

P U B L I C I N T E R E S T

It Is Time to Reform Laws on Marijuana Use

BY ANGUS LOVE

Special to the Legal

In 1934, Harry Anslinger, the nation's first drug czar, led a campaign to outlaw marijuana. Previously, it had been used for a variety of medicinal purposes and was subject to local ordinances. Anslinger mounted a public relations campaign to achieve his goal of criminalizing the drug. Some suggested the campaign had racial overtones, especially Mexican Americans who were often portrayed as menaces to society when indulging in marijuana. Others suggested the campaign was bankrolled and publicized by William Randolph Hearst to eliminate hemp as an industrial competitor to his considerable timber/paper holdings. The movie "Reefer Madness" symbolized the campaign of fear and distortion.

In 1971, President Richard Nixon declared a war on drugs. He commissioned former Pennsylvania Gov. Raymond Shafer, a fellow Republican, to do a comprehensive study of marijuana and make recommendations for the pending Controlled Substances Act. Shafer did as he was instructed; he thoroughly researched the subject, talked with experts, reviewed the history of marijuana laws and the scientific research and recommended decriminalization of marijuana. The report dispelled much of the hysteria surrounding the drug and recommended a

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more nuanced non-criminal discouragement policy. Nixon immediately chastised Shafer, torpedoed his pending federal judgeship and made marijuana penalties the toughest of all illegal drugs. The Nixon tapes showed that his reasoning was based on the prejudices of that time, citing the support and use of marijuana by Jews, homosexuals, communists and radicals as the reason for rejecting the commission finding and making marijuana a schedule I drug, illegal under any circumstance and proscribing penalties far harsher than traditionally harsher drugs such as cocaine and morphine.

A few excerpts from the Nixon tapes read: • "I see another thing in the news summary this morning about it. That's the funny thing, every one of the bastards that are out for legalizing marijuana are Jewish. What the Christ is the matter with the Jews? ... I suppose it's because most of them are psychiatrists."

• "You see, homosexuality, dope, and immorality in general. These are the enemies of strong societies. That's why the communists and the left-wingers are pushing the stuff, they're trying to destroy us."

• Marijuana consumers smoke "to get high" while "a person drinks to have fun."

• "Radical demonstrators were here ... two weeks ago. They're all on drugs, virtually all."

Nixon's decision in 1971 to ignore his own commission report and favor politics over substance led us down a thorny, dangerous and costly path of criminalizing marijuana. It was a time when Presidents Lyndon B. Johnson and Nixon had begun the war on crime. Crimes rates were up, there were riots in the ghettos, the transformational civil rights and antiwar movements were in full swing. Nixon decided to expand the crime war to include drugs. Previously, drug addiction was considered a public health issue and treatment was the preferred response. Shafer's report, "The Report of the National Commission on Marijuana and Drug Abuse: Marijuana: A Signal of Misunderstanding," laid out a framework for continued treatment and not criminalization. It favored ending prohibition and adopting other methods to discourage its use. Shafer noted that public opinion had been improperly swayed with misinformation labeling the stereotypical user as "physically aggressive, lacking in self-control, irresponsible, mentally ill and much more criminally inclined and dangerous." The commission found instead that the drug typically inhibits aggression "by pacifying the user ... and generally producing states of drowsiness, lethargy, timidity and

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New Ordinance to Help Stop Phila. Immigration Fraud

BY VANESSA STINE

Special to the Legal

Last spring, "Mario," a Friends of Farmworkers client, testified at a Philadelphia City Council hearing about how he had become a victim of fraudulent immigration services. Mario lost \$15,000—his entire life savings—to this fraud and, after suffering from a severe work accident that left his hand immobile, he was deported back to his home country. In his testimony, he said, "I feel like my life is over. I've lost my savings, my hand, and my family. I am separated from my wife and my two children, and I cannot find work to support them or myself." He asked City Council to "do something to stop people like the man who took everything from me. My life is already over, but you can stop him from ruining other immigrants' lives."

