



The public radio show about law and American life

Justice Talking Radio Transcript

Marijuana Laws: From Medical Marijuana to Hemp—Air Date: 10/1/07

Several years ago Chicago Mayor Richard Daley made headlines as he pushed to ease the penalties for use of small amounts of marijuana. He advocated fining offenders \$250 to \$1,000 rather than imposing jail terms. Although it remains a federal crime to use the drug, several states have decriminalized possession in small amounts and more and more states are passing laws legalizing its use for medical purposes. Join us for this edition of Justice Talking as we discuss marijuana laws in the United States, including the conflict over whether or not America's farmers should have the right to grow hemp.

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MARGOT ADLER: From NPR, this is Justice Talking. I'm Margot Adler. States are grappling with marijuana laws: Can doctors prescribe it? What should be the penalties for possessing it?

UNIDENTIFIED MALE: For most people, the greatest harm that can result to you from using marijuana is to get arrested, to lose your job, to lose your freedom, to lose your property, what have you.

MARGOT ADLER: Some North Dakota and California farmers are pushing for the right to grow hemp.

UNIDENTIFIED MALE: It is very frustrating to see friends of mine up in Canada being able to raise this crop and make nice money and we are not able to.

MARGOT ADLER: And a hemp retailer talks about debunking the myths.

UNIDENTIFIED MALE: We get so many people that see that seven-pointed leaf and automatically associate it with marijuana, even though it's just a cousin and never going to get you high.

MARGOT ADLER: Coming up after the news.

MARGOT ADLER: This is Justice Talking from the University of Pennsylvania's Annenberg Public Policy Center. I'm Margot Adler. More and more states are liberalizing marijuana laws. Some states have made possession of small amounts of the drug a minor crime, no more serious than a traffic ticket. Now there is the question of medical marijuana. New York and Connecticut just considered joining the growing number of states that allow pot for medicinal purposes. On today's show: marijuana laws, from the penalties for pot to American farmers who want to harvest hemp, a plant closely related to marijuana. Some say there are more than 25,000 uses for industrial hemp, none of which include getting high.

But first we take a closer look at medical marijuana. Reese Erlich has this report from California.

REESE ERLICH: At the San Francisco medical marijuana club in the Haight-Ashbury district, eight people hang out one afternoon smoking marijuana. Everyone who comes in the door must have a written doctor's recommendation. They can buy up to one ounce of marijuana to use here or take home. One club employee says that many of the patrons suffer from long-term ailments that haven't been helped by traditional medication.

UNIDENTIFIED FEMALE: They are coming here to medicate for a diagnosis. We are right in the middle of about twelve different health facilities, so a lot of our patients come back for dialysis, chemotherapy, physical therapy treatments and things of that nature.

REESE ERLICH: Another club employee stands behind what looks like a pharmacy display case.

UNIDENTIFIED MALE: In this counter here, you are going to find three varieties of cannabis in two strains, sativa and indica. You will also see that we have a wide variety of edibles of different flavors. Some here--blueberry, cherry. We have energy bars and each of them all come in different doses.

REESE ERLICH: In 1996 California legalized marijuana for medical use. Today, an estimated 350 clubs like this one are scattered around the state. Five California cities, including San Francisco, formally regulate the clubs. This medical marijuana club's co-owner, Martin Olive, says San Francisco requires that the clubs go through a complicated process to gain a permit.

MARTIN OLIVE: It consists of applying through five different departments in the city, so you go through quite a few bureaucratic jumps and hoops. You show them your floor plans; you become handicapped accessible. You sign a bunch of things regarding business practices and whatnot and you get background checks on your management.

REESE ERLICH: But medical marijuana club owners face far more serious problems than bureaucratic paperwork. In 2005, the U.S. Supreme Court in *Raich v. Gonzales* ruled that only Congress has the right to legalize marijuana, not the states. Garth Hire is the assistant U.S. attorney in North California in charge of drug prosecutions.

GARTH HIRE: Under federal law, the cultivation, possession and distribution of marijuana is a federal crime. It is very clearly a federal crime to aid and abet those that do that. So, for example, landlords who know that they are renting to cannabis clubs or cannabis dispensaries are committing the federal crime of aiding and abetting the cultivation and distribution of marijuana. There is no such thing as medical marijuana under federal law.

REESE ERLICH: Federal drug officials periodically raid medical marijuana clubs, confiscate their property and prosecute club owners. But the feds face a problem in California. Many people no longer consider growing or using marijuana to be a significant crime. Hire admits those attitudes impact juries.

GARTH HIRE: It's not different from a lot of crime, federal crimes that we prosecute. A lot of these crimes are not ones which generate an immediate emotional response and we have to convince the jury that it is still an important crime and that someone should be convicted of committing it.

REESE ERLICH: In practice, federal authorities conduct their medical marijuana club raids in areas where they are most likely to receive support from local politicians or police. That type of cooperation doesn't exist in cities like San Francisco. Terrence Hallinan was San Francisco district attorney from 1996 to 2004.

