

Where pot is concerned, legal or not, poverty's a player

BY JAKE THOMAS
STAFF WRITER

This fall, Oregon voters could make the state the third in the country to legalize marijuana for recreational use. However, what that might mean for Oregonians depends on where they fall on the economic spectrum.

If Oregon voters approve Measure 91, which would legalize and regulate pot, people who live in federally subsidized housing — the primary low-income housing service in the United States — will risk being evicted if they use the drug while the rest of the state can smoke to their heart's content.

And if you have a conviction for possessing pot on your record, which includes an outsize share of minorities, Oregon's politicians aren't eager to get it cleared.

Under federal law, marijuana remains an illegal substance that has no value medicinal or otherwise. Although 23 states and the District of Columbia have passed laws sanctioning its medical use and Colorado and Washington have legalized it for recreational use, the feds overarching reach includes federal housing programs.

"Historically, medical marijuana patients have experienced intense discrimination and reports of evictions and difficulty in obtaining public housing," says Kris Hermes, spokesman for Americans for Safe Access, a national medical marijuana advocacy organization.

In 2011, the U.S. Department of Housing and Urban Development issued a memo to local housing authorities stating that they were required to establish policies that prohibited people from being admitted into federal housing programs based on their use of illegal substance, including medical marijuana. The federal government's two large housing programs are Housing Choice Vouchers, which subsidize private rentals for low-income tenants, and public housing, which are federally funded facilities run by local agencies.

The memo, which gave some flexibility to how local housing authorities on their handling of pot-smoking tenants, applied to both programs.

Anne Fiske Zuniga, deputy executive director of the Seattle Housing Authority, says her agency hasn't changed its drug policies in response to Washington state's legalization of pot. Specifically, she says, the authority has a policy of not allowing smoking of any kind in its properties.

"It's federal funding, and federal law trumps," she says.

Home Forward, the agency that manages about 1,980 units of public housing and about 9,390 Housing Choice vouchers for the Portland region, has a similar no-smoking-anything policy, according to its spokeswoman Shelley Marchesi. She says that there is a question on the Housing Choice application form that asks if an applicant or anyone in their household uses controlled substances. If they mark "yes," they're turned away, which Home Forward has had to do, says Marchesi. Applicants for public housing are notified that they will be denied if they admit to using marijuana, even if it's medicinal. Home Forward doesn't have numbers on how many people have been denied being admitted to housing programs or evicted because of marijuana, says Marchesi.

If there's an indication that someone is breaking Home Forward's no-smoking policy, they will be given a notice, says Marchesi, and will be evicted if the problem persists. But what if someone is eating pot brownies in public housing?

"We have no way to know if someone is eating brownies," says Marchesi.

Central City Concern, a large social services nonprofit that manages 1,600 units of housing for low-income people, is taking a similar tack.

"Because we receive federal funding, and marijuana laws have not changed on a federal level, Central City Concern will not be changing any of its practices relating to drug use on behalf of tenants who are in recovery and on behalf of all staff," says Kathy Pape, the nonprofit's spokeswoman.

There are no numbers on how often it happens, but residents of public housing are evicted for using marijuana, even if it's legal under state law. In August, the *Cortex* journal reported that an 87-year-old resident of Dolores, Colorado, was forced to vacate her federally subsidized apartment for smoking pot, which she told the paper was for her arthritis.

Marchesi told Street Roots that Home Forward recently evicted someone from a property for running a medical grow operation in public

housing.

Hermes says that after HUD issued its 2011 memo, some housing authorities in California began evicting its pot-smoking tenants, with Los Angeles being particularly eager to give the boot to marijuana smokers.

Hermes doesn't expect any court challenges to federal housing program's ban on medical pot to succeed given that state supreme courts have tended to err on the side of restricting the rights of people who use the drug. For instance, the Oregon Supreme Court ruled in 2010 that employers can fire someone for using pot even if it's medical.

"It's still an allowable form of social discrimination that can be used in the context of public housing," he says.

Measure 91, which would legalize marijuana in Oregon, doesn't affect landlord-tenant relationships. Landlords, under the measure, can still maintain drug-free housing policies.

A 2013 report from the American Civil Liberties Union, drawing on 2010 statistics from the FBI, found that 10,000 people in Oregon were arrested for pot possession that year. The same report found that in Oregon blacks were twice as likely to be arrested for marijuana as whites.

There are 174 people in state prison for marijuana crimes, according to figures for New Approach Oregon, the organization spearheading passage of Measure 91, which it obtained through a public records request with the Oregon Department of Corrections. According to New Approach Oregon, law enforcement in the state has arrested or cited 99,000 people for marijuana offense in the last decade. Having even a minor offense on your record carries financial, social and employment consequences.

Measure 91 doesn't provide any mechanism for Oregonians with a marijuana-related misdemeanor or felony on their record, which can be a barrier to jobs and housing, to get it expunged.

"I'm hopeful, frankly, that we will have some relief for those in prison, whether it's legislation or pardon from the governor," says Leland Berger, a Portland attorney who has long been active on marijuana issues. "But if it

were up to me the initiative would have cleared it all."

But so far, lawmakers and the

governor haven't warmed to the idea.

Janet Langley, a legislative aide for State Rep. Peter Buckley, an Ashland Democrat who been active on legalizing marijuana, says that there are no discussions among lawmakers about expunging people's previous pot convictions if Measure 91 passes. She also says that Buckley is not optimistic about lawmakers taking action on the issue.

Melissa Navas, spokeswoman for Oregon Gov. John Kitzhaber, says that there are no plans in place to begin issuing pardons for people with pot convictions on their records.

