option that increases the number soldiers available for activation for service. This will only offset a small fraction of the population that will become ineligible for military service. However, the IRR is best used in tandem with stop loss programs. Stop loss is where soldiers are not discharged after their current term of service. However, limiting the number of discharges is temporary in nature and cannot be sustained. The benefit of both the IRR and stop loss is gaining time to surge recruiting and is not a long term solution. These programs offer short term benefits but are not a complete solution.

A proactive strategy consideration is establishing mentorship programs by the DoD. These programs would engage junior high and high school students. The purpose would be to discuss positive choices and consequences. However, this is not practicable to reach every student due to manpower requirements. Manpower could be maximized though engaging other services, the reserve component, Junior ROTC, and veteran service organizations. However such a program could not consistently and uniformly cover the requirements.

The other option is to simply not change any policies regarding marijuana use prior to enlistment. However, the assumption that there will be adequate number of recruits available in the future is short-sighted. There are several negative consequences. The first is the inability to meet recruiting mission requirements. Additionally, a logical consequence concludes that there will be an increase in marketing costs as other services and federal agencies compete for a smaller segment of people that meet eligibility requirements. This is the least desirable alternative is a failure to respond to the changing laws and attitudes sweeping the United States. This is the least desirable course of action.

In summary, the alternative options will not mitigate the potential scope of the problem in the future. The options identified should be considered as local and interim measures. The Army must look at more permanent countermeasures as momentum continues to grow for states to legalize marijuana despite federal laws.

VI. CONCLUSION

The Army of 2020 will be a smaller force than the Army of today. However, over a third of the states are projected to have legalized recreational marijuana by that time. History has taught us that unanticipated world events can result in the need to rapidly expand our armed forces. The Army's enlistment policies need to ensure that an adequate number of the nation's youth are eligible for military service in the future. The capability to grow the force for the next conventional conflict is paramount.

The country is in a period of divergent federal and state laws. The U.S. Army has a unique window of opportunity to consider pre-enlistment marijuana policy recommendations. Senior leaders have time to consider the recommended policy

changes while the Army is downsizing. Now is the time to consider changes in pre-enlistment criteria before other policy and fiscal decisions become urgent.

VII. FURTHER RESEARCH

Follow on studies for this topic should answer two important questions. The first question for researchers is if a correlation exists between soldiers with increased pre-enlistment marijuana use and post enlistment misconduct and/or failure to satisfactorily complete their terms of enlistment. The results either validate the conditions where pre-enlistment marijuana use can be accepted or identify additional policy recommendations. The other question pertains to other enlistment disqualifiers. Researchers could study trends in those areas and make projections about the future capacity of the nation's population to support growing the military based on a demographics forecast of those eligible for military service. There may be other changes or programs to implement to ensure an adequate portion of the nation's youth can meet our future requirements of the military.

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