TERRENCE HALLINAN: Marijuana cases in San Francisco under my administration were regarded as the very lowest priority in terms of prosecutions. I never sent anybody to prison for a marijuana case while I was district attorney.

REESE ERLICH: Hallinan's successor seems to have stepped up some marijuana prosecutions, but San Francisco hasn't seen a local or federal medical marijuana club raid in several years. California decriminalized personal possession of small amounts of marijuana back in 1976. Hallinan says that today California has a strange legal environment in which marijuana is illegal under federal law, but almost legal in some parts of the state. The California Legislature has even mandated that counties provide medical marijuana users with a tamper-proof ID card.

UNIDENTIFIED MALE: It's a mixed picture and there is a partial decriminalization through the state legalization of medical marijuana. You can get away with personal use of marijuana. I know certainly here in San Francisco and in many other places the police will ask the person do you have a card and if they have a card, they will let them go.

REESE ERLICH: However, Hallinan warns that the feds can go after marijuana growers, distributors or users any time. For Justice Talking, I'm Reese Erlich in San Francisco.

MARGOT ADLER: Some states don't tolerate so-called pot clubs like those found in California. Today, 12 states allow marijuana for medical use. In some, it is prescribed only for terminal illnesses, like cancer and AIDS. In others, a patient can receive a prescription to treat something as general as pain. The laws often differ over who can grow the marijuana and how many plants can be raised. Rosalie Liccardo Pacula has studied medical marijuana laws across the country. She is the co-director of the Drug Policy Research Center at the Rand Corporation. I asked Rosalie what in her opinion makes for an effective medical marijuana law.

ROSALIE LICCARDO PACULA: In terms of the most effective, that is a great question that we don't have a good answer to yet. Fundamentally, because we don't have a good study that is going on out there that is identifying which of these state laws are the most effective at providing--getting patients medical marijuana when in need, in terms of what type of provisions are best, I mean, some of these state laws were written in a way that make them easier for law enforcement to help enforce. Other laws make it difficult for law enforcement to identify somebody who has the right to use it because of the medical marijuana law from a recreational user.

MARGOT ADLER: So give me an example. I mean, what do you mean makes it better for law enforcement? What would be an example of a law that would make it more easy for law enforcement to enforce?

ROSALIE LICCARDO PACULA: I think one of the model legislations in this area was Hawaii's law, which was very specific in terms of requiring registry of patients to get a medical marijuana card that identifies them as such. It was specific in the amount of marijuana allowed patients and/or their caregivers to grow. Law enforcement can easily identify people who are using with legal protection, because they just get a copy of the registry and they can identify these people quite quickly. They don't need to go through various steps and waste resources trying to figure out whether or not the person was legitimate or not. Furthermore, Hawaii's law was unique in the sense that it required patients to continually, every year, get a renewed registration card. So it required patients to go back and see their doctors so the doctors could assess whether the marijuana was truly helping them and whether there were any side effects. It enables that and actually requires it, unlike a lot of the laws, such as California's, where once you get a permission slip you're done. You don't have to go back and talk to the physician ever again if you don't want to.

MARGOT ADLER: In 2005, the Supreme Court ruled that the federal government could prosecute people for using medical marijuana regardless of the law in their individual states. So is that happening? Is the D.E.A. making this a priority or do they just want to have the power to do it, but are leaving most individuals alone?

ROSALIE LICCARDO PACULA: They are definitely doing it. To what extent is, really again, hard to say, because we don't have a good idea of how many patients are out there using it for medicinal purposes. The cases that I have identified in the news, when I've been going through this, are usually people who are growing large quantities of marijuana, so are on kind of that edge of pushing the limits of the existing laws.

MARGOT ADLER: Recently there were cases where federal drug enforcement agents were raiding pot dispensaries in Los Angeles and arresting the owners. Is this common?

ROSALIE LICCARDO PACULA: It is common in certain areas, particularly recently in Los Angeles, because I think the DEA was trying to make a very strong point that they were not going to tolerate what looks like a legalized marijuana market. That law doesn't legally say we allow these dispensaries to emerge and to provide marijuana for medicinal purposes. So although most law enforcement agencies, in certain areas where they are trying to figure out how do we get marijuana to patients who need it, are willing to accept their existence if they are careful and only serving patients, in fact they are against federal law. I mean fundamentally it's this conflict between state and federal law. And until a decision gets made by the U.S. Supreme Court, we're going to have this tension.

MARGOT ADLER: When you look at polls, there is something like over 70 percent of public approval for medical marijuana. Both Republicans and Democrats in New York State are pushing for a medical marijuana bill. Where is this all going? Do you see a time when the majority of states will have medical marijuana laws?