The man who took advantage of Mario is not a lawyer. Mario had gone to his office in Philadelphia for help filing his taxes, and when the man realized that Mario was undocumented, he told Mario that he could help him get a green card. Mario believed him because he desperately wanted it to be

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passivity." In recommending decriminalization, the commission noted: "The criminal law is too harsh a tool to apply to personal possession even in the effort to discourage use. It implies an overwhelming indictment of the behavior which we believe is not appropriate. The actual and potential harm of use of the drug is not great enough to justify intrusion by the criminal law into private behavior, a step which our society takes only with the greatest of reluctance."

So what happened to the commissioner's finding? While Congress was debating and drafting the Controlled Substances Act, Assistant Secretary of Health Roger Egeberg recommended that marijuana be placed in schedule I pending the completion of the Shafer report. This was supposed to be a temporary measure that continues today. Schedule I means there are no circumstances when the drug can be used for any purpose. It places it above cocaine, barbiturates, amphetamines, morphine and other so-called hard drugs that are schedule II drugs. It further prevents testing by the U.S. Food and Drug Administration and other scientific groups.

Clearly Nixon's prejudices were signs of a different time and he allowed them to get the better of him and cloud his judgment. This was also the time he was planning the Watergate break-in of Democratic headquarters despite winning 49 of 50 states in the landslide 1972 election. Sadly, this has resulted in a destructive path for more than 40 years that is only now being reexamined. Shortly after the passage of the

Controlled Substances Act, states followed suit. Nelson Rockefeller passed his draconian laws in 1972, which were only repealed a few years ago, allowing New York to close prisons after dramatic population reductions. Pennsylvania followed along with its own Controlled Substances, Drugs, Device, and Cosmetic Act of 1972, P.L. 233, No. 64, approved April 14, 1972. Since the beginning of the so-called war on drugs, countless lives have been destroyed and billions of dollars wasted. Our prison populations have grown over 700 percent in Pennsylvania and the rest of the country since this declaration of war has followed suit. We now have 27 state prisons, up from eight in 1980. The prison budget has similarly grown from \$200 million to more than \$2 billion in that timeframe. A recent American Civil Liberties Union report notes that the fiscal costs of arresting people for marijuana possession run anywhere from \$1 billion to \$6 billion a year. Pennsylvania prison populations now hold 23 percent drug offenders while the percentage was 1 prior to the events herein described.

Countless lives have been destroyed. John Anthony Morales had the unfortunate experience of selling a small amount of marijuana in the parking lot of the Trinity United Church of Christ in Waynesboro, Pa. Little did he know the church housed a day care center, which enhanced his sentence 20 times to two years in prison because the sale was within a so-called school zone. Patricia Spottedcrow, an Oklahoma mother of four, was sentenced to 12 years for a purchase of \$31 of marijuana, which was reduced to eight years on appeal. Bernard Noble is a 48-year-old Louisiana man who was sentenced to 13 years of hard labor without the possibility of parole for possession of the equivalent of two

marijuana cigarettes. He is a father of seven children, including two with special needs, but will no longer be able to support his family. Jonathan Magbie was less fortunate. Paralyzed from the waist down due to being struck by a drunken driver, he was sentenced to 10 days in jail when police found a marijuana cigarette in the car where he was a passenger. While in the Washington, D.C., jail, he was denied a ventilator and died four days later. Between 2001 and 2010, there were 8.2 million marijuana arrests with 88 percent for simple possession. Fifty percent of all drug arrests during that timeframe were for pot. Lifeform.org has a list of people serving life sentences for marijuana-related crimes, mostly cultivators.

The good news is that as I contemplate the end of my legal career, 40 years hence, we are finally coming to terms with this horrendous historical mistake. Colorado, Oregon, Alaska, Washington and the District of Columbia have legalized recreational marijuana. Twenty-three states and the District of Columbia have approved legislation for marijuana use for medical purposes. The Obama administration has decided to defer to states on the issue of marijuana use. The Pennsylvania Senate recently passed the Raymond Shafer Compassionate Use of Cannabis Act by a margin of 43-7 although the legislation died with the end of the session. Pennsylvania should join the movement and enact medical marijuana legislation. Obama should utilize his executive powers and move marijuana to a schedule II drug. It is long past time to heed the wise counsel of the late Shafer and bring this tragic mistake to an end.

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