

Losing the Drug War in California

Opponents of the proposed law to legalize and tax marijuana need better arguments, because just saying they're concerned that kids will start driving high is sending the debate up in smoke

By: John H. Richardson

To greet the news about California's ballot initiative to legalize and tax marijuana this November, which proponents say could raise as much as \$1.4 billion a year, the *New York Times* ran a story with comments from the president of the California Peace Officer's Association, John Standish. "We just don't think anything good will come of this," he said. "It's not going to better society. It's going to denigrate it."

Later he was quoted again: "We have a hard enough time now with drunk drivers on the road. This is just going to add to the problems — I cannot think of one crime scene I've been to where people said, 'Thank God the person was just under the influence of marijuana.'"

My jaw dropped. That's it? That's the best you've got? For that, thousands of people die every year in the drug war? For that, we arrest more than seven hundred thousand Americans a year? For that, we spend hundreds of billions of dollars on police, prisons, and international eradication efforts?

Besides, I've got two kids. To the point of driving them crazy, I tell them over and over to drive sober and stick to the speed limit. But I would five thousand times rather see them drive stoned than drunk — and I don't believe Mr. Standish could produce a single parent who feels differently.

So I called Standish. Surely the *Times* failed to quote his good arguments?

He told me: "The CPOA is a professional law enforcement association that develops leaders — there are four thousand members, police chiefs, sheriffs, command staff, and first-line supervisors, so all of the law enforcement associations in California are against this ballot initiative."

Also, "It's kind of misleading in that California can't legalize marijuana — state law cannot trump federal law." Then he repeated verbatim the "we don't think anything good is going to come of this" and added two more arguments: that Denmark thinks making pot semi-legal is the worst decision they ever made, and Mexico is "not going to sit idly by if we legalize it."

Then he had to rush off, so I didn't get a chance to ask him about what happened in Portugal (according to [a study by the super-conservative Cato Institute](#)) in the first five years since they legalized all drugs:

"Lifetime use of any illegal drug among seventh through ninth graders fell from 14.1 to 10.6 percent; drug use in older teens also declined. Lifetime heroin use among 16-to-18-year-olds fell

from 2.5 to 1.8 percent (although there was a slight increase in marijuana use in that age group). New HIV infections in drug users fell by 17 percent between 1999 and 2003, and deaths related to heroin and similar drugs were cut by more than half. In addition, the number of people on methadone and buprenorphine treatment for drug addiction rose to 14,877 from 6,040, and money saved on enforcement allowed for increased funding of drug-free treatment as well."

A few hours later I got a call from the CPOA spokesman, John Lovell, a pleasant man who also represents the police chiefs' and narcotics officers' associations. These are the arguments he came up with:

"First off, the figure of seven hundred thousand arrested is factually inaccurate — people do not get arrested for simple possession. The most that happens is they're given a citation and release. In California, the penalty for simple possession is \$100 fine."

In other words, pot isn't all that illegal, which strikes me as a weird argument for keeping the drug war going full tilt. It also suggests they don't take the stoned driver problem as seriously as their rhetoric suggests.

"Second, I think what John was trying to say is that the burden of proof is on the legalizers, because right now what you have is serious public safety problems caused by alcohol abuse, pharmaceutical abuse, tobacco that kills people. Given all that, the question is, What is the public policy good of adding another substance that alters their minds?"

Also, "this substance is a registered carcinogen."

Also, the initiative is badly written. "It may make it impossible for California institutions and businesses and governments to receive any federal funding." This is because the details of the initiative make it impossible to observe the standards of a "drug-free workplace," which is required by federal law for groups that get federal grants. This could cost California billions in Washington cash, he said.

Also, the ballot does not provide for a state marijuana tax, just city and county taxes. "It authorizes 420 cities to make their own laws, each with their own regulations." (My rule against drug-war-trivializing Cheech & Chong jokes forbids me to take note of that number, although I will say that later, Lovell unilaterally upped the number of cities in California to 450).

Also, pot use doubled in Alaska when they decriminalized. And the ballot doesn't forbid people with criminal records from distributing. And it doesn't specify if your license to sell is statewide or limited to a given city. And the Mexican government, mired in its war with the drug cartels, has expressed deep concern that legalizing pot will hurt their efforts to fight the drug cartels.

At that point, I had to stop him and ask the obvious question: Isn't the drug war exactly like Prohibition? Didn't the legalization of booze make Al Capone's mobsters pack their Tommy guns back in their cello cases so semi-law-abiding citizens like Joseph P. Kennedy could take over the liquor "cartels."

"That's a theoretical argument," he said.

"But isn't it true? Didn't the mobsters all go away?"

"You need to get your history from other than movies," he said. "What did happen after Prohibition is that the mob simply moved in to the legal liquor distributorships all over the country. All that came out in the Kefauver Commission in the 1950s."

But... doesn't John McCain own a beer distribution business. Are you saying that John McCain is a mobster?

"Of course not," Lovell said. "But let's not get into philosophical issues. What voters are going to be voting on isn't some philosophical debate — what they're voting on is a specific proposal. I think it's possible for the voter to say, philosophically, this should be legal, but this measure is wrong."

Then he went back to the regulatory problems. Under the terms of the initiative, 450 different cities could have 450 different rules. That means a city could make it legal to grow pot in public parks. And look at how upset the Los Angeles City Council got when a thousand medical marijuana clinics bloomed — they [capped the number of permits at 70](#). And what if you run a bike shop and can't promise a drug-free workplace? Won't your insurance company raise your rates?

But all laws have problems, and none of this stacks up very impressively against the thousands of lives and billions of dollars. Isn't the solution to pass the damn law and fix the tangles as they come up? Just as the Los Angeles City Council did when they limited clinics?

"The initiative has a provision in it — it can only be amended to advance its purpose. That means, because one of the purposes of the initiative is local control and local taxation, you cannot change that."

So we're going to sacrifice thousands of lives and hundreds of billions of drug-war dollars so that California's cities and counties don't hog all the marijuana tax money?

"This could cost the state billions in federal money," he repeated. Really? With California on the ropes, cutting school budgets and releasing prisoners, is the federal government *really* going to slash its grant money over pot?

I don't buy it.

"For sure, it's going to cost every employer more in insurance," he said. "If you look at section 11340C, the only thing an employer can do is address consumption issues of an employee that actually affect their workplace performance — if you're in possession, an employer can't take any action. If you test dirty, the employer can't do anything."

So you can only punish an employee for something that "actually affects his workplace performance" — these are his words, folks. In other words, if a person gets stoned on Saturday night and comes in Monday morning 100 percent sober, there's no way to punish him? And the problem with this is?

"Tell that to the federal government when they deny your request to make bicycles for the Army."

Even if it's a perfectly good bicycle?

"Go read the drug-free workplace act of 1988," he said. Let me see if I follow this — the argument is that marijuana should be illegal because it is illegal?

What I'm saying to you is, irrespective of our differing points of view, if you read this initiative, it doesn't make sensible public policy."

By that point, we were going in circles — until he came up with one completely new argument. "In Mendocino county, the heart of the emerald triangle, there was last year — I'll have fun with it — a 'grass roots' effort that put a measure on the ballot to roll back Mendocino's liberal medical marijuana laws."

A Cheech & Chong joke! From the drug warrior's drug warrior! If you need any more evidence of how completely mainstream marijuana has become, this is it. This war is lost. The only question now is how much more blood and treasure we're going to waste before we all admit it.