ROSALIE LICCARDO PACULA: It is entirely possible. The prohibition that we have today was a result of state initiatives that occurred during the late 1920s and early 1930s. The reason why marijuana is prohibited is because a few states in the late 1920s decided that marijuana use was bad and they didn't want it in their state and they started prohibiting it. By 1937, when we had the Marijuana Tax Act making it a prohibited drug, the majority of states had agreed that it was--recreational use, which was the focus of it, was a bad thing to do. At that time they still allowed medicinal use and it was still included in medical pharmacology books. But it basically got dropped out of those books by the middle 1940s because the federal government made it difficult for physicians to actually prescribe marijuana. It is possible that if what we are seeing today is a reverse of that trend, at least specifically as it relates to medical marijuana. It is possible that the states encourage the federal government through a series of these sort of laws that the federal government will then change its opinion, at least with respect to medical marijuana.

MARGOT ADLER: Well, it's interesting that it's politically on both sides of the aisle.

ROSALIE LICCARDO PACULA: That increases the likelihood that it would actually happen, yes.

MARGOT ADLER: Rosalie Liccardo Pacula is the co-director of the Drug Policy Research Center at the Rand Corporation. Thank you so much for coming on our show.

ROSALIE LICCARDO PACULA: Sure, thank you for having me.

MARGOT ADLER: Coming up on Justice Talking: How dangerous is marijuana?

UNIDENTIFIED MALE: We are now seeing a 20 percent rise in people seeking treatment for marijuana dependence. I have treated a number of people who want to stop using marijuana and are unable to do so.

UNIDENTIFIED MALE: The vast majority of people who use marijuana don't do any harm to anybody else or even really, quite frankly, to themselves.

MARGOT ADLER: And we debate our country's marijuana laws: Are the punishments for pot too severe? Stay with us.

MARGOT ADLER: This is Justice Talking, the public radio show about law and American life. I'm Margot Adler. On today's show: marijuana and the law. We have been talking about the complexity of medical marijuana laws. Some say the plant should be decriminalized all together. We asked people at a popular Philadelphia park what the penalty should be for the possession of pot.

UNIDENTIFIED MALE: People shouldn't be punished for it, laws that go back a long time. I think that we need to look at the history of why marijuana has had the plague that it's had on it.

UNIDENTIFIED FEMALE: It's not a drug like cocaine or other things. I don't think it's addictive. So if marijuana is criminalized, so should, maybe, drinking alcohol.

UNIDENTIFIED MALE: I'm more concerned about getting crack cocaine off the streets than I am marijuana.

UNIDENTIFIED FEMALE: I don't do any drugs at all, not even pot. I've never done any of that stuff, so I'm kind of--I tend to think that all drugs are the same regardless if it's cocaine or weed.

UNIDENTIFIED MALE: There are a lot worse things than taking a little drag on a marijuana cigarette. A lot of--overeating and destructive things. You can't pass a law against that, but it reminds me of what they said about the ancient Puritans. They lived in terror that somewhere somebody might be having a good time.

UNIDENTIFIED FEMALE: I personally think that they should not decriminalize marijuana because I do think it leads to other hard-use drugs. I also think it causes a lot of problems for the user. And some of the medical problems that may not show up until maybe 10, 20 or 30 years down the road. So I think it should not be decriminalized. I think they should still treat it as a narcotic. That doesn't mean that we are addressing the problem of alcohol, but still, I think we need to keep--not make it so accessible.

MARGOT ADLER: Joining me to share their views on decriminalizing marijuana are Ethan Nadelmann and Dr. Herbert Kleber. Ethan Nadelmann is the founder and executive director of

the Drug Policy Alliance, an organization promoting alternatives to the war on drugs. Dr. Herbert Kleber is professor of psychiatry and director of the division on substance abuse at Columbia University and at the New York State Psychiatric Institute. Welcome both of you to Justice Talking.

ETHAN NADELMANN: Thank you very much.

HERBERT KLEBER: Thank you.

MARGOT ADLER: Ethan, you are an advocate for decriminalizing marijuana. What does that mean? It's not really the same thing as legalizing it is, it?

ETHAN NADELMANN: That's right. Decriminalization and legalization are basically different things. Decriminalization basically refers to no longer punishing people with criminal penalties for simple possession of marijuana for their own use. You may still keep the prohibitions on the production and the wholesale distribution, but basically it means treat marijuana possession like a traffic fine or a low-level misdemeanor infraction. Legalization generally means treating it more or less like alcohol: a policy of taxing, controlling and regulating it. I would say that I, like 75 percent of Americans, support decriminalization, but I go further. I would also say I'm comfortable saying that legalization is certainly a preferably policy to what we are doing today.

MARGOT ADLER: Herb, you worry, I would guess, that decriminalization is just a stepping stone to full legalization.

HERBERT KLEBER: You know, using as a model states where, for example, you can't buy alcohol under a certain age, that has not been terribly successful in keeping alcohol away from younger teens. So even if you say you can't buy marijuana unless you are 18 or unless you are 21, basically you are saying you can buy marijuana at 12, at 15, because if we can't keep alcohol away from our teens, there is no reason to believe that if you decriminalize marijuana, you would do a better job of keeping that away.

MARGOT ADLER: Ethan, a few years ago you wrote an article in *The National Review*, and in it you said never before have so many Americans supported decriminalizing and even legalizing marijuana. But even if there is wide support for such a change in the law, aren't there some concerns that should be faced squarely, like the idea that marijuana use will increase if it's decriminalized?