"I expect that there will be significant pushback from law enforcement and prosecutors to any sort of automatic expungement," says David Fidanque, executive director of the ACLU of Oregon.

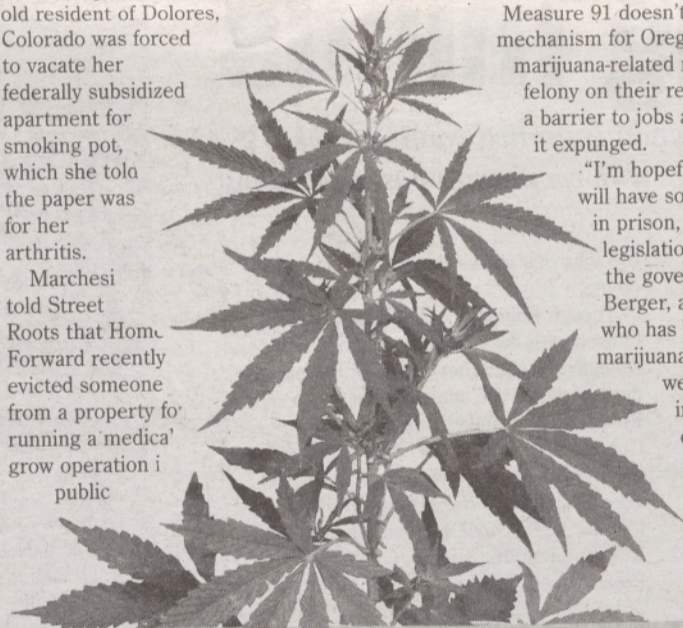
The Multnomah County District Attorney's Office declined to comment on what actions it would take if marijuana was legalized this fall.

According to Dan Donohoe, spokesman for the King County (Wash.) Prosecuting Attorney's Office, had about 175 cases before around the time the state legalized marijuana. As a result, those cases were dismissed, says Donohoe.

However, in Seattle, problems with the poor and minorities being targeted for smoking pot persisted. Seattle passed an ordinance prohibiting pot smoking in public, and began ticketing offenders. This summer, a report emerged that most of these tickets were going to an outsized portion of people who are homeless and/or black. One officer wrote 80 percent of the tickets. In response, the city attorney is seeking to dismiss the citations, and the officer who wrote the most tickets is under investigation.

Colorado and Washington's legalization ballot measures, like Oregon's, brought no immediate relief to people with past convictions. In Washington, a bill was introduced in the legislature last year that would forgive misdemeanor pot convictions. It didn't pass. In Colorado, an appellate court ruled this spring that people with minor marijuana convictions could challenge them in court as a result of the state's legalization of pot.

Fidanque says that there is some good news for people with a past record. In Oregon, individuals with misdemeanors and lower-level felonies can apply to the court to have their records cleared.



Legalize, regulate pot, says state addiction expert

BY JAKE THOMAS
STAFF WRITER

Richard Harris spent much of his working life with people addicted to various substances, and he knows about drugs and what they can do to people. So when Harris came out in support of Measure 91, which would legalize recreational marijuana use if approved by voters in November, heads turned.

After spending years working for mental health and addictions programs in Wyoming and Illinois, he moved to Portland where he became one of the founding staff members of Central City Concern, today Portland's largest nonprofit for low-income recovery and housing services. Harris went on to become its executive director before leaving to head the Oregon Department of Human Services addiction and mental health division.

Street Roots spoke with Harris about his support for marijuana legalization, what goes into a good prevention campaign and why people in his line of work might be reluctant to back the measure.

Jake Thomas: Some people might think it odd that someone with your background would support legalizing a drug that has been criminalized for decades. What do you say to those people?

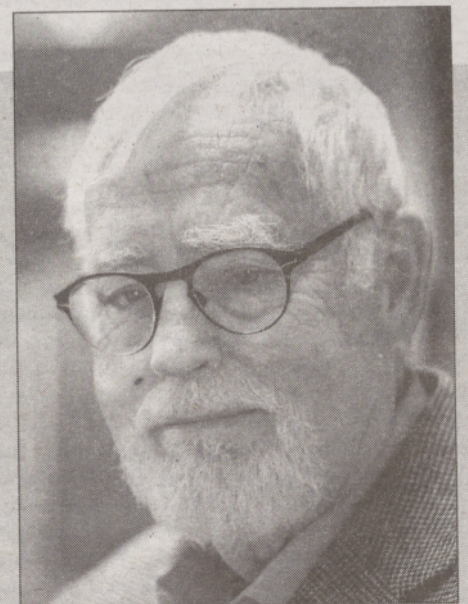
Richard Harris: Well, (marijuana) has been misclassified for 80 years, and people have some dependency issues with marijuana. But on a scale of dangerousness as a drug, it's at the very bottom. Alcohol is a much more dangerous drug. Marijuana is not a dangerous drug like opiates; it's a benign drug that's been misclassified. It's been driven into the black market, which supports crime and people who are busted

for it get a criminal record. It's on their record permanently, which impedes them from getting jobs and housing.

So if you had a regulated market for marijuana, you could control access to it, so kids aren't buying it from someone under the bleachers. A regulated market is going to be better than criminalizing it. It hasn't worked for a long time, and it could turn tax dollars back into schools and prevention education.

J.T.: Would legalizing pot change the health care approach to drug use?

R.H.: If you took a public health approach to educating people on what the consequences are on using it, they will make up their minds on what they are going to do. We regulate alcohol and there



are people with problems with alcohol and there are traffic fatalities, but it's better than an illegal market.

It's sort of catch-as-catch-can, particularly with young people, and there is money in

See LEGALIZE POT, page 7