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JUDGE JIM GRAY - IT'S A GRAY AREA: WHY OUR DRUG LAWS HAVE FAILED AND WHAT WE CAN DO ABOUT IT
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SUNDAY, MARCH 1, 2009

Treating pot like alcohol - by Judge Jim Gray

I recently participated in a news conference in San Francisco with Assemblyman Tom Ammiano, Chairwoman Betty Yee of the State Board of Equalization, and Oakland City Councilwoman Rebecca Kaplan to support Assembly Bill 390, which would treat marijuana like alcohol in California. San Francisco Sheriff Michael Hennessey also supports the bill.

AB 390 would allow adults older than 21 to buy, own and use marijuana sold in accordance with a specified state plan. The bill would also require the product to be subject to a tax surcharge of \$50 an ounce, in addition to normal sales taxes.

Importantly, the bill further strengthens the penalties for anyone selling, possessing, or using marijuana near a school, and continues to hold people accountable for their actions, such as driving under its influence.

Today, even though it is still illegal, marijuana is the largest cash crop in California. In fact, marijuana is estimated today to be a \$14-billion yearly crop; the No. 2 crop in our state is grapes. Further, it is easier today for our children to get marijuana, if they want to, than a six-pack of beer.

How do I know that? Because I ask them – and you should too! – Because today's sellers of marijuana don't ask for ID.

As we have discussed in this column before, treating marijuana like alcohol would have five results, and all of them would be beneficial.

First, we taxpayers would save about \$1 billion that we now spend each year in a transparently futile effort to eradicate marijuana, and to prosecute and incarcerate non-violent marijuana

users.

Second, we could tax the stuff, and, according to the estimate of the State Board of Equalization, could generate at least \$1.33 billion in revenue each year.

But the third result would dwarf the first two because, as we have discussed, this program would make marijuana less available for our children than it is today.

Fourth, any ambiguity about medical marijuana dispensaries would be eliminated.

And fifth, we would be able to revitalize the hemp industry. This is not a minor result because hemp, which is the stalk and seeds of the marijuana plant and which can be manipulated to have no mind-altering properties whatsoever, has a multitude of practical usages.

For example, farmers can produce four times the amount of paper pulp from an acre of hemp as they can from an acre of trees. Other products such as plywood, lacquer, rope, gunny sacks, mulch, and fuel more efficient than corn are also made from hemp. Furthermore, today you can go to stores like Trader Joe's and buy a lip balm made from hemp, as well as hemp-seed granola, which is quite nutritious and flavorful. But under our present policy, our merchants are required to import their raw material from radical countries like Canada and England, where their farmers have been allowed to grow hemp for years.

There would probably also be two additional results.

The first would be a tendency to increase the usage of marijuana for adults. This would probably last for six months to a year, until the novelty wore off. For example, in Holland, where anyone 16 or older can use marijuana and hashish, the minister of health reported that his country has only half the marijuana usage per capita than we do here – both for adults and for teenagers.

Then he went on to explain why, when he said that “We have succeeded in making pot boring.” Of course, we glamorize it, and set up a huge profit motive for others to get us to use it.

Finally, it is clear that the laws of a society are an indication of its values. So changing our laws might indicate to some people that the usage of marijuana was “no big deal.” But as a practical matter, just because we repealed alcohol prohibition did not mean that society recommended people go out and drink a martini, or even a beer. It simply was understood as a statement that society was going to address the issue of alcohol distribution and usage in a different manner. In fact, just because cigarettes are not illegal for adults does not mean that society condones their usage. The same would be true for marijuana.

Surveys show that, despite its illegality, about 25 million people in our country use marijuana regularly today, and about 100 million Americans have tried it at one point in their lives. That includes former President Clinton, and also President Obama who, when asked while on the

campaign trail if he had ever inhaled, responded by saying "I thought that was the whole idea." It also includes about half of the top 10% of the students in my 1971 graduating class at USC Law School, and to my knowledge all of them have been successful in life.

AB 390 expressly acknowledges that this program would still be a violation of federal law, so it would not go into effect until 30 days after those federal laws had been changed. But if the voters of California were to approve this bill, it could not help but influence a change at the federal level.

How can we as a state and a country continue to be so blind to reality? The entire country of Mexico is now being terrorized by violence and corruption from drug lords. But this is not caused by drugs: It is instead caused by drug money. Worse yet, it is our drug money that is causing the harm! And that same violence and corruption are increasingly spilling over the border into our country.

Under our present system of marijuana prohibition, we could not achieve more harmful results if we tried. The availability of marijuana both to us and to our children is up; the presence of violence and corruption is up and rising; the number of people's lives that are being ruined by them or their parents being sent to jail and prison is up; and none of the vast profits that are made by the sale of marijuana are being taxed. In addition, since we only have limited criminal justice resources, getting "tough" on marijuana prosecutions means that we have gotten "soft" on all other prosecutions, including robbery, rape and murder.

In that regard, you should also be aware that at this moment there are thousands of people filling up our jails and prisons who have done nothing but smoke marijuana. The reason is that it is always a condition of probation or parole for the subject not to use any form of illicit substances. Therefore, if people on probation or parole smoke even one marijuana cigarette, that substance will stay in their systems and be detectable by urinalysis for up to 30 days. Then if they either fail to report for drug testing, or if they test positive, they are almost automatically taken back into custody. That not only costs us taxpayers about \$30,000 per inmate per year, it also frequently places that inmate's family back on the welfare rolls.

So now is the time for you to help. Please contact your representatives, such as Assemblyman Chuck DeVore at (916) 319-2070, Assemblyman Van Tran at (916) 319-2068, Sen. Tom Harman at (916) 651-4035 or Gov. Arnold Schwarzenegger at (916) 445-2841, and tell them that they should support AB 390. And please contact your family and friends and ask them to do the same.

I have never used marijuana. Furthermore, I never intend to do so, unless it would be recommended to me by my physician to relieve some form of harmful medical condition. You probably feel the same way. But if you don't and you, like millions of others in our country, would use marijuana, you are probably doing so already. So in that event at least you will not be required to associate with criminals to obtain the stuff, and will not automatically be a criminal yourself. And along the way, you can help us to balance our state budget.

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POSTED BY JUDGE JIM GRAY AT 5:16 PM 

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ABOUT JUDGE JIM GRAY



JUDGE JIM GRAY
LOS ANGELES, CALIFORNIA,
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Cited on numerous occasions
for his work in the areas of both social reform

and civic philanthropy, Judge James P. Gray currently presides over the civil trial calendar for the Superior Court of Orange County. Judge Gray was appointed to the Santa Ana Municipal Court in 1983 by Governor George Deukmejian, and in 1989, Deukmejian elevated Gray to his post with the Superior Court. Throughout his 29-year career within the legal and judicial community, Jim Gray has not only donated hundreds of hours of volunteer time to existing community service-oriented activities, he also has created and implemented a number of innovative programs of his own, each one a success story in itself.

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