ETHAN NADELMANN: Well, you know, it really depends upon how far you take this. I mean, you asked Herb before about the impact of marijuana decriminalization. All of the research that has been done so far tends to show that there is very little relationship between rates or levels of marijuana use and the harshness of the laws. So when 11 states in the United States decriminalized marijuana in the 1970s, what you generally saw was that marijuana use rose all around the country, throughout the '70s. And it fell all around the country in the 1980s irrespective of whether or not the states had decriminalized.

HERBERT KLEBER: The problem with trying to compare rates between states that have decriminalized and those that haven't is that in many places it's not the issue of what the law says, it's the issue of how it's enforced.

ETHAN NADELMANN: That's right.

HERBERT KLEBER: And if you have a state that enforces it very strictly, you may see different results than in a state that--

ETHAN NADELMANN: Actually Herb, it would have been hard to tell that about the states in the '70s. New York City, ironically--New York State is one of the 11 states that decriminalized marijuana in the '70s, but it didn't decriminalize it in public, only in private. So New York City and New York State have the highest per capita marijuana arrest rates in the country. At the same time, their use rates are also relatively high or in the middle. You can't really see a difference there. I mean, the basic point here really is that locking up--doubling the number of people that you arrest or lock up, or toughening the laws, is not going to have any impact on the number of people, young or old, using it. And conversely, relaxing the laws is not going to really have much of an impact.

HERBERT KLEBER: Well, I disagree. There are three reasons why people use drugs or don't use: physical availability, economic availability and psychological availability. Physical availability means how long would it take me to buy marijuana, buy some alcohol. Economic is how much would that cost. And psychological is what is the social milieu. It is sort of like the Mormons with their prohibitions about alcohol and caffeine from a religious point of view, how one of the things that determines the use is that psychological availability. And certainly changes in law do affect psychological availability as it does economic availability. Marijuana is a weed, and yet in the United States now it ranges from \$100 to \$500 per ounce. If it were legal, my guess is it would drop to about \$15 an ounce.

ETHAN NADELMANN: Herb, you are sort of forgetting about the other psychological variable, which is the forbidden fruit syndrome. You know, there are certain types in our culture, when the public and the adults get tough on this, that makes it all the more tempting for people to want to use it, especially young people. So I agree with your setup about economic and what have you--

MARGOT ADLER: But Herb, if most people, if there are polls saying that a large percentage of people think that decriminalization is reasonable, shouldn't the law reflect what people want? And if people in a certain state want to decriminalize marijuana or give the equivalent of a traffic ticket to people caught with the drug, what is wrong with that?

HERBERT KLEBER: Because what has happened now, when you compare those adults who have used at least once in their lives, most of them were using a very weak grade of marijuana. They were using marijuana that was two to three percent pure and they were beginning it much later, at 15, 16 or 17 years of age. Now, it is not uncommon for marijuana to be between five and ten percent pure, and for age of onset to be 13 and a half. In England in 1997, the newspaper The Independent said that marijuana should be decriminalized. The Lancet, a year earlier, said

marijuana should be decriminalized. Both of those journals or newspapers have, in this past year, come out and said we made a mistake, we apologize, that marijuana has sharply gone up in England, that casualties have gone up. We know a lot more about the relationship of marijuana and psychosis, marijuana and depression, and we made a mistake.

ETHAN NADELMANN: On the other hand, of course, they are not calling for tougher penalties again, because what they know is that the vast majority of people who use marijuana don't do any harm to anybody else or even really, quite frankly, to themselves. We know that the increases in marijuana potency--that there is some reality to that, but that people titrate how much they take, they reduce their consumption, people get accustomed to the higher dose. And we know that for most people, the greatest harm that can result to you from using marijuana is to get arrested, to lose your job, to lose your freedom, to lose your property, what have you. That is really the problem.

MARGOT ADLER: I want to push you in another direction here. I would like to ask you about the whole "gateway drug" issue. Some people call marijuana a gateway drug, the idea being that once you try pot, you are more likely to try other drugs. Herb, as one who studies drug use, first of all, do you believe that?

HERBERT KLEBER: Certainly the majority of people who try marijuana do not go on and try other drugs. But it's very clear that if you try marijuana, the risk ratio of going on to try other drugs is sharply increased. As an example, if you smoke cigarettes, you have a 10 times greater risk of getting lung cancer than if you don't smoke cigarettes. But relatively few people get lung cancer that smoke, less than 10 percent. So it's a risk ratio and it's very clear that many people who smoke marijuana are at greater risk for going on to more dangerous drugs, and we are now understanding why that is. It isn't what Ethan may say next, which is oh, it's because it puts them into a drug culture, etc. We believe it's because of changes in the brain. The endocannabinoid system, the internal system that involves the cannabis-type drugs is tied in to other drugs--cocaine, heroin and--

ETHAN NADELMANN: Herb, that explicitly repudiates any sort of medicine on the report on medical marijuana. I think you are right: The vast majority of people who use marijuana do not go on to use other drugs. On the other hand, the vast majority of people who have used harder drugs have used marijuana beforehand. But I think the point that somehow the way we should try to deal with reducing heroin addiction or cocaine addiction is by stopping people from using marijuana in the first place--that's like saying we should try to reduce motorcycle fatalities by stopping people from learning how to ride bicycles in the first place. Something like one percent of all the people who try marijuana ever go on to get in trouble with harder drugs.

MARGOT ADLER: No one would argue that there aren't real problems associated with alcohol and certainly with nicotine, but I don't hear anyone seriously saying we should go back to banning these things. I mean clearly there are cultural programs that try to reduce nicotine and reduce alcohol, but is marijuana really any worse than alcohol?

HERBERT KLEBER: Absolutely not. It is not worse than alcohol. On the other hand, one of the reasons that Prohibition was repealed is because alcohol use has been going on for thousands and thousands of years.

ETHAN NADELMANN: Like marijuana.

HERBERT KLEBER: But it's not been embedded in the culture, in Western society. It wasn't brought to Europe until Napoleon's troops invaded Egypt. So it has not become part of Western society, whereas alcohol has been. And I would argue that if you change the legal status of marijuana, that you will make it more likely that it does get embedded. And you will not only have more use, you will have more abuse, and more treatment. We are now seeing a sharp rise. There is a 20 percent rise in people seeking treatment for marijuana dependence. I have treated a number of people who want to stop using marijuana and are unable to do so. It is not an innocuous drug.

ETHAN NADELMANN: Let me agree with Herb about that. There is a small percentage of people who use marijuana for whom it really is a problem drug. And people can get addicted. I mean, the consequences of addiction to marijuana are not as severe as the consequences of addiction to other drugs, but it can be a problem in people's lives. But on the other hand, to talk about all of this increasing marijuana in-treatment, what you find is the overwhelming majority of people going into something called treatment for marijuana aren't going there because they are seeking it the way that people go to an A.A. program. They are going because they have been caught and either the criminal justice system or their employer or their school is saying you go to that program, which is oftentimes a bold program, or else you are going to be expelled from school, lose your job or lose your freedom.

MARGOT ADLER: Has that been your experience, Herb?

HERBERT KLEBER: Absolutely not. Absolutely not. That is certainly the case with some individuals, but the vast majority of people that I have seen and my colleagues have seen for marijuana treatment, for marijuana abuse and dependence, are there because they want to be there. Not because they have been expelled or lost their job.

ETHAN NADELMANN: Your experience at the Columbia Psychiatric Institute is not representative. There are national statistics on this, research which shows that something like four out of every five admissions to treatment are not the sort that you are dealing with, they are fundamentally something else. And the fact--look, what do we know, Herb? We know that marijuana enforcement has gone up and down, a huge number of people being arrested nonetheless, consistently, for the last 30 years; 80 percent of all high school seniors say marijuana is readily available; adults in this country say we have to keep the laws against the marijuana to protect the kids, and the kids look at that or listen to that and they burst out laughing. You are protecting us, they say? Who has the best access to marijuana in America today? The kids. Who had the best access 10 years ago, 20 years ago, 30 years ago? The kids. And who has got the best access 10 years from now? The whole notion of a marijuana prohibition system being designed to protect the kids is a farce.

HERBERT KLEBER: It is not a farce.

ETHAN NADELMANN: It is a farce, Herb. It's a farce, and it is costing the country billions of dollars and it is hurting huge numbers of people.

HERBERT KLEBER: If you look at the figures that have been compiled by Monitoring the Future since 1975, what you find is a remarkable consistency, that although availability, as Ethan has said, remains constant, the use of marijuana by adolescents is a function of perceived risk. To the extent that they perceive marijuana as risky, use goes down.

ETHAN NADELMANN: It is not just a perceived risk. It's the culture. It's many other variables.

MARGOT ADLER: Well, let me ask you this. I have a 16-and-a-half-year-old and he was just at yet another assembly where an anti-drug person spoke. And what I heard about this school assembly was that people actually jeered. They felt that the message was paternalistic. Kids don't believe what they are hearing. They are very good at getting a hold of substances; most of them have at least tried it. And given the cynicism of these kids, given the sort of--the laughter that they often have at the "just say no" messages, how Herb, do you feel we can put an anti--serious anti-drug message forward that kids might actually believe?

HERBERT KLEBER: One of the recent campaigns that I think will be very helpful is much greater involvement of parents. If you talk to kids about who they believe, who they listen to, you find it's their parents. And yet, in spite of that data, we find that over half of the kids say that they've never had such a talk with their parents. When they do, the likelihood of their using drugs sharply decreases. So it's not simply a school assembly, it's getting the parents involved in telling their kids this is a dangerous drug, we don't want you to use it. Here's why we don't want you to use it: it increases the likelihood of automobile accidents. If I find you are using marijuana, I am taking away the keys to the car.

ETHAN NADELMANN: Herb, it's an interesting situation. I basically agree with what you are saying, but a lot of this, of course, has to do with what kids think about their parents. Kids who respect their parents are more likely to respect that message. You are also dealing with a generation in which the majority of parents have used marijuana and the vast majority of them are now parents, are now working, are paying taxes, are legal citizens, what have you. So the conversation with the parents is pivotal, you are right. But I think it has to be an honest conversation. It has to be truthful, and it has to be based upon a bottom line. It seems to me the bottom line is not ultimately did you or didn't you, are you going to use, aren't you going to use. The bottom line has to be about safety. I know that my bottom line ultimately is not whether or not my daughter is going to use this or that. My bottom line is, is she going to come home safely at the end of the night and grow up and bring me up healthy grandkids. That is my bottom line. And my view on drug education is the truth first, second and third to the extent it is appropriate for the age. Parental conversation, yes, but the truth.

MARGOT ADLER: Ethan Nadelmann is the founder and executive director of the Drug Policy Alliance. Dr. Herbert Kleber is the director of the Division on Substance Abuse at Columbia

University, and he's also with the New York Psychiatric Institute. Thank you both for talking with me and coming on Justice Talking.

ETHAN NADELMANN: Thank you very much.

HERBERT KLEBER: It was a pleasure. Thank you for inviting me.

MARGOT ADLER: Coming up on Justice Talking: the potential of industrial hemp, fact and fiction. One hemp retailer says it's not always easy to overcome the misinformation.

UNIDENTIFIED MALE: You know, we do get some good press here and there, but all of the sudden the anchormen go and say: Oh yes, so can we smoke our clothing when it's all done?

MARGOT ADLER: Stay with us.

MARGOT ADLER: This is Justice Talking, where we make the connection between law and American life. I'm Margot Adler.

Hemp was once a common crop in the American landscape, but today federal laws block farmers interested in raising industrial hemp for international markets. But that doesn't stop demand for the products imported from overseas producers. Kyle Pulliam owns Hemp in the Heartland in Sacramento, California, a retail outlet for all manner of products made with hemp.

KYLE PULLIAM: How is everything going guys? We have a nice blend of novelty and very high quality products. As you walk in, you can see the brick walls with the hardwood floors and all of our really, really nice antiques. In the front of the store, we have a lot of men's clothing, T-shirts, shorts, hats, boxer shorts, wallets, accessories. We do really well with napkins and tablecloths. As you can see, we are almost out. The seed, very, very high in protein, so we carry food products from time to time, baking mixes and protein powders, salad oils. Even hemp oil itself is a great protein supplement instead of like a whey or a soy protein. And again, there is no THC in it, so you can eat like 1,000 pounds of industrial hemp and it would never, ever do anything or show up on a drug screen. That's one of our other questions is yeah, can I eat anything here that is going to come up positive, and there is no way. We get so many people that see that seven-pointed leaf and automatically associate it with marijuana, even though it's just a cousin and doesn't--it's never going to get you high. We do get some good press here and there, but then all of a sudden the anchormen go and say: Oh, yes, so can we smoke our clothing when it's all done?

MARGOT ADLER: That was Kyle Pulliam talking about the hemp products in his Sacramento store, Hemp in the Heartland.

Hemp wasn't always so controversial. It was a prominent crop in colonial times. And what about those rumors that the Constitution and the Bill of Rights were written on hemp?

JEAN RAWSON: Those were the rough drafts, not the final one.

MARGOT ADLER: They used better paper for the final, right?

JEAN RAWSON: Yes, that was very literally a rough draft. They used parchment for the final one, which is sheepskin, of course.

MARGOT ADLER: That's Jean Rawson. She is a specialist in agriculture policy for the Congressional Research Service. She has written a number of reports on hemp as an agricultural commodity. Welcome to Justice Talking.

JEAN RAWSON: Thank you, Margot.

MARGOT ADLER: Hemp and marijuana are not the same thing. So are they treated differently under the law?

JEAN RAWSON: It is treated the same as marijuana under existing law. Because the way the law is written, it included everything under the definition of marijuana, including non-drug uses. It didn't use a different term for the cultivars of the plant that do not pose a THC problem. So technically speaking, it is not illegal to grow industrial hemp, but it does come under the strictest federal controls. In other words, one has to get a permit from the Drug Enforcement Agency in order to grow it.

MARGOT ADLER: And I gather those permits don't really happen.

JEAN RAWSON: That's correct.

MARGOT ADLER: How important a crop could industrial hemp be for U.S. farmers? Is it a lucrative crop, potentially?

JEAN RAWSON: It's a bit early to tell. There have been some economic studies done. And I think perhaps a lot of people look to Canada, which legalized commercial production of industrial hemp in 1999. And the problem is always that the demand never marches to the same beat that supply does. It's very hard to get those two to match up. So even at this point, in Canada, it's a growing industry. It has certainly, in the past two or three years, has not suffered any setbacks. But if you look at the other countries where it has been grown for a long time, such as Northern Europe and some of the Eastern European countries, it still is not a major crop. So it's hard to say. The proponents, of course, see great promise in it. The detractors say why bother, there are other things that we can grow for oil and for fiber that don't have this complicating problem.

MARGOT ADLER: In one of your reports, you quote a 2007 Canadian government update on hemp production and it reads, "Hemp's remarkable advantages are hard to beat. It thrives

without herbicides, it reinvigorates the soil, it requires less water than cotton, it matures in three to four months. It can yield four times as much paper per acre as trees. Hemp can be used to create building materials that are twice as strong as wood and concrete. Textile fiber that is stronger than cotton, better oil and paint than petroleum, clean burning diesel fuel and biodegradable plastics.” This sounds like a miracle crop. Am I wrong?

JEAN RAWSON: Well, not entirely. Canada has really decided as government policy to make this work for its agricultural sector if it can. I don't think that they even know, but--in other words, that is what I believe is behind their very optimistic formal statement.

MARGOT ADLER: But we don't know, you are saying, that it's really going to pan out.

JEAN RAWSON: Exactly.

MARGOT ADLER: The DEA fears that marijuana growers will sort of exploit this situation. They will hide their crops in hemp fields. Is there any sign that this is happening?

JEAN RAWSON: Well, that was the purpose of my call to Canada earlier today. And the official answer from that unit of Health Canada was no. They are not aware of any increase in drug activity problems related to their commercial production of industrial hemp.

MARGOT ADLER: If federal policy no longer included hemp as a controlled substance, what do you think the impact would be?

JEAN RAWSON: Well, I think there would be a lot of interest. I am aware that North Dakota is the first state that passed a law actually permitting the growing of industrial hemp. It is sort of ironic. Probably what any U.S. farmer grew might have to be shipped to Canada, actually, for processing it at this point, because we have not developed the technology for harvesting or getting the fiber separated from the stalk or any of that. So it would take a while for those facilities to come on line in this country.

MARGOT ADLER: Jean Rawson is a specialist in agriculture policy for the research arm of Congress. Thank you so much for being on our show.

JEAN RAWSON: Thank you, Margot. It has been a pleasure.

MARGOT ADLER: No state has done more than North Dakota to back farmers' interests in industrial hemp. Farmers there can now obtain a state license to grow the crop. But cultivating hemp must still be approved by the federal Drug Enforcement Agency. North Dakota farmers are still waiting for the go-ahead from the DEA and a few have filed suit to force a decision from the feds. Todd MacDonald, a public radio reporter in North Dakota, traveled to the farm of a long-time Republican state lawmaker who wants to force the federal government to consider hemp production in the U.S.

DAVID MONSON: I am Dave Monson and I'm the legislator for District 10, a state representative.

TODD MACDONALD: And now you are farming?

DAVID MONSON: Yes, I have been farming the family farm, well, quite a number of years. In 1975 I came back after teaching down in the Wahpeton area. I bought a couple quarters of land back in the '70s from a neighbor, and that is what I am farming.

TODD MACDONALD: All right, now we are parked on the edge of this field. Can you eyeball this field for us and tell us how big it is and what you are seeing here?

DAVID MONSON: Well, this field is roughly 23 acres; it's a smaller field. It's got good land, good soil in it and well drained. It's kind of where I, over the years, tried new things. Really, wheat barley and canola seem to be where we come back to every time, so we are hoping we can get something new like industrial hemp and start a whole new industry, really, in North Dakota.

TODD MACDONALD: What do your neighbors think when you say you want to grow industrial hemp?

DAVID MONSON: Everybody around here is interested in trying new things, new crops, because we've all had the same problem. The scab has been very devastating. Those that have seen the industrial hemp up in Canada watched it being harvested and stuff and they are very interested in it, especially when they find out how much they can make per acre return on it.

TODD MACDONALD: Now this field we are sitting on the edge of, we are, what, 25 miles away from the Canadian line, if that?

DAVID MONSON: That's about it.

TODD MACDONALD: Does it create a little frustration when you think about that?

DAVID MONSON: A lot of frustration. I know some of these farmers up there, they have been raising this for 10 years. It is very frustrating to see friends of mind up in Canada being able to raise this crop and make nice money and we are not able to. Even though other countries are able to do it and willing to make distinctions and allow the farmers to raise the industrial hemp and cash in on a very lucrative crop. The DEA pretty much has just said no, we are not interested in making a distinction between marijuana and industrial hemp. We are not interested in letting North Dakota regulate it themselves and we are going to treat it as a drug. We're not going to let you raise it unless you have a chain link fence and razor wire on top of it and armed guards and lights and all of that. Well, it's not feasible and they don't do that in Canada and don't seem to have problems with it. So that's where our rub with the DEA is.

TODD MACDONALD: It is kind of windy out on the plains today. How about if we hop out of the pickup and I want to just kind of take a look at this field real quick.

DAVID MONSON: Okay.

TODD MACDONALD: Now we have just walked through the remains of this year's wheat crop.

DAVID MONSON: Yes, wheat is still--

TODD MACDONALD: Now, in this field with the North Dakota plains, we can see, I'm guessing five, at least five miles in any direction.

DAVID MONSON: I would say so.

TODD MACDONALD: Now with these tall crops, can you envision one day if things would work out, that you could be seeing tall patches of green throughout the, dotting the countryside?

DAVID MONSON: I can, and it's even easier to envision it now when we are starting to see corn and it would look a lot like a cornfield, actually. It would be a little taller, a little skinner stalk and it wouldn't have ears on it really, because the seeds are all at the top. But yes, I can envision it.

TODD MACDONALD: How long do you hold up hope?

DAVID MONSON: You know, at this point, I've invested 10 years of working on it. Right now, it's almost--it's the principle of the thing. I am not going to give up now.

TODD MACDONALD: It has been nice talking to you.

DAVID MONSON: You bet. You caught me just before I got back out here and started in again.

TODD MACDONALD: For Justice Talking, I'm Todd MacDonald.

MARGOT ADLER: Dave Monson's lawsuit is still in court, and it's not only the federal Drug Enforcement Agency that doesn't want to see fields of hemp crops dotting the landscape. John Lovell is a lobbyist for the California Narcotics Officers' Association. He says legalizing industrial hemp would undermine efforts to control marijuana protection.

JOHN LOVELL: Hemp and marijuana look exactly alike and the reason they look alike is that it's the same plant, *Cannabis sativa L.* What that means is that law enforcement efforts at marijuana eradication will be severely compromised. And that is a serious issue in California, because what's happened out here is that the major marijuana cultivation operations are no longer being done by your 1960s stoners. They have been taken over by the large organized-crime drug combines, and this is going to compromise our efforts to combat those groves.

MARGOT ADLER: Well, let me ask you this. There are a whole bunch of other states that are considering measures similar to California's, or at least there are measures to legalize hemp. North Dakota, for example, has already passed a law legalizing industrial hemp production, and there are serious farmers there that really do want to grow hemp and they say it's an issue of economics. They say that it's a near perfect crop, it grows year-round, it is drought resistant. How do you answer them?

JOHN LOVELL: Well actually, I think they have bought into the, shall we say, overenthusiasm of the vote hemp promoters. If you really look at the numbers, you'll see that hemp is not the hot crop it's been alleged to be. In the European Union, since 1998, hemp acreage has fallen from 100,000 acres, which is not much anyway, all the way down to 39,000 acres, which is a 61 percent drop--hardly the profile of a crop that is an economic panacea.

MARGOT ADLER: I have also heard that there is really a misconception that hemp and marijuana are the same thing, even if they look very much alike. I gather that hemp only has a very small amount of the psychoactive ingredient THC. Isn't that misconception what ends up sort of defining our hemp policy?

JOHN LOVELL: The only difference between hemp and marijuana is THC content. What that means is that marijuana enforcement gets fundamentally compromised. And let me kind of take you through. At trial, when the officer is testifying, they will say – Officer Jones, how did you know that this was marijuana? Based on my 30 years of experience as a law enforcement officer and my expertise, I identified the crop as marijuana. That same officer testifies in that same way. And defense counsel stands up and says: Officer, here are 15 pictures of hemp and marijuana. Tell us the difference.

MARGOT ADLER: So you would have to take it to a lab and have it analyzed.

JOHN LOVELL: Right.

MARGOT ADLER: Or you would have to smoke it or something.

JOHN LOVELL: Well, you have to take it to a lab and that is easier said than done. The equipment itself is very expensive, the tests for THC quantity are extremely time-consuming and extremely complex and laborious.

MARGOT ADLER: So if there was a way to grow hemp that had zero THC in it, would you pack up and go home?

JOHN LOVELL: Well, you would still have the same problem because hemp looks exactly like marijuana. So you would still have to test to see whether there was THC in the plant, although I see what you were saying. You would still have the problem, though, of hemp being used as a camouflage around marijuana growth.

MARGOT ADLER: That is sort of what they used to do with corn.

JOHN LOVELL: Yes, but since corn looks different from marijuana, with aerial surveillance, you can ferret that out fairly quickly. With hemp, you would not be able to.

MARGOT ADLER: Now getting back to California, what do you think Governor Schwarzenegger is going to do if this legislation passes?

JOHN LOVELL: Well, the legislation did pass. Last year a bill passed as well, Assembly Bill 1147, and Governor Schwarzenegger vetoed it. He pointed out in his veto message that hemp cultivation was illegal under federal law. That has not changed. Hemp cultivation remains illegal under federal law. If hemp were actually grown, it would compromise law enforcement efforts to combat major drug combines. And finally, this is a product with little economic viability. It is a niche market at best.

MARGOT ADLER: John Lovell is a lobbyist for the California Narcotics Officers' Association. Thanks for talking with me.

JOHN LOVELL: Hey, you are welcome.

MARGOT ADLER: For more on the pros and cons of hemp, go to our website, justicetalking.org.

While there, post on our message boards, learn more about our guests and sign up for our free podcasts. And check out our blog, where many of the nation's leading commentators give their views on law and American life. Thanks for listening. I hope you'll tune in next week. I'm Margot Adler.
